

2. orders *The Coffee Store GmbH* to pay the costs.

(¹) OJ C 281, 12.11.2005.

**Judgment of the Court of First Instance of 1 July 2008 —
Apple Computer v OHIM — TKS-Teknosoft (QUARTZ)**

(Case T-328/05) (¹)

(Community trade mark — Opposition proceedings — Application for Community word mark QUARTZ — Earlier Community figurative mark QUARTZ — Relative ground for refusal — Likelihood of confusion — Similarity between goods — Article 8(1)(b) of Regulation (EC) No 40/94)

(2008/C 209/79)

Language of the case: English

Parties

Applicant: Apple Computer, Inc. (Cupertino, California (United States)) (represented by: P. Rawlinson, S. Jones, J. Rutter and T.M. D'Souza Culora, solicitors)

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

Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: TKS-Teknosoft SA (Trélex, Switzerland) (represented by: C. Moreau, T. van Innis and K. Manhaeve, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 27 April 2005 (Case R 416/2004-4) relating to opposition proceedings between TKS-Teknosoft SA and Apple Computer, Inc.

Operative part of the judgment

The Court:

1. Dismisses the action
2. Orders Apple Computer Inc. to pay the costs.

(¹) OJ C 281, 18.11.2005.

**Judgment of the Court of First Instance of 9 July 2008 —
Audi v OHIM (Vorsprung durch Technik)**

(Case T-70/06) (¹)

(Community trade mark — Application for Community word mark Vorsprung durch Technik — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 — Partial refusal to register the mark by the examiner — Right to a fair hearing)

(2008/C 209/80)

Language of the case: German

Parties

Applicant: Audi AG (Ingolstadt, Germany) (represented by: S.O. Gillert and F. Schiwiek, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, acting as Agent)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 16 December 2005 (Case R 237/2005-2) dismissing in part the appeal against the examiner's decision refusing registration of the word mark *Vorsprung durch Technik* for goods and services in Classes 9, 12, 14, 25, 28, 37 to 40 and 42

Operative part of the judgment

The Court:

1. dismisses the action;
2. orders Audi AG to bear its own costs and to pay those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs).

(¹) OJ C 96, 22.4.2006.