



Reports of Cases

Judgment of the General Court (First Chamber) of 20 March 2013 — Bimbo v OHIM — Café do Brasil (Caffè KIMBO)

(Case T-277/12)

(Community trade mark — Opposition proceedings — Application for the Community figurative mark Caffè KIMBO — Earlier national word mark BIMBO — Relative grounds for refusal — Well-known trade mark within the meaning of Article 6 bis of the Paris Convention — Article 8(1) of Regulation (EC) No 207/2009)

1. *Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an identical or similar earlier mark well known in a Member State — Likelihood of confusion with the earlier mark — Figurative mark Caffè KIMBO and mark BIMBO (Council Regulation No 207/2009, Art. 8(1)(b), and (2)(c)) (see paras 25, 55, 58, 59)*
2. *Community trade mark — Procedural provisions — Examination of the facts of the Office's own motion — Opposition proceedings — Examination restricted to the submissions of the parties (Council Regulation No 207/2009, Art. 76(1)) (see para. 26)*
3. *Community trade mark — Appeals procedure — Appeal to a Board of Appeal — Competence of the Boards of Appeal (Council Regulation No 207/2009, Art. 64(1)) (see paras 38, 39)*
4. *Community trade mark — Decisions of the Office — Observance of the rights of the defence — Scope of the principle (Council Regulation No 207/2009, Art. 75) (see para. 45)*

Re:

ACTION brought against the decision of the Fourth Board of Appeal of OHIM of 15 May 2012 (Case R 1017/2011-4), relating to opposition proceedings between Bimbo, SA and Café do Brasil SpA.

Operative part

The Court:

1. Dismisses the action;
2. Orders Bimbo SA to pay the costs.