

3. Orders OHIM to pay the costs.

(¹) OJ C 69, 24.3.2007.

**Judgment of the Court of First Instance of 29 April 2009
— Bodegas Montebello v OHIM — Montebello
(MONTEBELLO RHUM AGRICOLE)**

(Case T-430/07) (¹)

(Community trade mark — Opposition proceedings — Application for the figurative Community trade mark MONTEBELLO RHUM AGRICOLE — Earlier national word mark MONTEBELLO — Relative ground for refusal — No likelihood of confusion — Absence of similarity between the goods — Article 8(1)(b) of Regulation (EC) No 40/94)

(2009/C 141/79)

Language of the case: Spanish

Parties

Applicant: Bodegas Montebello, SA (Montilla, Spain) (represented by: T. Andrade Boué, I. Lehmann Novo and A. Hernández Lehmann, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. López Fernández de Corres and J. Crespo Carrillo, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: Montebello SARL (Petit-Bourg, France) (represented by: G.-G. Lamoureux, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 7 September 2007 (Case R 223/2007-2), relating to opposition proceedings between Bodegas Montebello, SA and Montebello SARL

Operative part of the judgment

The Court:

1. dismisses the action;
2. orders Bodegas Montebello, SA to pay the costs.

(¹) OJ C 22, 26.1.2008.

**Judgment of the Court of First Instance of 5 May 2009 —
Rotter v OHIM (Shape of an arrangement of sausages)**

(Case T-449/07) (¹)

(Community trade mark — Application for a three-dimensional Community trade mark — Shape of an arrangement of sausages — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94)

(2009/C 141/80)

Language of the case: German

Parties

Applicant: Thomas Rotter (Munich, Germany) (represented by: M. Müller, lawyer)

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

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 27 September 2007 (Case R 1415/2006-4) relating to the registration of a three-dimensional sign representing an arrangement of sausages as a Community trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Mr Thomas Rotter to pay the costs.

(¹) OJ C 37, 9.2.2008.

**Judgment of the Court of First Instance of 24 April 2009
— Sanchez Ferriz and Others v Commission**

(Case T-492/07 P) (¹)

(Appeal — Staff Cases — Officials — Promotion — 2005 promotion year — Non-inclusion on the list of promoted officials — Multiplication rates for guidance purposes — Articles 6 and 10 of Annex XIII to the Staff Regulations — Legal interest in raising a plea)

(2009/C 141/81)

Language of the case: French

Parties

Appellants: Carlos Sanchez Ferriz (Brussels, Belgium) and the nine other officials of the Commission of the European Communities whose names appear in the annex to the judgment (represented by: F. Frabetti, lawyer)

Other party to the proceedings: Commission of the European Communities (represented by: C. Berardis-Kayser and G. Berscheid, Agents)