

**Action brought on 18 March 2010 — Amecke Fruchtsaft v OHIM — Uhse (69 Sex up)**

(Case T-125/10)

(2010/C 148/59)

*Language in which the application was lodged: German*

**Parties**

*Applicant:* Amecke Fruchtsaft GmbH & Co. KG (Menden, Germany) (represented by: R. Kaase and J.-C. Plate, lawyers)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Beate Uhse Einzelhandels GmbH (Flensburg, Germany)

**Form of order sought**

— Declare the application, together with the annexes submitted, made against the decision of the First Board of Appeal of OHIM of 12 January 2010 in Case R 612/2009-1, admissible; and

— Annul the contested decision on the ground of incompatibility with Article 8(1)(b) of Regulation (EC) No 40/94; <sup>(1)</sup>

— Order the defendant to pay the costs of the proceedings, including the costs before the Board of Appeal.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* Beate Uhse Einzelhandels GmbH

*Community trade mark concerned:* Word mark '69 Sex up' for goods and services in Classes 3, 5, 9, 29, 30, 32, 33, 38 and 41 (application No 5 418 108)

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

*Mark or sign cited in opposition:* German word mark 'sex:h:up' No 305 31 669.9 for goods in Classes 5, 29, 30 and 32

*Decision of the Opposition Division:* To uphold the opposition for all disputed goods

*Decision of the Board of Appeal:* To rescind the contested decision and reject the opposition

*Pleas in law:* Infringement of Article 8(1)(b) of Regulation No 40/94, since there is a likelihood of confusion between the conflicting marks

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<sup>(1)</sup> Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

**Action brought on 22 March 2010 — Saupiquet v Commission**

(Case T-131/10)

(2010/C 148/60)

*Language of the case: French*

**Parties**

*Applicant:* Saupiquet (Courbevoie Cedex, France) (represented by: R. Ledru, lawyer)

*Defendant:* European Commission

**Form of order sought**

— annul, in full, Commission Decision No REM 07/08 of 16 December 2009;