Judgment of the General Court (Second Chamber) of 20 September 2011 — Meica v OHIM — TofuTown.com (TOFUKING)

(Case T-99/10)

(Community trade mark — Opposition procedure — Application for the Community trade mark TOFUKING — Earlier national word mark King — Earlier national and Community word marks Curry King — 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 21, 31-35, 44-49)

Re:

ACTION brought against the decision of the Fourth Board of Appeal of OHIM of 7 January 2010 (Case R 63/2009-4) concerning opposition proceedings between Meica Ammerländische Fleischwarenfabrik Fritz Meinen GmbH & Co KG and TofuTown.com GmbH.

Operative part

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 7 January 2010 (Case R 63/2009-4);

2. Orders OHIM to bear its own costs and those incurred by Meica Ammerländische Fleischwarenfabrik Fritz Meinen GmbH & Co KG;

3. Orders TofuTown.com GmbH to bear its own costs.