

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

### Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 23 February 2010 in Case R 470/2009-4;

— Order the defendant to pay the costs.

### Pleas in law and main arguments

*Community trade mark concerned:* Figurative mark representing a green and white cross, in respect of goods and services in Classes 3, 5, 8, 9, 10, 11, 16, 21, 25, 29, 30, 32, 35-42 and 44 — Application No 5 930 979.

*Decision of the Examiner:* Refusal 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 207/2009<sup>(1)</sup>, as the Board of Appeal's assessment in relation to establishing distinctiveness was incorrect in a number of respects.

<sup>(1)</sup> Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

**Action brought on 27 April 2010 — BVR v OHIM — Austria Leasing (Austria Leasing Gesellschaft m.b.H. Mitglied der Raiffeisen-Bankengruppen Österreich)**

(Case T-197/10)

(2010/C 179/82)

*Language in which the application was lodged:* German

### Parties

*Applicant:* Bundesverband der Deutschen Volksbanken und Raiffeisenbanken eV (BVR) (Berlin, Germany) (represented by: I. Rinke, lawyer)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Austria Leasing GmbH (Frankfurt, Germany)

### 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 3 February 2010 (Case R 248/2009-1);

— Order the defendant to pay the costs.

### Pleas in law and main arguments

*Applicant for a Community trade mark:* Austria Leasing GmbH.

*Community trade mark concerned:* Figurative mark containing the word elements 'Austria Leasing Gesellschaft m.b.H. Mitglied der Raiffeisen-Bankengruppen Österreich', in respect of services in Classes 35, 36 and 37.

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

*Mark or sign cited in opposition:* inter alia, a figurative mark registered in Germany which contains the word element 'Raiffeisen', in respect of services in Classes 36, 39 and 42.

*Decision of the Opposition Division:* Rejection of the opposition.

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

*Pleas in law:* Infringement of Article 8(1)(b) of Regulation (EC) No 207/2009, <sup>(1)</sup> as there is a likelihood of confusion between the marks at issue.

<sup>(1)</sup> Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

**Action brought on 30 April 2010 — Maximuscle Limited v OHIM — Foreign Supplement Trade Mark Ltd (GAKIC)**

(Case T-198/10)

(2010/C 179/83)

*Language in which the application was lodged:* English

### Parties

*Applicant:* Maximuscle Ltd (Hertfordshire, United Kingdom) (represented by: N. Phillips, Solicitor and G. Fernando, Barrister)