Judgment of the General Court (Sixth Chamber) of 13 January 2011 — Park v OHIM — Bae (PINE TREE)

(Case T-28/09)

(Community trade mark — Revocation proceedings — Figurative Community mark PINE TREE — Genuine use of the mark — Articles 50(1)(a) and 55(1)(a) of Regulation (EC) No 40/94 (now Articles 51(1)(a) and 56(1)(a) of Regulation (EC) No 207/2009))

1. *Community trade mark — Observations of third parties and opposition — Examination of the opposition — Proof of use of the earlier mark — Genuine use — Concept — Criteria for assessment (Council Regulation No 40/94, Art. 43(2) and (3)) (see paras 82-85)*

2. *Community trade mark — Observations of third parties and opposition — Examination of the opposition — Proof of use of the earlier mark — Genuine use — Concept — Determination of a minimal quantitative use threshold — Not included (Council Regulation No 40/94, Art. 43(2) and (3)) (see para. 86)*

3. *Community trade mark — Surrender, revocation and invalidity — Causes of revocation — Absence of genuine use of a trade mark (Council Regulation No 40/94, Art. 50(1)(a)) (see paras 89-96)*

Re:

ACTION brought against the decision of the Fourth Board of Appeal of OHIM of 13 November 2008 (Case R 1882/2007-4) concerning revocation proceedings between Mr Mo-Hwa Park and Mr Chong-Yun Bae.

Information relating to the case

Registered Community trade mark of which cancellation sought:	Figurative mark PINE TREE for goods in Class 28 — Community trade mark No 318857)
Proprietor of the Community trade mark:	Mr Chong-Yun Bae
Party requesting cancellation of the Community trade mark:	Mr Mo-Hwa Park
Decision of the Cancellation Division:	Declaration of revocation of the Community trade mark concerned
Decision of the Board of Appeal:	Annulment of the contested decision and rejection of the application for a declaration of revocation of the trade mark concerned

Operative part

The Court:

1. Dismisses the action;

2. Orders Mr Mo-Hwa Park to pay the costs.

Judgment of the General Court (First Chamber) of 18 January 2011 — Advance Magazine Publishers v OHIM — Capela & Irmãos (VOGUE)

(Case T-382/08)

(Community trade mark — Opposition proceedings — Application for Community word mark VOGUE — Earlier national word mark VOGUE Portugal — No genuine use of the earlier mark — Article 43(2) and (3) of Regulation (EC) No 40/94 (now Article 42(2) and (3) of Regulation (EC) No 207/2009))