

Operative part

The Court:

1. Dismisses the action;
2. Orders Jean Cassegrain SAS to pay the costs.

Judgment of the Court of First Instance (First Chamber) of 21 October 2008 — Aventis Pharma v OHIM — Nycomed (PRAZOL)

(Case T-95/07)

(Community trade mark — Opposition proceedings — Application for the Community word mark PRAZOL — Earlier national word mark PREZAL — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)

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 26, 30, 56, 57)

Re:

ACTION brought against the decision of the Fourth Board of Appeal of OHIM of 8 February 2007 (Case R 302/2005-4), relating to opposition proceedings between Altana Pharma AG and Aventis Pharma SA.

Information relating to the case

Applicant for the Community trade mark:	Nycomed GmbH, formerly Altana Pharma AG
Community trade mark sought:	Word mark PRAZOL for goods in Class 5 — Application No 1154269
Proprietor of the mark or sign cited in the opposition proceedings:	Aventis Pharma SA
Mark or sign cited in opposition:	National word mark PREZAL for goods in Class 5
Decision of the Opposition Division:	Opposition upheld
Decision of the Board of Appeal:	Decision of the Opposition Division annulled and the opposition dismissed

Operative part

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) of 8 February 2007 (Case R 302/2005-4);
2. Orders OHIM to bear its own costs and to pay those incurred by Aventis Pharma SA;
3. Orders Nycomed GmbH to bear its own costs.