

**Judgment of the General Court of 9 December 2009 —
Longevity Health Products v OHIM**

(Case T-484/08) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community word mark Kids Vits — Earlier Community word mark VITS4KIDS — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009))

(2010/C 24/87)

Language of the case: German

Parties

Applicant: Longevity Health Products, Inc. (Nassau, Bahamas) (represented by: J. Korab, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Merck KGaA (Darmstadt, Germany)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 28 August 2008 (Case R 716/2007-4) relating to opposition proceedings between Merck KGaA and Longevity Health Products, Inc.

Operative part of the judgment

The Court:

1. *dismisses the action;*
2. *orders Longevity Health Products, Inc. to pay the costs.*

⁽¹⁾ OJ C 32, 7.2.2009.

**Judgment of the General Court of 9 December 2009 —
Earle Beauty v OHIM (SUPERSKIN)**

(Case T-486/08) ⁽¹⁾

(Community trade mark — Application for the Community word mark SUPERSKIN — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 40/94 (now Article 7(1)(c) of Regulation (EC) No 207/2009))

(2010/C 24/88)

Language of the case: English

Parties

Applicant: Liz Earle Beauty Co. Ltd (Ryde, Isle of Wight, United Kingdom) (represented by: M. Cover, Solicitor)

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

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 15 September 2008 (Case R 1656/2007-4), concerning registration of the word sign SUPERSKIN as a Community trade mark.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 15 September 2008 (Case R 1656/2007-4), in respect of perfumes, nail and hair care preparations, antiperspirants, deodorants, dentifrice, hair colouring preparations, hair spray, eyecare preparations, nail varnish, nail varnish remover and artificial nails, in Class 3, and hygienic care and cosmetic treatments for the hair, in Class 44;*
2. *Dismisses the action as to the remainder;*
3. *Orders Liz Earle Beauty Co. Ltd to bear its own costs and to pay half of OHIM's costs, and OHIM to bear the other half of its costs.*

⁽¹⁾ OJ C 6, 10.1.2009.