

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

*Mark or sign cited in opposition:* Community figurative and word marks 'STAR SNACKS' for goods in Classes 29, 30 and 31.

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

*Decision of the Board of Appeal:* Rejection of the opposition; decision taken following the judgment of the General Court of 11 May 2010 in Case T-492/08 *Wessang v OHIM — Greinwald (star foods)*.

*Pleas in law:* The applicant submits that the General Court held that there was a likelihood of confusion between the two marks at issue and that, therefore, the Board of Appeal had limited powers following the judgment of the General Court. The applicant thus submits that the Board of Appeal exceeded its powers in re-trying the matter in its entirety.

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**Action brought on 5 July 2011 — Segovia Bonet v OHIM — IES (IES)**

(Case T-355/11)

(2011/C 269/115)

*Language in which the application was lodged:* English

**Parties**

*Applicant(s):* Jorge Segovia Bonet (Madrid, Spain) (represented by: M.E. López Camba and J.L. Rivas Zurdo, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* IES Insurance Engineering Services Srl (Milan, Italy)

**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 29 March 2011 in case R 749/2010-2; and

— Order the defendant and the other party to the proceedings before the Board of Appeal to pay the costs of the proceedings.

**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 'IES', for services in classes 35, 36, 41, 42 and 45 — Community trade mark application No 6787345

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

*Mark or sign cited in opposition:* UK trade mark registration No 2358802 of the figurative mark 'IES', for services in class 41

*Decision of the Opposition Division:* Upheld partially the opposition

*Decision of the Board of Appeal:* Dismissed the appeal and confirmed the decision of the Opposition Division

*Pleas in law:* Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal wrongly found that there was no likelihood of confusion between the earlier trademark and the contested community trade mark application as (i) the compared signs are confusingly similar, in particular from a phonetic point of view; and (ii) the services designated by the earlier registration are complementary to those designated by the contested Community trade mark application.

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**Action brought on 1 July 2011 — Restoin v OHIM — (EQUIPMENT)**

(Case T-356/11)

(2011/C 269/116)

*Language of the case:* French

**Parties**

*Applicant:* Christian Restoin (Paris, France) (represented by A. Alcaraz, lawyer)

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

**Form of order sought**

— Annul the decision of the Fourth Board of Appeal of 14 April 2011 in Case R 1430/2010-4;

— Order OHIM to pay the costs incurred by Mr Christian Restoin.

**Pleas in law and main arguments**

*Community trade mark concerned:* Word mark 'EQUIPMENT' for goods and services in Classes 3, 9, 14, 18, 25 and 35 — application for registration No 8 722 076.

*Decision of the Examiner:* Rejection of the application for registration.

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

*Pleas in law:* Infringement of Article 7(1)(b) of Regulation No 207/2009, since the sign applied for is distinctive as regards the perception which the relevant public would have of it and as regards the goods and services for which registration is sought, and of Article 75 of that regulation, since the reasons of the Board of Appeal (i) cannot be all-encompassing, the goods covered not being sufficient homogenous, and (ii) are not coherent.

**Action brought on 6 July 2011 — Hand Held Products v OHIM — Orange Brand Services (DOLPHIN)**

**(Case T-361/11)**

(2011/C 269/117)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Hand Held Products, Inc. (Wilmington, United States) (represented by: J. Güell Serra and M. Curell Aguilà, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Orange Brand Services Ltd (Bristol, United Kingdom)

**Form of order sought**

— Partially annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 6 April 2011 in case R 1443/2010-1, and reject CTM application No 5046231; and

— Order the defendant to pay the costs.

**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 word mark 'DOLPHIN', for inter alia goods in class 9 — Community trade mark application No 5046231

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

*Mark or sign cited in opposition:* Community trade mark registration No 936229 of the word mark 'DOLPHIN', for goods in class 9

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

*Decision of the Board of Appeal:* Partially annulled the decision of the Opposition division

*Pleas in law:* Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal failed to make a global analysis of the relevant factors but merely rejected the opposition on the basis that the goods are different, establishing minimal differences between them, and without giving the adequate weight in the comparative analysis to the identity in the signs 'DOLPHIN'.

**Action brought on 6 July 2011 — Bial — Portela & Ca v OHIM — Isdin (ZEBEXIR)**

**(Case T-366/11)**

(2011/C 269/118)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Bial — Portela & Ca, SA (São Mamede do Coronado, Portugal) (represented by: B. Braga da Cruz and J. M. Pimenta, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Isdin, SA (Barcelona, Spain)

**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 6 April 2011 in case R 1212/2009-1;

— Order the defendant to refuse the grant of the registration of Community trade mark No 6809008 'ZEBEXIR'; and

— Order the other party to the proceedings before the Board of Appeal to pay the costs of the proceedings.

**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 word mark 'ZEBEXIR', for goods in classes 3 and 5 — Community trade mark application No 6809008

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

*Mark or sign cited in opposition:* Community trade mark registration No 3424223 of the word mark 'ZEBINIX', for goods and services in classes 3, 5 and 42