

**Judgment of the Court of First Instance of 10 September 2008 — Promat v OHIM — Puertas Proma (PROMAT)**

(Case T-300/06) <sup>(1)</sup>

*(Community trade mark — Opposition procedure — Application for Community figurative mark PROMAT — Earlier Community figurative mark PROMA — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)*

(2008/C 272/42)

*Language of the case: German*

**Parties**

*Applicant:* Promat GmbH (Ratingen, Germany) (represented by: J. Krenzler and S.Beckmann, lawyers).

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G.Schneider, acting as Agent).

*Other party to the proceedings before the Board of Appeal of OHIM:* Puertas Proma SAL (Villacañas, Spain).

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 4 May 2006 (Case R 1058/2005-1) concerning opposition proceedings between Puertas Proma SAL and Promat GmbH.

**Operative part of the judgment**

*The Court:*

1. *dismisses the action;*
2. *orders Promat GmbH to pay the costs.*

<sup>(1)</sup> OJ C 310, 16.12.2006.

**Judgment of the Court of First Instance of 10 September 2008 — Boston Scientific Ltd v OHIM — Terumo (CAPIO)**

(Case T-325/06) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for Community word mark CAPIO — Earlier national word mark CAPIOX — Relative ground for refusal — Genuine use of the mark — Article 43(1) and (2) of Regulation (EC) No 40/94 — Likelihood of confusion — Article 8(1)(b) of Regulation No 40/94)*

(2008/C 272/43)

*Language of the case: English*

**Parties**

*Applicant:* Boston Scientific Ltd (Hastings, Barbados) (represented by: P. Rath and W. Festl-Wietek, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, acting as Agent)

*Other party to the proceedings before the Board of Appeal of OHIM and intervener before the Court of First Instance:* Terumo Kabushiki Kaisha (Tokyo, Japan) (represented by: C. Bercial Arias, lawyer)

**Re:**

Action brought against the decision of the Second Board of Appeal of OHIM of 14 September 2006 (Case R 61/2006-2), relating to opposition proceedings between Terumo Kabushiki Kaisha and Boston Scientific Ltd.

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action.*
2. *Orders Boston Scientific Ltd to pay the costs.*

<sup>(1)</sup> OJ C 326, 30.12.2006.