

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

(Case T-295/07) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for the 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 32/59)

*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 intervening before the Court of First Instance:* VKR Holding A/S (Søborg, Denmark)

**Re:**

Action brought against the decision of the Second Board of Appeal of OHIM of 31 May 2007 (Case R 1640/2006-2), relating to 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.

<sup>(1)</sup> OJ C 235, 6.10.2007.

**Judgment of the Court of First Instance of 16 December 2008 — Mergel and Others v OHIM (Patentconsult)**

(Case T-335/07) <sup>(1)</sup>

*(Community trade mark — Application for the Community word mark Patentconsult — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 40/94)*

(2009/C 32/60)

*Language of the case: German*

**Parties**

*Applicants:* Volker Mergel (Wiesbaden, Germany); Klaus Kampfenkel (Hofheim, Germany); Burkart Bill (Darmstadt, Germany); and Andreas Herden (Wiesbaden) (represented by: G. Friderichs, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: S. Schäffner and G. Schneider, Agents)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of OHIM of 25 June 2007 (Case R 299/2007-4) concerning the registration of the word sign Patentconsult as a Community trade mark.

**Operative part of the judgment**

*The Court:*

1. Dismisses the action;
2. Orders Mr Volker Mergel, Mr Klaus Kampfenkel, Mr Burkart Bill and Mr Andreas Herden to pay the costs.

<sup>(1)</sup> OJ C 269, 10.11.2007.

**Judgment of the Court of First Instance of 17 December 2008 — Somm v OHIM**

(Case T-351/07) <sup>(1)</sup>

*(Community trade mark — Application for Community tri-dimensional mark — Shelter for shade — Absolute grounds for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 — Lack of distinctive character acquired by use — Article 7(3) of Regulation (EC) No 40/94)*

(2009/C 32/61)

*Language of the case: Italian*

**Parties**

*Applicant:* Somm Srl (San Mauro Torinese, Italy) (represented by: M. Ferro, lawyer)