

Information relating to the case

Applicant for the Community trade mark:	Promomadrid Desarrollo Internacional de Madrid, SA
Community trade mark sought:	Composite mark MADRIDEXPORTA for goods and services in Classes 16, 35, 36, 38, 39, 41 and 42 — Application No 4659553
Decision of the examiner:	Registration refused
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Annuls the decision of the First Board of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) of 7 March 2007 (Case R 1130/2006-1);
2. Orders OHIM to pay the costs.

Judgment of the Court of First Instance (Seventh Chamber) of 16 September 2009 — Offshore Legends v OHIM — Acteon (OFFSHORE LEGENDS in black and white and OFFSHORE LEGENDS in blue, black and green)

(Joined Cases T-305/07 and T-306/07)

(Community trade mark — Opposition proceedings — Application for two Community figurative marks OFFSHORE LEGENDS, one in black and white, the other in blue, black and green — Earlier national figurative mark OFFSHORE 1 — Relative grounds for refusal — Likelihood of confusion — Similarity of goods and signs — Absence of request for proof of genuine use of the earlier mark — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009) —

Article 43(2) and (3) of Regulation No 40/94 in conjunction with Article 15(2)(a) of Regulation No 40/94 (now Article 42(2) and (3) and point (a) of the second subparagraph of Article 15(1) of Regulation 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 60, 61, 98-103)

Re:

Two actions brought against two decisions of the Second Board of Appeal of OHIM of 29 May 2007 (Case R 1031/2006-2 and Case R 1038/2006-2) relating to opposition proceedings between Acteon and Offshore Legends.

Information relating to the case

Applicant for the Community trade mark:	Offshore Legends
Community trade mark sought:	Figurative marks OFFSHORE LEGENDS in black and white and OFFSHORE LEGENDS in blue, black and green for goods in Classes 3, 9, 14, 18, 20, 24, 25, 28 and 35 — Application Nos 3160231 and 2997021
Proprietor of the mark or sign cited in the opposition proceedings:	Acteon
Mark or sign cited in opposition:	National and international figurative mark OFFSHORE 1 for products in Classes 16, 18 and 25
Decision of the Opposition Division:	Opposition dismissed in respect of all the contested goods
Decision of the Board of Appeal:	Partial annulment of the decision of the Opposition Division, to the extent that it dismissed the opposition in respect of products in Classes 18 and 25

Operative part

The Court:

1. Dismisses the actions;
2. Orders Offshore Legends to pay the costs.

Judgment of the Court of First Instance (Seventh Chamber) of 16 September 2009 — Alber v OHIM (hand grip)

(Case T-391/07)

(Community trade mark — Application for a three-dimensional Community trade mark — Hand grip — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 (now Article 7(1)(b) of Regulation (EC) No 207/2009) — Duty to give reasons — Article 73 of Regulation No 40/94 (now Article 75 of Regulation No 207/2009) — Principle of examination of the facts of its own motion — Article 74(1) of Regulation No 40/94 (now Article 76(1) of Regulation No 207/2009)

Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Marks devoid of any distinctive character (Council Regulation No 40/94, Art. 7(1)(b)) (see paras 50-62)

Re:

ACTION brought against the decision of the Fourth Board of Appeal of OHIM of 16 August 2007 (Case R 361/2007-4) and against the decision of the examiner of OHIM of 16 January 2007 in that case, in so far as it rejects Community trade mark application No 4396727 for certain goods covered by that mark.