

Action brought on 20 November 2007 — Pioneer Hi-Bred International v OHIM (OPTIMUM)**(Case T-424/07)**

(2008/C 8/51)

*Language of the case: English***Parties**

Applicant: Pioneer Hi-Bred International Inc. (Johnston, United States) (represented by: G. Würtenberger, R. Kunze, and T. Wittmann, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought

- The decision of the Second Board of Appeal of 11 September 2007 in Case R 288/2007-2 concerning Community trade mark application No 4 893 053 'OPTIMUM' be annulled;
- defendant pay the costs of the proceedings.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'OPTIMUM' for goods in class 1 — application No 4 893 053

Decision of the examiner: Refusal of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Articles 7(1)(b) and (c), 7(2), 73 and 74 of Council Regulation No 40/94 by not taking into consideration the fact that the goods in question address a specialised public and by not supporting the decision on evidence of use of the trade mark applied for.