

2. Orders Freixenet, SA to pay the costs.

(¹) OJ C 116, 9.5.2008.

**Judgment of the General Court of 27 April 2010 —
Freixenet v OHIM (Shape of a frosted black matt bottle)**

(Case T-110/08) (¹)

(Community trade mark — Application for a Community trade mark representing a frosted black matt bottle — Absolute ground for refusal — Lack of distinctive character — No distinctive character acquired through use — Article 7(1)(b) and 7(3) of Regulation (EC) No 40/94 (now Article 7(1)(b) and 7(3) of Regulation (EC) No 207/2009) — Obligation to state reasons — Rights of the defence — Article 73 of Regulation No 40/94 (now Article 75 of Regulation No 207/2009))

(2010/C 161/61)

Language of the case: French

Parties

Applicant: Freixenet, SA (Sant Sadurní d'Anoia, Spain) (represented by: F. de Visscher, E. Cornu and D. Moreau, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: A. Folliard-Monguiral, Agent)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 20 November 2007 (Case R 104/2001-1) concerning an application for registration of a sign representing a frosted black matt bottle as a Community trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Freixenet, SA to pay the costs.

(¹) OJ C 116, 9.5.2008.

**Judgment of the General Court of 29 April 2010 — Kerma
v OHIM (BIOPIETRA)**

(Case T-586/08) (¹)

(Community trade mark — Application for the Community word mark BIOPIETRA — 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))

(2010/C 161/62)

Language of the case: Italian

Parties

Applicant: Kerma SpA (Raffa di Puegnago sul Garda, Italy) (represented by: A. Manzoni, lawyer)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 16 October 2008 (Case R 889/2008-1) concerning an application for registration of the word mark BIOPIETRA as a Community trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Kerma SpA to pay the costs.

(¹) OJ C 55, 7.3.2009.

**Judgment of the General Court of 15 April 2010 — Katjes
Fassin v OHIM (shape of a panda face)**

(Case T-22/09) (¹)

(Community trade mark — Refusal of registration by the examiner — Withdrawal of the application for registration — No need to rule)

(2010/C 161/63)

Language of the case: German

Parties

Applicant: Katjes Fassin GmbH & Co. KG (Emmerich am Rhein, Germany) (represented by: T. Schmitz, lawyer)