

**Pleas in law and main arguments**

*Applicant for the Community trade mark:* The other party to the proceedings before the Board of Appeal

*Community trade mark concerned:* The figurative mark 'MANGO adorably' for goods in class 3

*Proprietor of the mark or sign cited in the opposition proceedings:* The applicant

*Mark or sign cited:* French trade mark registration No 33 209 849 of the word mark 'ADIORABLE' for goods in class 3; French trade mark registration No 94 536 564 of the word mark 'J'ADORE' for various goods, amongst which goods in class 3; international trade mark registration No 811 001 of the word mark 'ADIORABLE' for various goods, amongst which goods in class 3; international trade mark registration No 687 422 of the word mark 'J'ADORE' for various goods, amongst which goods in class 3

*Decision of the Opposition Division:* Rejection of the opposition in its entirety

*Decision of the Board of Appeal:* Dismissal of the appeal

*Pleas in law:* Infringement of Articles 8(1)(b) and 8(5) of Council Regulation No 40/94 as the Board of Appeal erred in its finding that there was no likelihood of confusion between the trade marks concerned and that the use of the trade mark applied for would not take unfair advantage of the reputation of earlier trade marks, on the wrong reasoning that under both legal grounds the trade marks concerned are not sufficiently similar.

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**Action brought on 4 August 2008 — G-Star Raw Denim v OHIM — ESGW Holdings (G Stor)**

(Case T-309/08)

(2008/C 260/29)

*Language in which the application was lodged:* English

**Parties**

*Applicant:* G-Star Raw Denim Kft. (Budapest, Hungary) (represented by: G. Vos, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* ESGW Holdings Ltd (Tortola, British Virgin Islands)

**Form of order sought**

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 14 April 2008 in case R 1232/2007-1;
- Reject the registration of the Community trade mark application No 4 195 368; and
- Order the defendant to pay the costs.

**Pleas in law and main arguments**

*Applicant for the Community trade mark:* The other party to the proceedings before the Board of Appeal

*Community trade mark concerned:* The figurative mark 'G Stor' for goods in class 9

*Proprietor of the mark or sign cited in the opposition proceedings:* The applicant

*Mark or sign cited:* Benelux trade mark registration No 545 551 of the word mark 'G-STAR' for goods in class 25; Community trade mark registration No 3 445 401 of the word/figurative mark 'G-STAR' for goods in class 9 and 25; Community trade mark registration No 3 444 262 of the word mark 'G-Star' for goods in class 9 and 25; earlier well-known trade mark 'G-Star' protected in various countries for goods in class 25; Community trade mark registration No 3 444 171 of the mark 'G-STAR RAW DENIM' for goods in class 9 and 35; Dutch trade name G-Star International B.V.

*Decision of the Opposition Division:* Allowed the opposition and rejected the application in its entirety

*Decision of the Board of Appeal:* Annulment of the contested decision and rejection of the opposition

*Pleas in law:* Infringement of Article 8(5) of Council Regulation No 40/94 as the Board of Appeal applied the wrong criteria when assessing the required similarity between the trade marks concerned and the required detriment to the earlier trade marks. In addition, the Board of Appeal also made an incorrect assessment of the facts with regard to the abovementioned assessments.

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**Action brought on 11 August 2008 — REWE-Zentral v OHIM — Grupo Corporativo Teype (Solfrutta)**

(Case T-331/08)

(2008/C 260/30)

*Language in which the application was lodged:* English

**Parties**

*Applicant:* REWE-Zentral AG (Cologne, Germany) (represented by: A. Bognár and M. Kinkeldey, lawyers)