

Judgment of the Court of First Instance of 10 December 2008 — Bateaux Mouches v OHIM — Castanet (BATEAUX MOUCHES)

(Case T-365/06) ⁽¹⁾

(Community trade mark — Invalidity proceedings — Community word mark BATEAUX MOUCHES — Absolute grounds for refusal — Lack of distinctive character — Article 7(1)(b) and Article 51(1) of Regulation (EC) No 40/94 — Lack of distinctive character acquired through use — Article 7(3) and Article 51(2) of Regulation (EC) No 40/94)

(2009/C 32/53)

Language of the case: French

Parties

Applicant: Compagnie des bateaux mouches SA (Paris, France) (represented by: D. de Leusse, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: Jean-Noël Castanet (Munich, Germany) (represented by: J. Sulzer, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 7 September 2006 (Case R 1172/2005-1) relating to invalidity proceedings between Jean-Noël Castanet and the Compagnie des bateaux mouches SA.

Operative part of the judgment

The Court:

1. dismisses the action;
2. orders the Compagnie des bateaux mouches SA to pay the costs.

⁽¹⁾ OJ C 42, 24.2.2007.

Judgment of the Court of First Instance of 10 December 2008 — Vitro Corporativo v OHIM — VKR Holding (Vitro)

(Case T-412/06) ⁽¹⁾

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

(2009/C 32/54)

Language of the case: Spanish

Parties

Applicant: Vitro Corporativo, SA de CV (Garza García, Nuevo León, Mexico) (represented by: J. Botella Reyna, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: VKR Holding A/S (Søborg, Denmark)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 13 October 2006 (Case R 1364/2005-2) concerning opposition proceedings between VKR Holding A/S and Vitro Corporativo, SA de CV.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Vitro Corporativo, SA de CV to pay the costs.

⁽¹⁾ OJ C 42, 24.2.2007.