

— Order OHIM to pay the costs of the applicant.

### Pleas in law and main arguments

*Applicant for a Community trade mark:* The other party to the proceedings before the Board of Appeal

*Community trade mark concerned:* The figurative mark 'PROFLEX' for goods and services in classes 9, 12 and 25

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

*Mark or sign cited in opposition:* German trade mark registration No 39628817 for the word mark 'PROFEX', for goods in classes 6, 8, 9, 11, 12, 16, 17 and 21

*Decision of the Opposition Division:* Partially upheld the opposition

*Decision of the Board of Appeal:* Annulled the contested decision and rejected the opposition entirely

*Pleas in law:* Infringement of Articles 42(2) and (3) of Council Regulation (EC) No 207/2009 and Rule 22 of Commission Regulation (EC) no 2868/95.

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### Action brought on 28 June 2012 — Cartoon Network v OHIM — Boomerang TV (BOOMERANG)

(Case T-285/12)

(2012/C 273/22)

*Language in which the application was lodged:* English

### Parties

*Applicant:* The Cartoon Network, Inc. (Wilmington, United States) (represented by: I. Starr, Solicitor)

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

*Other party to the proceedings before the Board of Appeal:* Boomerang TV, SA (Madrid, Spain)

### Form of order sought

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 2 April 2012 in case R 699/2011-2; and

— Order the defendant to pay to the applicant, the applicant's costs of and occasioned by this appeal.

### Pleas in law and main arguments

*Applicant for a Community trade mark:* The applicant

*Community trade mark concerned:* The word mark 'BOOMERANG' for services in classes 38 and 41

*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 1160050 of the figurative mark 'Boomerang TV', for services in class 41

*Decision of the Opposition Division:* Upheld the opposition

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

*Pleas in law:* Infringement of Article 8(1)(b) of Council Regulation (EC) No 207/2009.

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### Action brought on 26 June 2012 — EI du Pont de Nemours v OHIM — Zueco Ruiz (ZYTEL)

(Case T-288/12)

(2012/C 273/23)

*Language in which the application was lodged:* English

### Parties

*Applicant:* EI du Pont de Nemours and Company (Wilmington, United States) (represented by: E. Armijo Chávarri, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Enrique Zueco Ruiz (Zaragoza, Spain)

### Form of order sought

— Set aside the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 29 March 2012 in case R 464/2011-2; and

— Order that the costs of the proceedings be borne by the defendant.

### Pleas in law and main arguments

*Applicant for a Community trade mark:* The other party to the proceedings before the Board of Appeal

*Community trade mark concerned:* The figurative mark 'ZYTEL' for goods and services in classes 9, 12 and 37

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

*Mark or sign cited in opposition:* Community trade mark registration No 369314, of the word mark 'ZYTEL', for goods in classes 1 and 17; Well-known mark 'ZYTEL', for goods in classes 1 and 17