

Judgment of the Court of First Instance of 10 September 2008 — Gerson v OHIM (Paint filter partly coloured yellow)

(Case T-201/06) ⁽¹⁾

(Community trade mark — Application for a three-dimensional Community trade mark — Paint filter partly coloured yellow — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94)

(2008/C 272/38)

Language of the case: English

Parties

Applicant: Louis M. Gerson Co., Inc., (Middleboro, Massachusetts, United States) (represented by: M. Edenborough, Barrister)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: Ó. Mondéjar Ortuño, Agent)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 15 May 2006 (Case R 1387/2005-2) concerning an application for registration as a Community trade mark of a three-dimensional sign consisting of a paint filter coloured yellow near the tip.

Operative part of the judgment

The Court:

1. *Dismisses the action.*
2. *Orders Louis M. Gerson Co., Inc. to pay the costs.*

⁽¹⁾ OJ C 224, 16.9.2006.

Judgment of the Court of First Instance of 10 September 2008 — Promat v OHIM — Puertas Proma (PROMAT)

(Case T-243/06) ⁽¹⁾

(Community trade mark — Opposition procedure — Application for Community figurative mark PROMAT — Earlier Community figurative mark PROMA — Partial refusal to register — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)

(2008/C 272/39)

Language of the case: German

Parties

Applicant: Promat GmbH (Ratingen, Germany) (represented by: J. Krenzle and S. Beckmann, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Puertas Proma SAL (Villacañas, Spain).

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 4 May 2006 (Case R 1059/2005-1) concerning opposition proceedings between Puertas Proma SAL and Promat GmbH.

Operative part of the judgment

The Court:

1. *dismisses the action;*
2. *orders Promat GmbH to pay the costs.*

⁽¹⁾ OJ C 310, 16.12.2006.