

**Judgment of the Court of First Instance of 23 January 2008**  
**— Demp v OHIM — BAU HOW (BAU HOW)**

(Case T-106/06) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for Community figurative mark BAU HOW — Earlier figurative marks BAUHAUS — Relative ground for refusal — No likelihood of confusion — Article 8(1)(a) and (b), and Article 73 of Regulation (EC) No 40/94)*

(2008/C 64/57)

Language of the case: German

**Parties**

*Applicant:* Demp BV, formerly Demp Holding BV (Maastricht, Netherlands) (represented by: R.-D. Härer, C. Schultze, J. Ossing and C. Weber, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider)

*Other party to the proceedings before the Board of Appeal of OHIM:* BAU HOW GmbH (Hattersheim/Okriftel, Germany)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of OHIM of 31 January 2006 (Case R 92/2004-4) on opposition proceedings between Demp BV and BAU HOW GmbH.

**Operative part of the judgment**

1. *The action is dismissed;*
2. *Demp BV is ordered to pay the costs.*

<sup>(1)</sup> OJ C 143 of 17.6.2006.

**Judgment of the Court of First Instance of 30 January 2008**  
**— Japan Tobacco v OHIM — Torrefacção Camelo (CAMELO)**

(Case T-128/06) <sup>(1)</sup>

*(Community trade mark — Opposition procedure — Application for the Community figurative mark CAMELO — Earlier national figurative mark CAMEL — Relative ground for refusal — No risk of profit derived unduly from, and no risk of detriment to, the distinctive character and reputation of the earlier mark — Article 8(5) of Regulation (EC) No 40/94 — No infringement of the rules of the appeal procedure — Article 74 of Regulation No 40/94)*

(2008/C 64/58)

Language of the case: French

**Parties**

*Applicant:* Japan Tobacco, Inc. (Tokyo, Japan) (represented by: A. Ortiz López, S. Ferrandis González and E. Ochoa Santamaría, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, Agent)

*Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance:* Torrefacção Camelo L<sup>da</sup> (Campo Maior, Portugal) (represented by: A. De Sampaio, I. Cavalho Franco and C. de Almeida Carvalho, lawyers)

**Re:**

Action brought against the decision of the Second Board of Appeal of OHIM of 22 February 2006 (Case R 669/2003-2) concerning opposition proceedings between Japan Tobacco, Inc. and Torrefacção Camelo L<sup>da</sup>.

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*
2. *Orders Japan Tobacco, Inc. to bear its own costs and to pay those of the Office for Harmonisation in the Internal Market (Trade Marks and Designs)(OHIM);*
3. *Orders Torrefacção Camelo L<sup>da</sup> to bear its own costs.*

<sup>(1)</sup> OJ C 154, 1.7.2006.