Judgment of the General Court (Seventh Chamber) of 5 May 2011 — SIMS — École de ski internationale v OHIM — SNMSF (esf école du ski français)

(Case T-41/10)

(Community trade mark — Invalidity proceedings — Community figurative mark esf école du ski français — Absolute grounds for refusal — State emblem — Article 7(1)(h) of Regulation (EC) No 207/2009 — Article 6ter of the Paris Convention — Mark of such a nature as to deceive the public — Article 7(1)(g) of Regulation No 207/2009)

1. *Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Trade marks to be refused under the Paris Convention — Protection of emblems of States and international organisations — Extent of protection (Council Regulation No 207/2009, Art. 7(1)(h)) (see para. 20)*

2. *Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Trade marks to be refused under the Paris Convention — Protection of emblems of States and international organisations — Imitation from the heraldic point of view (Council Regulation No 207/2009, Art. 7(1)(h)) (see paras 21-25)*

3. *Community trade mark — Surrender, revocation and invalidity — Absolute grounds of invalidity — Registration contrary to Article 7(1)(g) and (h) of Regulation No 207/2009 (Council Regulation No 207/2009, Arts 7(1)(g) and (h) and 52(1)(a)) (see paras 27, 37, 52-54, 63-64)*

Re:

ACTION brought against the decision of the First Board of Appeal of OHIM of 11 November 2009 (Case R 235/2009-1), concerning invalidity proceedings between the Syndicat international des moniteurs de ski — École de ski internationale (SIMS — École de ski internationale) and the Syndicat national des moniteurs du ski français (SNMSF).

Information relating to the case

Registered Community trade mark of which cancellation sought:	Figurative mark esf école du ski français for goods and services in Classes 25, 28 and 41 (Community trade mark No 4624987
Proprietor of the Community trade mark:	Syndicat national des moniteurs du ski français (SNMSF)
Party requesting the declaration of invalidity of the Community trade mark:	Syndicat international des moniteurs de ski — Ecole de ski internationale (SIMS — Ecole de ski internationale)
Decision of the Cancellation Division:	Application for declaration of invalidity dismissed
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Dismisses the action;

2. Orders the Syndicat international des moniteurs de ski — École de ski internationale (SIMS — École de ski internationale) to pay the costs incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM);

3. Orders the Syndicat national des moniteurs du ski français to bear its own costs.