

duces into the Community legal order, be construed as meaning that the terms 'biocidal products' and 'low-risk biocidal product' refer solely to products whose biocidal function depends on active substances added to those products by chemical or biological means through processes expressly designed to add such substances in order to confer on those products a biocidal function?

2. Must Article 2(1)(c) of Directive 98/8/EC, in the light of the general rules which that directive introduces into the Community legal order, be construed as meaning that the term 'basic substance' refers to substances which are not added to a product in order to enable it to perform an intended biocidal function but such a biocidal function is performed in addition to the function normally performed by that product during its use (as an example: liquid for a dishwasher which, by virtue of the addition of a substance designed to improve its detergent function, may also have a bactericidal function)?
3. May a piece of red cedar wood, simply by virtue of the fact that it is marketed as being 'anti-moth', be classifiable as a 'biocidal product', as a 'low-risk biocidal product' or as a 'basic substance' within the meaning of Directive 98/8/EC, bearing in mind that: (a) the wood in question has in no way been treated chemically or biologically; (b) the substance on which the effects attributed to the wood may depend is naturally present in the product; (c) the product is substantially marketed as found in its natural state?
4. Must Article 2(1)(c) of Directive 98/8/EC be construed as meaning that it is only if a 'basic substance' is included on the list referred to in Annex IB that that substance may be exempted from the authorisation and registration provided for the marketing in the Member States of products covered by Article 2, with such inclusion on the list referred to in Annex IB thus acquiring constitutive effectiveness for all purposes?
5. Must Article 4 of Directive 98/8/EC, by reference to Articles 28 EC and 30 EC, be construed as meaning that a product such as that described in Question 3, placed lawfully on the market in a Member State without any need for authorisation or registration in that Member State, may be made subject to authorisation or registration in another Member State in which it is subsequently marketed by reason of the fact that the product in question is not included on the list referred to in Annex IB to Directive 98/8/EC?

(¹) Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market (OJ L 123 of 24.04.1998, p. 1).

Reference for a preliminary ruling by the Monomeles Protodikio Athinon by order of that Court of 11 July 2002 in the case of Fixtures Marketing Limited against Organismos Prognostikon Agonon Podosphairou AE

(Case C-444/02)

(2003/C 31/17)

Reference has been made to the Court of Justice of the European Communities by order of the Monomeles Protodikio Athinon (Single-Judge Court of First Instance, Athens) of 11 July 2002, received at the Court Registry on 9 December 2002, for a preliminary ruling in the case of Fixtures Marketing Limited against Organismos Prognostikon Agonon Podosphairou AE (Football-match-results-forecasting Undertaking) on the interpretation of Article 7 of Directive 96/9/EC and the sui generis right thereunder in connection with the following issues:

1. the concept of databases and the scope of Directive 96/9/EC (¹) and in particular Article 7 thereof (sui generis right).
2. Further to determination of the scope of the directive, whether the lists of football fixtures enjoy protection as databases over which there is a sui generis right in favour of the maker and with what consequences.
3. How exactly the database right is infringed and whether it is protected in regard to rearrangement of the contents of the database.

(¹) OJ L 77 of 27.3.1996, p. 20.

Appeal brought on 9 December 2002 by Glaverbel against the judgment delivered on 9 October 2002 by the Second Chamber of the Court of First Instance of the European Communities in case T-36/01 (¹) between Glaverbel and the Office for Harmonization in the Internal Market (Trademarks and Designs) (OHIM)

(Case C-445/02 P)

(2003/C 31/18)

An appeal against the judgment delivered on 9 October 2002 by the Second Chamber of the Court of First Instance of the European Communities in case T-36/01 between Glaverbel and the Office for Harmonization in the Internal Market (Trademarks and Designs) (OHIM), was brought before the Court of Justice of the European Communities on 9 December 2002 by Glaverbel, represented by Susanne Möbus, Attorney at Law, with an address for service in Luxembourg.