

## **Operative part**

1. Appeal dismissed.
2. Mr Sellier ordered to bear his own costs.

### **Judgment of the Court (Third Chamber) of 20 September 2007 — Nestlé v OHIM**

**(Case C-193/06 P)**

Appeal — Community trade mark — Regulation (EC) No 40/94 — Article 8(1)(b) — Figurative mark containing the word ‘QUICKY’ — Opposition of holder of earlier national word marks QUICKIES — Likelihood of confusion — Overall assessment

*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 (Council Regulation No 40/94, Art. 8(1)(b)) (see paras 34, 35, 46, 47, 76)*

#### **Re:**

APPEAL brought against the judgment of the Court of First Instance (First Chamber) of 22 February 2006 in Case T-74/04 *Nestlé v OHIM*, intervener: Quick Restaurants SA, dismissing the action for annulment of the decision of the Second Board of Appeal of OHIM of 17 December 2003 (Case R 922/2001-2) concerning opposition proceedings in which the parties were Société des Produits Nestlé SA and Quick Restaurants SA.

## Operative part

The Court:

1. Annuls the judgment of the Court of First Instance of the European Communities of 22 February 2006 in Case T 74/04 *Nestlé v OHIM — Quick (QUICKY)* to the extent that, contrary to Article 8(1)(b) of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark, the Court did not assess the visual similarity of the signs at issue by relying on the overall impression given by them;
2. Dismisses the appeal as to the remainder;
3. Refers the case back to the Court of First Instance of the European Communities;
4. Reserves the costs.

### **Order of the Court (Seventh Chamber) of 24 September 2007 — Torres v OHIM**

**(Case C-405/06 P)**

Appeal — Community trade mark — Application for the figurative mark ‘Torre Muga’ — Opposition proceedings — Earlier international and national word mark ‘TORRES’ — Likelihood of confusion — Opposition rejected

1. *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 (Council Regulation No 40/94, Art. 8(1)(b)) (see para. 32)*