

**Order of the Court (Fifth Chamber) of 3 June 2009 —  
Zipcar v OHIM**

**(Case C-394/08 P)**

(Appeal — Community trade mark — Article 8(1)(b) of Regulation (EC) No 40/94 —  
Word mark ZIPCAR — Opposition by the proprietor of the national word  
mark CICAR)

1. *Appeals — Grounds — Review by the Court of Justice of the assessment of the evidence — Inadmissibility — Possible only where the clear sense of the evidence has been distorted (Art. 225 EC; Statute of the Court of Justice, Art. 58, first para.) (see paras 39, 40)*
2. *Community trade mark — Procedural provisions — Examination of the facts of the Office's own motion — Scope — Obligation to prove matters within common knowledge — None — Dispute before the Court of First Instance — Review by the Court of Justice of the assessment by the Court of First Instance of whether matters were within common knowledge — Possible only where the clear sense of the evidence has been distorted (Art. 225 EC; Statute of the Court of Justice, Art. 58; Council Regulation No 40/94, Art. 74) (see para. 42)*
3. *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 — Earlier mark consisting of a national mark (Council Regulation No 40/94, Art. 8(1)(b)) (see paras 48, 49)*

**Re:**

Appeal against the judgment of the Court of First Instance (Eighth Chamber) of 25 June 2008 in Case T-36/07 *Zipcar v OHIM* by which that Court dismissed an action for annulment brought by the applicant for registration of the word mark 'ZIPCAR' for goods in Classes 9, 39 and 42 against decision R 122/2006-2 of the Second Board of Appeal of the Office for Harmonization in the Internal Market (OHIM) of 30 November 2006 rejecting the action against the decision of the Opposition Division partially refusing registration of that mark in opposition proceedings brought by the holder of the national word mark 'CICAR' for services in Class 39.

**Operative part**

1. The appeal is dismissed.
2. Zipcar Inc. is ordered to pay the costs.

**Order of the Court (Seventh Chamber) of 4 June 2009 —  
Carlos Cloet and Jacqueline Cloet v West-Vlaamse Intercommunale  
voor Economische Expansie, Huisvestingsbeleid en Technische Bijstand**

**(Case C-129/08)**

(Reference for a preliminary ruling — No need to reply)

*Preliminary rulings — Reference to the Court — National court unable to provide clarification required by the Court since the case is no longer before it by reason of an appeal brought against the order for reference — No need to adjudicate (Art. 234 EC) (see paras 9-11)*

**Re:**

Reference for a preliminary ruling — Rechtbank van eerste aanleg Brugge — State aid — Definition — Interpretation of Articles 87(1) and 88(3) EC — Sale of a plot of land by an intercommunal organisation to an undertaking active in Benelux on preferential terms, following a compulsory purchase order — Whether or not obligation to notify exists.

**Operative part**

There is no need to reply to the reference for a preliminary ruling in Case C-129/08.