

*Decision of the Examiner:* Rejection of the application.

*Decision of the Board of Appeal:* Dismissal of the appeal.

*Pleas in law:* Infringement of Article 7(1)(b) of Regulation (EC) No 40/94 <sup>(1)</sup>, as the figurative mark applied for is sufficiently distinctive.

<sup>(1)</sup> Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

**Action brought on 24 July 2007 — Tom Tailor v OHIM (Gesäßtasche rechts)**

**(Case T-283/07)**

(2007/C 235/29)

*Language of the case:* German

**Parties**

*Applicant:* Tom Tailor GmbH (Hamburg, Germany) (represented by: S.O. Gillert, K. Vanden Bossche and F. Schiwek)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

**Form of order sought**

- annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 May 2007 (Case R 668/2006-1);
- order the defendant to pay the costs.

**Pleas in law and main arguments**

*Community trade mark concerned:* The figurative mark 'Gesäßtasche rechts' for goods in Class 25 (Application No 4 287 769).

*Decision of the Examiner:* Rejection of the application.

*Decision of the Board of Appeal:* Dismissal of the appeal.

*Pleas in law:* Infringement of Article 7(1)(b) of Regulation (EC) No 40/94 <sup>(1)</sup>, as the figurative mark applied for is sufficiently distinctive.

<sup>(1)</sup> Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

**Action brought on 24 July 2007 — Torres v OHIM — Torres de Anguix (TORRES de ANGUIX)**

**(Case T-286/07)**

(2007/C 235/30)

*Language in which the application was lodged:* Spanish

**Parties**

*Applicant:* Miguel Torres, S.A. (Barcelona, Spain) (represented by: E Armijo Chávarri, M. Baz de San Ceferino and A. Castán Pérez-Gómez, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

*Other party to the proceedings before the Board of Appeal of OHIM:* Torres de Anguix, S.L.

**Form of order sought**

- Annul the decision of the Second Board of Appeal of OHIM of 2 May 2007 in the case No R 707/2006-2;
- Order expressly that OHIM pay the costs.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* TORRES DE ANGUIX S.L.

*Community trade mark concerned:* Figurative mark 'TORRES de ANGUIX' for goods and services in Classes 33, 35 and 39 (application No 3283652)

*Proprietor of the mark or sign cited in the opposition proceedings:* The applicant.

*Mark or sign cited in opposition:* Word mark 'TORRES' (Community trade mark No 1752526) for goods in class 33 and various other Community, national and international trade marks which include the word 'TORRES' alone or accompanied by other words or graphics.

*Decision of the Opposition Division:* Opposition upheld and application for registration of the mark applied for refused.

*Decision of the Board of Appeal:* Appeal upheld and decision under appeal which refused the mark applied for annulled.

*Pleas in law:* Infringement of Article 8(1)(b) of Regulation (EC) No 40/94 <sup>(1)</sup> given that there is a likelihood of confusion of the conflicting marks.

<sup>(1)</sup> Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994, L 11, p. 1).