

## Case T-34/04

**Plus Warenhandelsgesellschaft mbH**

**v**

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

(Community trade mark — Application for a Community figurative mark containing the verbal element ‘Turkish Power’ — Earlier word mark POWER — Opposition proceedings — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)

Judgment of the Court of First Instance (Fourth Chamber), 22 June 2005 . . . II - 2403

### Summary of the Judgment

*Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Figurative mark Turkish Power and word mark POWER  
(Council Regulation No 40/94, Art. 8(1)(b))*

II - 2401

There is no likelihood of confusion, as regards the German public, between the figurative sign made up of the two terms 'Turkish' and 'power' separated by a roaring lion's head with an elaborate mane, in respect of which registration as a Community trade mark has been applied for regarding various goods including 'tobacco, smokers' articles and matches' belonging to Class 34 of the Nice Agreement, and the word mark POWER, registered previously in Germany for 'tobacco; smokers' articles, ... matches' in the same class, since it is not evident that the element 'power', which is common to both signs, constitutes the dominant component of the sign sought nor that it determines the overall impression given by the latter to the point that there is a clear likelihood of confusion on the part of

the relevant public, with the result that, having regard to the visual, phonetic and conceptual differences between the two conflicting signs, and in spite of the identical nature of the goods covered by them and the presence of that common verbal element, the relevant public which is circumspect, shows a high degree of care and is loyal towards its habitual marks, is not likely to believe that the goods in question come from the same undertaking or from economically-linked undertakings.

(see paras 49, 71-72)