



Reports of Cases

Order of the Court (Fifth Chamber) of 29 March 2012 — *Lancôme v OHIM*

(Case C-334/11 P)

(Appeal — Community trade mark — Word mark ACNO FOCUS — Opposition by the proprietor of the national word mark FOCUS — Refusal of registration — Article 43(2) and (3) of Regulation (EC) No 40/94 — Earlier mark registered for not less than five years)

Community trade mark — Observations of third parties and opposition — Examination of the opposition — Proof of use of the earlier mark — Time from which the period of five years runs — Date on which the earlier mark was registered (Council Regulation No 40/94, Art. 43(2) and (3); Council Directive 89/104, Art. 10(1)) (see paras 47, 48)

Re:

Appeal against the judgment of the General Court (Eighth Chamber) of 14 April 2011 in Case T-466/08 *Lancôme v OHIM* by which that court dismissed an action for annulment brought by the applicant for the word mark 'ACNO FOCUS' for goods in Class 3 against the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 29 July 2008 in Case R 1796/2007-1 dismissing the appeal against the Opposition Division's decision refusing registration of that mark in the opposition proceedings brought by the proprietor of the national word mark 'FOCUS' for goods and services in Classes 3, 5, 6, 7, 8, 9, 14, 15, 16, 18, 20, 21, 24, 25, 26, 28, 29, 30, 33, 34, 36, 38, 39, 41 and 42 — Interpretation and application of Article 43(2) and (3) of Regulation No 40/94 (now Article 42(2) and (3) of Regulation No 207/2009) — Meaning of genuine use of a trade mark.

Operative part

1. The appeal is dismissed.
2. *Lancôme parfums et beauté & Cie* is ordered to pay the costs.