

**Judgment of the General Court of 13 September 2010 —
KUKA Roboter v OHIM (Shade of orange)**

(Case T-97/08) ⁽¹⁾

(Community trade mark — Application for a Community trade mark consisting of a shade of orange — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 (now Article 7(1)(b) of Regulation (EC) No 207/2009))

(2010/C 301/41)

Language of the case: German

Parties

Applicant: KUKA Roboter GmbH (Augsburg, Germany) (represented by: A. Kohn and B. Hannemann, lawyers)

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

Re:

ACTION brought against the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 14 December 2007 (Case R 1572/2007-4), concerning an application for registration of a shade of orange as a Community trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders KUKA Roboter GmbH to pay the costs.

⁽¹⁾ OJ C 107, 26.4.2008.

**Judgment of the General Court of 13 September 2010 —
Schniga v CPVO — Elaris and Brookfield New Zealand
(Gala Schnitzer)**

(Case T-135/08) ⁽¹⁾

(Plant varieties — Application for a Community plant variety right for the Gala Schnitzer apple variety — Technical examination — Discretion of the CPVO — Objections — Article 55(4) of Regulation (EC) No 2100/94)

(2010/C 301/42)

Language of the case: English

Parties

Applicant: Schniga GmbH (Bolzano, Italy) (represented by: G. Würtenberger and R. Kunze, lawyers)

Defendant: Community Plant Variety Office (CPVO) (represented by: B. Kiewiet and M. Ekvad, Agents)

Other parties to the proceedings before the Board of Appeal of the CPVO, interveners before the General Court: Elaris SNC (Angers, France), and Brookfield New Zealand Ltd (Havelock North, New Zealand) (represented by: M. Eller, lawyer)

Re:

ACTION against the decision of the Board of Appeal of the CPVO of 21 November 2007 (Cases A 003/2007 and A 004/2007), concerning the grant of a Community plant variety right for the Gala Schnitzer plant variety.

Operative part of the judgment

The Court

1. Annuls the decision of the Board of Appeal of the Community Plant Variety Office (CPVO) of 21 November 2007 (Cases A 003/2007 and A 004/2007);
2. Orders the CPVO to bear its own costs and to pay those incurred by Schniga GmbH;
3. Orders Elaris SNC and Brookfield New Zealand Ltd to bear their own costs.

⁽¹⁾ OJ C 142, 7.6.2008.

**Order of the General Court of 13 September 2010 —
Abbott Laboratories v OHIM — aRigen (Sorvir)**

(Case T-149/08) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community word mark Sorvir — Earlier Community word mark NORVIR — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009))

(2010/C 301/43)

Language of the case: English

Parties

Applicant: Abbott Laboratories (Abbott Park, Illinois, United States) (represented by: S. Schäffler, lawyer)

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