AMENDMENTS TO THE RULES OF PROCEDURE OF THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES

of 6 July 1995

THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES,

Having regard Article 168a of the Treaty establishing the European Community,

Having regard to Article 32d of the Treaty establishing the European Coal and Steel Community,

Having regard to Article 140a of the Treaty establishing the European Atomic Energy Community,

Having regard to the Protocol on the Statute of the Court of Justice of the European Community, signed in Brussels on 17 April 1957, and in particular Article 46 thereof as amended by the Council Decision of 6 June 1995 (OJ No L 131, 15. 6. 1995, p. 33),

Having regard to Council Decision 88/591/ECSC, EEC, Euratom of 24 October 1988 establishing a Court of First Instance of the European Communities (OJ No L 319, 25. 11. 1988, p. 1), as amended by Council Decision 93/350/Euratom, ECSC, EEC of 8 June 1993 (OJ No L 144, 16. 6. 1993, p. 21), Council Decision 94/149/ECSC, EC of 7 March 1994 (OJ No L 66, 10. 3. 1994, p. 29) and the Act of Accession of Austria, Finland and Sweden,

Having regard to the agreement of the Court of Justice,

Having regard to the unanimous approval of the Council, given on 6 June 1995,

Whereas it is necessary to take account, by special rules of procedure, of the specific features of the proceedings relating to intellectual property rights which the Court of First Instance is called upon to hear and determine in particular by virtue of Article 63 of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ No L 11, 14. 1. 1994, p. 1) and of Article 73 of Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (OJ No L 227, 1. 9. 1994, p. 1);

Whereas it is a feature of the intellectual property field that it involves disputes between private parties; whereas it is therefore necessary in particular to adopt specific rules on the procedural rights of interveners and on the use of languages by private parties in the course of proceedings before the Court of First Instance in compliance with the Communities general rules governing the use of languages,

HEREBY ADOPTS THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE:

Article 1

The Rules of Procedure of the Court of First Instance of the European Communities, adopted on 2 May 1991 (OJ No L 136, 30. 5. 1991, p. 1), amended on 15 September 1994 (OJ No L 249, 24. 9. 1994, p. 17) and on 17 February 1995 (OJ No L 44, 28. 2. 1995, p. 64), shall be amended as follows:

1. The following new Title 4 shall be inserted after Article 129:

TITLE 4

PROCEEDINGS RELATING TO INTELLECTUAL PROPERTY RIGHTS

Article 130

§ 1

Subject to the special provisions of this Title, the provisions of these Rules of Procedure shall apply to proceedings brought against the Office for Harmonization in the Internal Market (Trade Marks and Designs) and against the Community Plant Variety Office, (both hereinafter referred to as "the Office"), and concerning the application of the rules relating to an intellectual property regime.

§ 2

The provisions of this Title shall not apply to actions brought directly against the Office without prior proceedings before a Board of Appeal.

Article 131

§ 1

The application shall be drafted in one of the languages described in Article 35 (1), according to the applicant's choice.

§ 2

The language in which the application is drafted shall become the language of the case if the applicant was the only party to the proceedings before the Board of Appeal or if another party to those proceedings does not object to this within a period laid down for that purpose by the Registrar after the application has been lodged.

If, within that period, the parties to the proceedings before the Board of Appeal inform the Registrar of their agreement on the choice, as the language of the case, of one of the languages referred to in Article 35 (1), that language shall become the language of the case before the Court of First Instance.

In the event of an objection to the choice of the language of the case made by the applicant within the period referred to above and in the absence of an agreement on the matter between the parties to the proceedings before the Board of Appeal, the language in which the application for registration in question was filed at the Office shall become the language of the case. If, however, on a reasoned request by any party and after hearing the other parties, the President finds that the use of that language would not enable all parties to the proceedings before the Board of Appeal to follow the proceedings and defend their interests and that only the use of another language from among those mentioned in Article 35 (1) makes it possible to remedy that situation, he may designate that other language as the language of the case ; the President may refer the matter to the Court of First Instance.

§ 3

In the pleadings and other documents addressed to the Court of First Instance and during the oral procedure, the applicant may use the language chosen by him in accordance with paragraph 1 and each of the other parties may use a language chosen by that party from those mentioned in Article 35 (1).

§ 4

If, by virtue of paragraph 2, a language other than that in which the application is drafted becomes the language of the case, the Registrar shall cause the application to be translated into the language of the case.

Each party shall be required, within a reasonable period to be prescribed for that purpose by the Registrar, to produce a translation into the language of the case of the pleadings or documents other than the application that are lodged by that party in a language other than the language of the case pursuant to paragraph 3. The party producing the translation, which shall be authentic within the meaning of Article 37, shall certify is accuracy. If the translation is not produced within the period prescribed, the pleading or the procedural document in question shall be removed from the file.

The Registrar shall cause everything said during the oral procedure to be translated into the language of the case and, at the request of any party, into the language used by that party in accordance with paragraph 3.

Article 132

§ 1

Without prejudice to Article 44, the application shall contain the names of all the parties to the proceedings before the Board of Appeal and the addresses which they had given for the purposes of the notifications to be effected in the course of those proceedings.

The contested decision of the Board of Appeal shall be appended to the application. The date on which the applicant was notified of that decision must be indicated.

§ 2

If the application does not comply with paragraph 1, Article 44 (6) shall apply.

Article 133

§ 1

The Registrar shall inform the Office and all the parties to the proceedings before the Board of Appeal of the lodging of the application. He shall arrange for service of the application after determining the language of the case in accordance with Article 131 (2).

§ 2

The application shall be served on the Office, as defendant, and on the parties to the proceedings before the Board of Appeal other than the applicant. Service shall be effected in the language of the case.

Service of the application on a party to the proceedings before the Board of Appeal shall be effected by registered post with a form of acknowledgment of receipt at the address given by the party concerned for the purposes of the notifications to be effected in the course of the proceedings before the Board of Appeal.

§ 3

Once the application has been served, the Office shall forward to the Court of First Instance the file relating to the proceedings before the Board of Appeal.

Article 134

§ 1

The parties to the proceedings before the Board of Appeal other than the applicant may participate, as interveners, in the proceedings before the Court of First Instance.

§ 2

The interveners referred to in paragraph 1 shall have the same procedural rights as the main parties.

They may support the form of order sought by a main party and they may apply for a form of order and put forward pleas in law independently of those applied for and put forward by the main parties.

§ 3

An intervener, as referred to in paragraph 1, may, in his response lodged in accordance with Article 135 (1), seek an order annulling or altering the decision of the Board of Appeal on a point not raised in the application and put forward pleas in law not raised in the application.

Such submissions seeking orders or putting forward pleas in law in the intervener's response shall cease to have effect should the applicant discontinue the proceedings.

§ 4

In derogation from Article 122, the default procedure shall not apply where an intervener, as referred to in paragraph 1 of this Article, has responded to the application in the manner and within the period prescribed.

Article 135

§ 1

The Office and the interveners referred to in Article 134 (1) may submit responses to the application within a period of two months from the service of the application.

Article 46 shall apply to the responses.

§ 2

The application and the responses may be supplemented by replies and rejoinders by the parties, including the interveners referred to in Article 134 (1), where the President, on a reasoned application made within two weeks of service of the responses or replies, considers such further pleading necessary and allows it in order to enable the party concerned to put forward its point of view.

The President shall prescribe the period within which such pleadings are to be submitted.

§ 3

Without prejudice to the foregoing, in the cases referred to in Article 134 (3), the other parties may, within a period of two months of service upon them of the response, submit a pleading confined to responding to the form of order sought and the pleas in law submitted for the first time in the response of a intervener. That period may be extended by the President on a reasoned application from the party concerned.

§ 4

The parties' pleadings may not change the subject-matter of the proceedings before the Board of Appeal.

Article 136

§ 1

Where an action against a decision of a Board of Appeal is successful, the Court of First Instance may order the Office to bear only its own costs.

§ 2

Costs necessarily incurred by the parties for the purposes of the proceedings before the Board of Appeal and costs incurred for the purposes of the production, prescribed by the second subparagraph of Article 131 (4), of translations of pleadings or other documents into the language of the case shall be regarded as recoverable costs.

In the event of inaccurate translations being produced, the second subparagraph of Article 87 (3) shall apply.'

2. Article 130 shall become Article 137.

Article 2

These amendments, which are authentic in the languages mentioned in Article 35 (1), shall be published in the *Official Journal of the European Communities.* They shall enter into force on the first day of the second month from the date of publication.

Done at Luxembourg, 6 July 1995.

The Registrar	*The President*
JUNG	J. L. DA CRUZ VILAÇA