

Decision of the Opposition Division:	Opposition upheld
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Dismisses the action;
2. Orders Bayer Healthcare LLC to pay the costs.

Judgment of the Court of First Instance (Third Chamber) of 17 November 2009 — Apollo Group v OHIM (THINKING AHEAD)

(Case T-473/08)

(Community trade mark — Application for Community word mark THINKING AHEAD — 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)

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 29, 37)

Re:

ACTION against the decision of the Second Board of Appeal of OHIM of 14 August 2008 (Case R 728/2008-2), concerning an application for registration of the word sign THINKING AHEAD as a Community trade mark.

Information relating to the case

Applicant for the Community trade mark:	Apollo Group, Inc.
Community trade mark sought:	Word mark THINKING AHEAD for goods in Classes 9, 16 and 41
Decision of the Examiner:	Application partially rejected
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Dismisses the action;
2. Orders Apollo Group, Inc. to pay the costs.

**Order of the President of the Court of First Instance of 18 November 2009 —
Hansen v Commission**

(Case T-295/09 R)

(Application for interim measures — No need to adjudicate)

Application for interim measures — Suspension of operation of a measure — Request which has become devoid of purpose — No need to adjudicate (Art. 242 EC; Rules of Procedure of the Court of First Instance, Art.104(2)) (see paras 3-4)