Operative part

The Court:

1. Dismisses the action;

2. Orders Rodd & Gunn Australia Ltd to pay the costs.

Judgment of the General Court (First Chamber) of 21 April 2010 — Coin v OHIM — Dynamiki Zoi (Fitcoin)

(Case T-249/08)

(Community trade mark — Opposition proceedings — Application for the Community word mark Fitcoin — Earlier national, international and Community figurative marks coin — Relative ground for refusal — Relevant public — 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 para. 26)

Re:

ACTION brought against the decision of the First Board of Appeal of OHIM of 15 April 2008 (Case R 1429/2007-1), relating to opposition proceedings between Coin SpA and Dynamiki Zoi AE.

Information relating to the case

Applicant for the Community trade mark:	Dynamiki Zoi AE
Community trade mark sought:	Word mark Fitcoin for goods and services in Classes 16, 25, 28, 35, 36 and 41 — Application No 3725298
Proprietor of the mark or sign cited in the opposition proceedings:	Coin SpA
Mark or sign cited in opposition:	Italian trade mark coin, Registration No 160126, for goods in Class 25; Italian trade mark coin, Registration No 253233, for goods and services in Classes 16, 25, 28, 35, 36 and 41; Italian trade mark coin, Registration No 240305, for goods and services in Classes 16, 25, 28, 35, 36 and 41; Italian trade mark coin, Registration No 169548, for goods and services in Classes 16, 25, 28, 35, 36 and 41, extended to Benelux, France, Hungary, Austria and Portugal; Italian trade mark coin, Registration No 240286, for goods and services in Class 25, extended to Benelux, France, Hungary and Austria; Community trade mark coin, Registration No 109827, for goods and services in Classes 16, 25, 28 and 35; international trade mark coin, Registration No R 381015, for goods and services in Classes 16, 25, 28, 35, 36 and 41, extended to Benelux, Germany, Spain, France, Hungary, Austria, Portugal and Slovenia
Decision of the Opposition Division:	Opposition dismissed in its entirety
Decision of the Board of Appeal:	Appeal dismissed

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 15 April 2008 (Case R 1429/2007-1);

2. Orders OHIM to pay the costs.

Judgment of the General Court (Eighth Chamber) of 21 April 2010 — Schunk v OHIM (Presentation of part of a chuck)

(Case T-7/09)

(Community trade mark — Application for a Community trade mark in the form of a presentation of part of a chuck with three grooves — Absolute ground for refusal — Lack of distinctive character — Lack of distinctive character acquired by use — Article 7(1)(b) and (3) of Regulation (EC) No 40/94 (now Article 7(1)(b) and (3) 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, 33)

Re:

ACTION brought against the decision of the First Board of Appeal of OHIM of 31 October 2008 (Case R 1109/2007-1) concerning the registration of the sign in the form of a presentation of part of a chuck with three grooves as a Community trade mark.