

**Judgment of the Court of First Instance of 23 September 2009 — GlaxoSmithKline and others v OHIM — Sero­no Genetics Institute (FAMOXIN)**

(Joined Cases T-493/07, T- 26/08 and T-27/08) <sup>(1)</sup>

*(Community trade mark — Invalidity proceedings — Community word mark FAMOXIN — Earlier national word marks LANOXIN — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) and Article 52(1)(a) of Regulation (EC) No 40/94 (now Article 8(1)(b) and Article 53(1)(a) of Regulation (EC) No 207/2009) — Proof of use — Article 56(2) and (3) of Regulation No 40/94 (now Article 57(2) and (3) of Regulation No 207/2009)*

(2009/C 267/109)

Language of the case: English

**Parties**

*Applicants:* GlaxoSmithKline SpA (Verona, Italy); Laboratórios Wellcome de Portugal L<sup>da</sup> (Algés, Portugal); and The Wellcome Foundation Ltd (Greenford, Middlesex, United Kingdom) (represented by: R. Gilbey, Lawyer)

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

*Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance:* Sero­no Genetics Institute SA, (Évry, France)

**Re:**

Three actions brought against the decisions of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 14 September 2007 (Case R 8/2007-1), 20 November 2007 (Case R 10/2007-1) and 19 November 2007 (Case R 9/2007-1), relating to cancellation proceedings between, on the one hand, GlaxoSmithkline SpA, Laboratórios Wellcome De Portugal L<sup>da</sup> and The Wellcome Foundation Ltd, and, on the other, Sero­no Genetics Institute SA.

**Operative part of the judgment**

*The Court:*

1. Joins Cases T-493/07, T-26/08 and T-27/08 for the purposes of the present judgment;
2. Dismisses the actions;
3. Orders GlaxoSmithKline SpA, Laboratórios Wellcome de Portugal, L<sup>da</sup> and The Wellcome Foundation Ltd to pay the costs.

<sup>(1)</sup> OJ C 51, 23.2.2008.

**Judgment of the Court of First Instance of 23 September 2009 — Evets v OHIM (DANELECTRO and QWIK TUNE)**

(Joined Cases T-20/08 and T-21/08) <sup>(1)</sup>

*(Community trade mark — Community word mark DANELECTRO and Community figurative mark QWIK TUNE — Failure to observe the time-limit for submitting a request for renewal of the trade marks — Application for restitutio in integrum — Reformatio in pejus — Rights of the defence — Right to be heard — Article 61(2), second sentence of Article 73, and Article 78 of Regulation (EC) No 40/94 (now Article 63(2), second sentence of Article 75, and Article 81 of Regulation (EC) No 207/2009)*

(2009/C 267/110)

Language of the case: English

**Parties**

*Applicant:* Evets Corp. (Irvine, California, United States) (represented by: S. Ryan, Solicitor)

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

**Re:**

Action brought against two decisions of the Fourth Board of Appeal of OHIM of 5 November 2007 (Cases R 603/2007-4 and R 604/2007-4), relating to an application for *restitutio in integrum* made by the applicant.

**Operative part of the judgment**

*The Court:*

1. Dismisses the actions;
2. Orders Evets Corp. to pay the costs.

<sup>(1)</sup> OJ C 64, 8.3.2008.

**Judgment of the Court of First Instance of 16 September 2009 — Gres La Sagra v OHIM — Ceramicalcora (VENATTO MARBLE STONE)**

(Case T-130/08) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for Community figurative mark VENATTO MARBLE STONE — Earlier national figurative marks VENETO CERÁMICAS — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009)*

(2009/C 267/111)

Language of the case: Spanish

**Parties**

*Applicant:* Gres La Sagra, SL (Alameda de la Sagra, Spain) (represented by: T. Villate Consonni and J. Calderón Chavero, lawyers)