

**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 28 July 2011 in Case R 1946/2010-1;
- Order the defendant and, where appropriate, the other party to the proceedings to pay the costs, if that other party appears and contests the action.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* Groupe Chez Gerard Restaurants Ltd.

*Community trade mark concerned:* Word mark 'CLUB GOURMET' for goods in Classes 16, 21, 29, 30, 32 and 33.

*Proprietor of the mark or sign cited in the opposition proceedings:* Applicant.

*Mark or sign cited in opposition:* National figurative mark 'CLUB DEL GOURMET, EN ... El Corte Inglés', applications for the national word mark 'EL SITIO DEL GOURMET' and for the national and Community trade marks 'CLUB DEL GOURMET' for services in Class 35.

*Decision of the Opposition Division:* Rejection of the opposition.

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

*Pleas in law:* Infringement of Article 8(1)(b) and Article 8(3) of Regulation No 207/2009 as there is a likelihood of confusion between the trade marks at issue.

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**Order of the General Court of 15 November 2011 — Pieno žvaigždės v OHIM — Fattoria Scaldasole (Iogurt.)**

(Case T-135/10) <sup>(1)</sup>

(2012/C 13/42)

*Language of the case:* English

The President of the Sixth Chamber has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 134, 22.5.2010.