

Case T-162/01

Laboratorios RTB, SL

v

Office for Harmonisation in the Internal Market
(Trade Marks and Designs) (OHIM)

(Community trade mark — Opposition procedure — Earlier figurative and word marks containing the word GIORGI — Application for Community word mark GIORGIO BEVERLY HILLS — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 40/94)

Judgment of the Court of First Instance ((Fourth Chamber), 9 July 2003 II-2823

Summary of the Judgment

Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the owner of an identical or similar earlier mark registered for identical or similar products or services — Risk of confusion with the earlier mark — Word mark 'GIORGIO BEVERLY HILLS' and figurative marks including the word 'GIORGI'

(Council Regulation No 40/94, Art. 8(1)(b))

There is no risk of the Spanish public being confused between the word mark 'GEORGIO BEVERLEY HILLS', for which registration as a Community trade mark is sought in respect of toilet soaps, perfumes etc. falling within class 3 of the Nice Agreement, and figurative marks including the word signs 'J GIORGI', 'GIORGI LINE' and 'MISS GIORGI', previously registered in Spain to designate perfumes and cosmetics in the same class. Even though there is identity or similarity between the goods covered by the conflict-

ing marks, the visual, aural and conceptual differences between the signs constitute sufficient grounds for discounting the existence of that risk, so that one of the conditions for applying Article 8(1)(b) of Regulation No 40/94 on the Community trade mark is not satisfied.

(see paras 52, 54)