

**Judgment of the General Court (Third Chamber) of 21 September 2011 —
Rügen Fisch v OHIM — Schwaaner Fischwaren (SCOMBER MIX)**

(Case T-201/09)

(Community trade mark — Invalidity proceedings — Community word mark
SCOMBER MIX — Absolute grounds for refusal — Descriptive character —
Article 7(1)(b) and (c) of Regulation (EC) No 40/94 (now Article 7(1)(b) and (c) of
Regulation (EC) No 207/2009)

*Community trade mark — Surrender, revocation and invalidity — Absolute grounds
of invalidity — Registration contrary to Article 7(1)(c) of Regulation No 40/94 (Council
Regulation No 40/94, Arts 7(1)(c) and 51(1)(a)) (see paras 28-31)*

Re:

ACTION brought against the decision of the Fourth Board of Appeal of OHIM of
20 March 2009 (Case R 230/2007-4), relating to invalidity proceedings between
Rügen Fisch AG and Schwaaner Fischwaren GmbH.

Operative part

The Court:

1. Dismisses the action;
2. Orders Rügen Fisch AG to bear the costs.