**Appeal brought on 28 November 2011 by TofuTown.com GmbH against the judgment of the General Court (Second Chamber) delivered on 20 September 2011 in Case T-99/10 Meica Ammerländische Fleischwarenfabrik Fritz Meinen GmbH & Co. KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

**(Case C-599/11 P)**

(2012/C 133/25)

*Language of the case: German*

**Parties**

*Appellant:* TofuTown.com GmbH (represented by: B. Krause, Rechtsanwältin)

*Other parties to the proceedings:* Office for Harmonisation in the Internal Market (Trade Marks and Designs), Meica Ammerländische Fleischwarenfabrik Fritz Meinen GmbH & Co. KG

**Form of order sought**

— Set aside the judgment under appeal;

— order Meica Ammerländische Fleischwarenfabrik Fritz Meinen GmbH & Co. KG to pay the costs of the proceedings at first instance and of this appeal, or, on the contested basis that the appeal is dismissed, order that such costs be shared.

**Pleas in law and main arguments**

The present appeal has been brought against the judgment of the General Court by which that Court annulled the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 7 January 2010 relating to opposition proceedings between Meica Ammerländische Fleischwarenfabrik Fritz Meinen GmbH & Co. KG and TofuTown.com GmbH.

In the appellant's view the judgment under appeal should be set aside on the following grounds.

First, the General Court erred in law in determining, under new criteria, that there was a likelihood of confusion in the light of Article 8(1)(b) of Regulation No 207/2009. According to the judgment under appeal, it is sufficient, in order for the existence of a conceptual similarity to be established, that both terms are taken from a common overarching term, and that, although conceptually different, they do not contrast with each other, which is inconsistent with existing case-law.

Second, the General Court erred in law in determining that there was a likelihood of confusion without taking all the relevant and accepted criteria for the assessment of the similarity of trade marks into account. In the present case, the only common element is at the end of the mark cited in opposition. According to settled case-law, consumers generally pay more attention to the beginning of a trade mark than to the end.

**Appeal brought on 30 November 2011 by ara AG against the judgment of the General Court (Seventh Chamber) delivered on 22 September 2011 in Case T-174/10 ara v OHIM**

**(Case C-611/11 P)**

(2012/C 133/26)

*Language of the case: French*

**Parties**

*Appellant:* ara AG (represented by: M. Gail, Rechtsanwalt)

*Other parties to the proceedings:* Office for Harmonisation in the Internal Market (Trade Marks and Designs), Allrounder SARL

**Form of order sought**

— Set aside the judgment of the General Court of the European Union of 22 September 2011 in Case T-174/10;

— annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 26 January 2010 (Case R 481/2009-1);

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) and the intervener at first instance to pay the entirety of the costs in the two instances.

**Pleas in law and main arguments**

The appellant alleges infringement by the General Court of Article 8(1)(b) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark. ([1])

In that connection, the appellant alleges, first, breach of the obligation to state reasons by the General Court in that it failed, in the global assessment of the likelihood of confusion, to provide sufficient reasons with regard to the criteria of the relevant public, the comparison of the marks and the likelihood of confusion. Thus, the General Court erred in finding that the public in question consists of average consumers displaying an average level of attention when the goods concerned are purchased despite the fact that it had been established, initially, that the consumer will rarely have the chance to make a direct comparison between the different marks. Furthermore, the General Court erred in finding, when comparing the marks, that the presence of the two triangular motifs dominated the