Judgment of the General Court (Second Chamber) of 18 May 2011 — Habanos v OHIM — Tabacos de Centroamérica (KIOWA)

(Case T-207/08)

(Community trade mark — Opposition proceedings — Application for Community figurative mark KIOWA — Earlier Community and national figurative marks COHIBA — Relative ground for refusal — No likelihood of confusion — No similarity of signs — Article 8(1)(b) of Regulation (EC) No 40/94 (now 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 40/94, Art. 8(1)(b)) (see paras 29, 63-64)

Re:

ACTION brought against the decision of the Second Board of Appeal of OHIM of 31 March 2008 (Case R 1189/2007-2) relating to opposition proceedings between Corporación Habanos, SA and Tabacos de Centroamérica, SL.

Information relating to the case

Applicant for the Community trade mark:	Tabacos de Centroamérica, SL
Community trade mark sought:	Figurative mark KIOWA in respect of goods in Class 34 — Application No 3963931
Proprietor of the mark or sign cited in the opposition proceedings:	Corporación Habanos, SA

Mark or sign cited in opposition:	Figurative mark COHIBA (Community mark No 3323292), word mark COHIBA (Spanish mark No 1271173) and the figurative mark COHIBA (Spanish mark No 2052344) in respect of products in Class 34
Decision of the Opposition Division:	Opposition dismissed
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Dismisses the action;

2. Orders Corporación Habanos, SA to bear its own costs and pay those of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM);

3. Orders Tabacos de Centroamérica, SL to bear its own costs.

Judgment of the General Court (Second Chamber) of 18 May 2011 — Glenton España v OHIM — Polo/Lauren (POLO SANTA MARIA)

(Case T-376/09)

(Community trade mark — Opposition proceedings — Application for Community figurative mark POLO SANTA MARIA — Earlier Benelux figurative mark showing the silhouette of a polo player — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)