Judgment of the General Court (Fifth Chamber) of 29 September 2011 — Telefónica O2 Germany v OHIM — Loopia (LOOPIA)

(Case T-150/10)

(Community trade mark — Opposition proceedings — Application for Community word mark LOOPIA — Earlier Community word marks LOOP and LOOPY — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

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 — Likelihood of confusion with the earlier mark (Council Regulation No 207/2009, Art. 8(1)(b)) (see paras 30, 42-44)

Re:

ACTION brought against the decision of the First Board of Appeal of OHIM of 12 January 2010 (Case R 1812/2008-1), concerning opposition proceedings between Telefónica O2 Germany GmbH & Co. OHG and Loopia AB.

Operative part

The Court:

1. Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 12 January 2010 (Case R 1812/2008-1);

2. Orders OHIM to bear its own costs and to pay the costs of Telefónica O2 Germany GmbH & Co. OHG;

3. Orders OHIM to pay the costs necessarily incurred by Telefónica O2 Germany for the purposes of the proceedings before the First Board of Appeal of OHIM;

4. Orders Loopia AB to bear its own costs.