Decision of the examiner:	Registration refused
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Dismisses the action;

2. Orders Chocoladefabriken Lindt & Sprüngli AG to pay the costs.

Judgment of the General Court (First Chamber) of 17 December 2010 — Storck v OHIM (Shape of a chocolate mouse)

(Case T-13/09)

(Community trade mark — Application for a three-dimensional Community trade mark — Shape of a chocolate mouse — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 (now Article 7(1)(b) of Regulation (EC) No 207/2009) — Rights of the defence)

Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Marks devoid of any distinctive character — Three-dimensional mark (Council Regulation No 40/94, Art. 7(1)(b)) (see para. 44)

Re:

ACTION brought against the decision of the Fourth Board of Appeal of OHIM of 12 November 2008 (Case R 185/2006-4), concerning an application for registration as a Community trade mark of a three-dimensional sign consisting of the shape of a chocolate mouse.

Information relating to the case

Applicant for the Community trade mark:	August Storck KG
Community trade mark sought:	Three-dimensional mark, which represents a mouse made out of chocolate, for goods in Class 30 — Application No 4490447
Decision of the examiner:	Registration refused
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Dismisses the action;

2. Orders August Storck KG to pay the costs.

Judgment of the General Court (Eighth Chamber) of 17 December 2010 — Amen Corner v OHIM – Comercio Electrónico Ojal (SEVE TROPHY)

(Case T-192/09)

(Community trade mark — Opposition proceedings — Application for Community figurative mark SEVE TROPHY — Earlier Community figurative marks Seve Ballesteros Trophy and SEVE TROPHY — Relative grounds for refusal — No similarity of the goods and services — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009) — No unfair advantage taken of or detriment caused to the distinctive character or repute of the earlier marks — Article 8(5) of Regulation No 40/94 (now Article 8(5) of Regulation No 207/2009))