



## Reports of Cases

**Order of the Court (Seventh Chamber) of 30 May 2013 —**

**Shah v Three-N-Products Private**

**(Case C-14/12 P)**

(Appeal — Community trade mark — Regulation (EC) No 40/94 — Article 8(1)(b) — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Application for registration of the Community word mark AYUURI NATURAL — Opposition by the proprietor of the earlier Community word and figurative marks AYUR — Appeal manifestly inadmissible and manifestly unfounded)

1. *Appeals — Grounds — Incorrect assessment of the facts and evidence — Inadmissibility — Review by the Court of the assessment of the facts and evidence — Possible only where the clear sense of the evidence has been distorted (Art. 256(1) TFEU; Statue of the Court of Justice, Art. 58, first para.) (see paras. 24, 25)*
2. *Appeals — Grounds — Contradictory grounds — Admissibility (see para. 30)*
3. *Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Weak distinctive character of the earlier mark — Incidence (Council Regulation No 207/2009, Art. 8(1)(b)) (see paras 37-41)*
4. *Appeals — Grounds — Plea directed against a superfluous ground — Invalid plea in law — Rejection (see para. 43)*

**Re:**

Appeal against the judgment of the General Court (Fifth Chamber) of 10 November 2011 in Case T-313/10 *THREE-N-PRODUCTS PRIVATE v OHIM — SHAH (AYUURI NATURAL)*, by which that court annulled the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 1 June 2010 in Case R 1005/2009-4 annulling the Opposition Division's decision rejecting the application for registration of the word mark 'AYUURI NATURAL' for goods in Classes 3 and 5 in the opposition proceedings brought by the proprietor of the Community figurative

and word marks including the word element 'AYUR' in respect of goods in Classes 3 and 5 — Interpretation and application of Article 8(1)(b) of Regulation No 207/2009 — Likelihood of confusion — Similarity of the signs.

**Operative part**

1. The appeal is dismissed.
2. Mr Sheilesh Shah and Mr Akhil Shah are ordered to pay the costs.
3. The Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) is ordered to bear its own costs.