Judgment of the General Court (Eighth Chamber) of 9 December 2010 — Earle Beauty v OHIM (NATURALLY ACTIVE)

(Case T-307/09)

(Community trade mark — Application for the Community word mark NATURALLY ACTIVE — Absolute ground for refusal — No inherent distinctive character — No distinctive character acquired by use — 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 — Word mark NATURALLY ACTIVE (Council Regulation No 207/2009, Art. 7(1)(b)) (see paras 24, 26-28, 32-37)

Re:

ACTION brought against the decision of the Second Board of Appeal of OHIM of 11 May 2009 (Case R 27/2009-2) concerning registration of the word sign NATURALLY ACTIVE as a Community trade mark.

Information relating to the case

Applicant for the Community trade mark:	Liz Earle Beauty Co. Ltd
Community trade mark sought:	Word mark NATURALLY ACTIVE for goods and services in Classes 3, 5, 16, 18, 35 and 44 — Application No 6531438
Decision of the examiner:	Registration refused
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 11 May 2009 (Case R 27/2009-2) in so far as it refused registration as a Community trade mark of the word sign NATURALLY ACTIVE for wash bags, cosmetic bags and cases, beach bags, handbags, shoulder bags, draw string bags, purses, wallets, vanity cases, make-up bags, canvas bags, and cases for mirrors in Class 18 of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended;

2. Dismisses the action as to the remainder;

3. Orders Liz Earle Beauty Co. Ltd to bear its own costs and to pay two thirds of OHIM's costs. OHIM is ordered to bear one third of its costs.

Judgment of the General Court (Sixth Chamber) of 9 December 2010 — Fédération internationale des logis v OHIM (Shade of brown)

(Case T-329/09)

(Community trade mark — Application for a Community trade mark consisting of a shade of brown — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)