

**Re:**

APPLICATION for annulment of Commission Decision REM 05/2004 of 6 July 2005 refusing the reimbursement and remission of certain customs duties.

**Operative part**

The Court:

1. Annuls Commission Decision REM 05/2004 of 6 July 2005;
2. Orders the Commission of the European Communities to pay the costs.

**Judgment of the Court of First Instance (Seventh Chamber) of 23 September 2009 — Phildar v OHIM — Comercial Jacinto Parera (FILDOR)**

**(Case T-99/06)**

(Community trade mark — Opposition proceedings — Application for the Community word mark FILDOR — Earlier national semi-figurative mark PHILDAR — Earlier national word mark FILDOR — Earlier international word and semi-figurative marks PHILDAR — Relative ground for refusal — Likelihood of confusion — Articles 8(1)(b), 62 and 73 of Regulation (EC) No 40/94 (now Articles 8(1)(b), 64 and 75 of Regulation (EC) No 207/2009)

*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 (Council Regulation No 40/94, Art. 8(1)(b)) (see paras 33, 68-85)*

**Re:**

ACTION against the decision of the Second Board of Appeal of OHIM of 16 January 2006 (Case R 245/2004-2) relating to opposition proceedings between Phildar SA and Comercial Jacinto Parera, SA.

**Information relating to the case**

Applicant for the Community trade mark:	Comercial Jacinto Parera, SA
Community trade mark sought:	Word mark FILDOR for goods in Classes 22 to 26 — Application No 831834
Proprietor of the mark or sign cited in the opposition proceedings:	Phildar SA
Mark or sign cited in opposition:	National and international word and figurative marks FILDOR and PHILDAR for goods in Classes 22 to 26
Decision of the Opposition Division:	Opposition upheld
Decision of the Board of Appeal:	Annulment of the Opposition Division's decision

**Operative part**

The Court:

1. Annuls the decision of the Second Board of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) of 16 January 2006 (Case R 245/2004-2);
2. Orders OHIM to pay the costs.