JUDGMENT OF THE COURT OF FIRST INSTANCE (Second Chamber)
19 September 2001 *

In Case T-128/00,

Procter & Gamble Company, established in Cincinnati, Ohio (United States of America), represented by C. van Nispen and G. Kuipers, lawyers, with an address for service in Luxembourg,

applicant,

v

Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), represented by A. von Mühlendahl, D. Schennen and C. Røhl Søberg, acting as Agents,

defendant,

* Language of the case: English.

ACTION brought against the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 8 March 2000 (Case R-506/1999-1), which was notified to the applicant on 13 March 2000,

THE COURT OF FIRST INSTANCE
OF THE EUROPEAN COMMUNITIES (Second Chamber),

composed of: A.W.H. Meij, President, A. Potocki and J. Pirrung, Judges,

Registrar: D. Christensen, Administrator,

having regard to the application lodged at the Registry of the Court on 15 May 2000,

having regard to the response lodged at the Registry of the Court on 27 July 2000,

further to the hearing on 5 April 2001,

gives the following

Judgment [1]

...

On those grounds,

THE COURT OF FIRST INSTANCE (Second Chamber),

hereby:

1. Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 8 March 2000 (Case R-506/1999-1) in so far as it concerns products falling

1 — The facts, arguments of the parties and the grounds of the present judgment are identical or similar to those in the judgment in Case T-129/00 *Procter & Gamble* v *OHIM* (rectangular tablet with inlay) [2001] ECR II-2793, ECR II-2797. The only differences in comparison with that judgment result from the appearance of the three-dimensional trade marks for which registration was sought, namely, in this instance, the shape of a square tablet featuring a square inlay in the centre and speckles, colour not being claimed.

within Class 3 of the Nice Agreement corresponding to the description 'perfumery, essential oils, cosmetics, hair lotions; dentifrices';

2. **Dismisses the remainder of the action;**

3. **Orders the parties to bear their own costs.**

Meij Potocki Pirrung

Delivered in open court in Luxembourg on 19 September 2001.

H. Jung

Registrar

A.W.H. Meij

President