

Re:

ACTION brought against the decision of the First Board of Appeal of OHIM of 28 February 2007, as corrected (Case R 1050/2005-1), concerning opposition proceedings between Registro Profesional de Tenis, SL and Professional Tennis Registry, Inc.

Information relating to the case

Applicant for the Community trade mark:	Professional Tennis Registry, Inc.
Community trade mark sought:	Figurative mark PTR PROFESSIONAL TENNIS REGISTRY for goods and services in Classes 16, 25 and 41 — Application No 2826709
Proprietor of the mark or sign cited in the opposition proceedings:	Registro Profesional de Tenis, SL
Mark or sign cited in opposition:	National figurative marks RPT Registro Profesional de Tenis, S.L. and RPT European Registry of Professional Tennis for services in Class 41
Decision of the Opposition Division:	Opposition dismissed
Decision of the Board of Appeal:	Partial annulment of the decision of the Opposition Division; application for Community mark rejected for goods and services in Classes 16 and 41

Operative part

The Court:

1. Annuls the decision of the First Board of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) of 28 February 2007, as corrected (Case R 1050/2005-1);

2. Orders OHIM to bear its own costs and to pay the costs incurred by Professional Tennis Registry, Inc.;
3. Orders Registro Profesional de Tenis, SL, to bear its own costs.

**Judgment of the Court of First Instance (First Chamber) of 10 March 2009 —
Piccoli v OHIM (Shape of a seashell)**

(Case T-8/08)

(Community trade mark — Application for a three-dimensional Community trade mark — Shape of a seashell — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 — Lack of distinctive character acquired through use — Article 7(3) of Regulation No 40/94)

Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Marks devoid of any distinctive character (Council Regulation No 40/94, Art. 7(1)(b) and (3) (see paras 17, 21-25, 38-40)

Re:

ACTION brought against the decision of the First Board of Appeal of OHIM of 28 September 2007 (Case R 530/2007-1) concerning an application to register as a Community trade mark a three-dimensional sign consisting of the shape of a seashell.