

Judgment of the Court of First Instance of 15 December 2005 — BIC v OHIM(Case T-262/04) ⁽¹⁾

(Community trade mark — Three-dimensional trade mark in the shape of an electronic lighter — Absolute ground for refusal — Distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 — Distinctive character acquired by use — Article 7(3) of Regulation (EC) No 40/94)

(2006/C 60/74)

Language of the case: French

Parties

Applicant: BIC SA (Clichy, France) (represented by: M.-P. Escande and A. Guillemin, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, Agent)

Action

brought against the decision of the Fourth Chamber of the Board of Appeal of OHIM of 6 April 2004 (Case R 468/2003-4), in relation to the registration as a Community trade mark of a three-dimensional trade mark in the shape of an electronic lighter

Operative part of the judgment

The Court:

1. *Dismisses the application.*
2. *Orders the applicant to pay the costs.*

⁽¹⁾ OJ C 251, 9.10.2004.

Judgment of the Court of First Instance of 15 December 2005 — BIC v OHIM(Case T-263/04) ⁽¹⁾

(Community trade mark — Three-dimensional trade mark in the shape of a lighter with a flint — Absolute grounds for refusal — Distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 — Distinctive character acquired by use — Article 7(3) of Regulation (EC) No 40/94)

(2006/C 60/75)

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Applicant(s): BIC SA (Clichy, France) (represented by: M.-P. Escande and A. Guillemin, Lawyers)

Defendant(s): Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, Agent)

Action

brought against the decision of the Fourth Chamber of the Board of Appeal of OHIM of 6 April 2004 (Case R 469/2003-4), in relation to the registration as a Community trade mark of a three-dimensional trade mark in the shape of a lighter with a flint

Operative part of the judgment

The Court:

1. *Dismisses the application.*
2. *Orders the applicant to pay the costs.*

⁽¹⁾ OJ C 251, 9.10.2004.