

*Mark or sign cited in opposition:* Community trade mark registration No 1701167, of the word mark 'GALILEO' for goods and services in classes 9, 39, 41 and 42; Community trade mark registration No 2157501, of the word mark 'GALILEO' for goods and services in classes 9, 16, 35, 38, 39, 41 and 42; Community trade mark registration No 516799, of the figurative mark 'powered by GALILEO' for goods and services in classes 9, 16, 35, 38, 39, 41 and 42; Community trade mark registration No 330084, of the figurative mark 'GALILEO INTERNATIONAL' for goods and services in classes 9, 39, 41 and 42; Community trade mark registration No 2159069, of the figurative mark 'GALILEO INTERNATIONAL' for goods and services in classes 9, 16, 35, 38, 39, 41 and 42

*Decision of the Opposition Division:* Rejected the opposition

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

*Pleas in law:* Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal failed to appreciate that there was a high degree of similarity between the goods and services covered by the earlier CTM and the services covered by the contested CTM. In particular the Board of Appeal failed to appreciate that part of the relevant goods and services could be complementary, as well as aimed at the same consumer and for the same purpose. In the circumstances of the Board's conclusion that there was no likelihood of confusion was vitiated by error, bearing in mind the clear similarities between the marks and the fact that a lesser degree of similarity between these goods or services may be offset by a greater degree of similarity between the marks.

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**Action brought on 8 August 2011 — Giga-Byte Technology v OHIM — Haskins (Gigabyte)**

(Case T-451/11)

(2011/C 298/48)

*Language in which the application was lodged:* English

**Parties**

*Applicant:* Giga-Byte Technology Co., Ltd (Taipei, Taiwan) (represented by: F. Schwerbrock, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Robert A. Haskins (Pennsylvania, USA)

**Form of order sought**

— Dismiss the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 20 May 2011 in case R 2047/2010-2, as well as the decision of the Opposition Division

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The applicant

*Community trade mark concerned:* The word mark 'Gigabyte', for goods and services in classes 9, 35, 37 and 42 — Community trade mark application No 5550009

*Proprietor of the mark or sign cited in the opposition proceedings:* The other party to the proceedings before the Board of Appeal

*Mark or sign cited in opposition:* Community trade mark registration No 4954095 of the word mark 'GIGABITER', for services in classes 39, 40 and 42

*Decision of the Opposition Division:* Upheld the opposition for part of the contested services

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

*Pleas in law:* Infringement of Section 9(1)(b) of Council Regulation No 207/2009, as the Board of Appeal wrongly concluded that the contested services in classes 37 and 42 are similar to the opponent's services in class 42.

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**Action brought on 8 August 2011 — Szajner v OHIM — Forge de Laguiole (LAGUIOLE)**

(Case T-453/11)

(2011/C 298/49)

*Language in which the application was lodged:* French

**Parties**

*Applicant:* Gilbert Szajner (Saint-Maur-des-Fossés, France) (represented by: A. Lakits-Josse, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Forge de Laguiole SARL (Laguiole, France)

**Form of order sought**

The applicant claims that the Court should:

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market of 1 June 2011 in so far as it stated that Community trade mark No 2 468 379 is declared invalid in respect of the goods covered by the application for annulment in Classes 8, 14, 16, 18, 20, 21, 28 and 34;
- Order Forge de Laguiole to bear its own costs and to pay the costs incurred by Mr Szajner, including the costs of representation.

**Pleas in law and main arguments**

*Registered Community trade mark in respect of which a declaration of invalidity has been sought:* the word mark 'LAGUIOLE' for goods and services in, inter alia, Classes 8, 14, 16, 18, 20, 21, 28, 34 and 38 — Community trade mark No 2 468 379.

*Proprietor of the Community trade mark:* the applicant.

*Applicant for the declaration of invalidity of the Community trade mark:* Forge de Laguiole SARL.