

*Pleas in law:* Infringement of Article 7(1)(b) of Regulation No 207/2009, since the sign applied for is distinctive as regards the perception which the relevant public would have of it and as regards the goods and services for which registration is sought, and of Article 75 of that regulation, since the reasons of the Board of Appeal (i) cannot be all-encompassing, the goods covered not being sufficient homogenous, and (ii) are not coherent.

**Action brought on 6 July 2011 — Hand Held Products v OHIM — Orange Brand Services (DOLPHIN)**

**(Case T-361/11)**

(2011/C 269/117)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Hand Held Products, Inc. (Wilmington, United States) (represented by: J. Güell Serra and M. Curell Aguilà, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Orange Brand Services Ltd (Bristol, United Kingdom)

**Form of order sought**

— Partially annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 6 April 2011 in case R 1443/2010-1, and reject CTM application No 5046231; and

— Order the defendant to pay the costs.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The other party to the proceedings before the Board of Appeal

*Community trade mark concerned:* The word mark 'DOLPHIN', for inter alia goods in class 9 — Community trade mark application No 5046231

*Proprietor of the mark or sign cited in the opposition proceedings:* The applicant

*Mark or sign cited in opposition:* Community trade mark registration No 936229 of the word mark 'DOLPHIN', for goods in class 9

*Decision of the Opposition Division:* Upheld the opposition for part of the contested goods

*Decision of the Board of Appeal:* Partially annulled the decision of the Opposition division

*Pleas in law:* Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal failed to make a global analysis of the relevant factors but merely rejected the opposition on the basis that the goods are different, establishing minimal differences between them, and without giving the adequate weight in the comparative analysis to the identity in the signs 'DOLPHIN'.

**Action brought on 6 July 2011 — Bial — Portela & Ca v OHIM — Isdin (ZEBEXIR)**

**(Case T-366/11)**

(2011/C 269/118)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Bial — Portela & Ca, SA (São Mamede do Coronado, Portugal) (represented by: B. Braga da Cruz and J. M. Pimenta, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Isdin, SA (Barcelona, Spain)

**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 6 April 2011 in case R 1212/2009-1;

— Order the defendant to refuse the grant of the registration of Community trade mark No 6809008 'ZEBEXIR'; and

— Order the other party to the proceedings before the Board of Appeal to pay the costs of the proceedings.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The other party to the proceedings before the Board of Appeal

*Community trade mark concerned:* The word mark 'ZEBEXIR', for goods in classes 3 and 5 — Community trade mark application No 6809008

*Proprietor of the mark or sign cited in the opposition proceedings:* The applicant

*Mark or sign cited in opposition:* Community trade mark registration No 3424223 of the word mark 'ZEBINIX', for goods and services in classes 3, 5 and 42