# Judgment of the General Court (Third Chamber) of 15 December 2009 — Trubion Pharmaceuticals v OHIM — Merck (TRUBION)

**(Case T-412/08)**

(Community trade mark — Opposition proceedings — Application for the Community word mark TRUBION — Earlier Community figurative mark TriBion Harmonis — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 (now 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 40/94, Art. 8(1)(b)) (see paras 28, 56-58)*

**Re:**

ACTION brought against the decision of the Second Board of Appeal of OHIM of 3 July 2008 (Case R 1605/2007-2), relating to opposition proceedings between Trubion Pharmaceuticals, Inc. and Merck KGaA.

**Information relating to the case**

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| Applicant for the Community trade mark: | Trubion Pharmaceuticals, Inc. |
| Community trade mark sought: | Word mark TRUBION for goods and services in Classes 5 and 42 |
| Proprietor of the mark or sign cited in the opposition proceedings: | Merck KGaA |

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| Mark or sign cited in opposition: | Community trade mark registration No 72884 of the word mark BION registered for various goods; Community trade mark registration No 3282936 of the figurative mark TriBion Harmonis registered for various goods |
| Decision of the Opposition Division: | Opposition upheld in respect of the goods in Class 5 and dismissed in respect of the remaining services in Class 42 |
| Decision of the Board of Appeal: | Appeal dismissed |

**Operative part**

The Court:

1. Dismisses the action;

2. Orders Trubion Pharmaceuticals, Inc. to pay the costs.

**Judgment of the General Court (Fourth Chamber) of 15 December 2009 — Media-Saturn v OHIM (BEST BUY)**

**(Case T-476/08)**

(Community trade mark — Application for figurative Community trade mark BEST BUY — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 (now Article 7(1)(b) of Regulation (EC) No 207/2009))

*Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Marks devoid of any distinctive character (Council Regulation No 40/94, Art. 7(1)(b)) (see paras 22, 26-29, 32)*