

**Judgment of the Court of First Instance of 11 July 2006 —
Caviar Anzali v OHIM — Novomarket (Asetra)**

(Case T-252/04) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community figurative trade mark ASETRA — Previous national and international figurative trade mark CAVIAR ASTARA — Relative grounds for refusal — Risk of confusion — Rejection of opposition for failure to produce documents within the prescribed periods — Evidence produced for the first time before the Board of Appeal — Admissibility — Scope of the examination conducted by the Boards of Appeal — Articles 62 and 74 of Regulation (EC) No 40/94)

(2006/C 224/81)

Language of the case: French

Parties

Applicant: Caviar Anzali SAS (Colombes, France) (represented by: J.-F. Jésus, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Novomarket, SA (Madrid, Spain)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 19 April 2004 (Case R 479/2003-2) concerning the opposition proceedings between Caviar Anzali SAS and Novomarket, SA

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 19 April 2004 (Case R 479/2003-2);
2. Orders OHIM to pay the costs.

⁽¹⁾ OJ C 217, 28.8.2004.

**Judgment of the Court of First Instance of 12 July 2006 —
Vitakraft-Werke Wührmann v OHIM — Johnson's Veterinary Products (VITACOAT)**

(Case T-277/04) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for the Community word mark VITACOAT — Earlier national word marks VITAKRAFT — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)

(2006/C 224/82)

Language of the case: English

Parties

Applicant: Vitakraft-Werke Wührmann & Sohn GmbH & Co. KG (Bremen, Germany) (represented by: U. Sander, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Novais Gonçalves, Agent)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: Johnson's Veterinary Products Ltd (Sutton Coldfield, United Kingdom) (represented by: M. Edenborough, Barrister)

Re:

Action brought against the decision of the First Board of Appeal of OHIM, of 27 April 2004 (Case R 560/2003-1) regarding opposition proceedings between Vitakraft-Werke Wührmann & Sohn GmbH & Co. KG and Johnson's Veterinary Products Ltd

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the applicant to bear its own costs, and pay the costs incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) and the intervener before the Court of First Instance.

⁽¹⁾ OJ C 300, 4.12.2004.