Information relating to the case

Registered Community trade mark of which cancellation sought:	Figurative mark PINE TREE for goods in Class 28 — Community trade mark No 318857)
Proprietor of the Community trade mark:	Mr Chong-Yun Bae
Party requesting cancellation of the Community trade mark:	Mr Mo-Hwa Park
Decision of the Cancellation Division:	Declaration of revocation of the Community trade mark concerned
Decision of the Board of Appeal:	Annulment of the contested decision and rejection of the application for a declaration of revocation of the trade mark concerned

Operative part

The Court:

1. Dismisses the action;

2. Orders Mr Mo-Hwa Park to pay the costs.

Judgment of the General Court (First Chamber) of 18 January 2011 — Advance Magazine Publishers v OHIM — Capela & Irmãos (VOGUE)

(Case T-382/08)

(Community trade mark — Opposition proceedings — Application for Community word mark VOGUE — Earlier national word mark VOGUE Portugal — No genuine use of the earlier mark — Article 43(2) and (3) of Regulation (EC) No 40/94 (now Article 42(2) and (3) of Regulation (EC) No 207/2009))

1. *Community trade mark — Observations of third parties and opposition — Examination of the opposition — Proof of use of the earlier mark — Genuine use — Concept — Criteria for assessment (Council Regulation No 40/94, Art. 43(2) and (3)) (see paras 27-29)*

2. *Community trade mark — Observations of third parties and opposition — Examination of the opposition — Proof of use of the earlier mark — Genuine use — Application of the criteria to the case in question (Council Regulation No 40/94, Art. 43(2) and (3)) (see paras 30-32)*

Re:

ACTION brought against the decision of the Second Board of Appeal of OHIM of 30 June 2008 (Case R 328/2003-2) relating to opposition proceedings between J. Capela & Irmãos, Lda and Advance Magazine Publishers, Inc.

Information relating to the case

Applicant for the Community trade mark:	Advance Magazine Publishers, Inc.
Community trade mark sought:	Word mark VOGUE for goods and services in Classes 9, 14, 16, 25 and 41 — Application No 183756
Proprietor of the mark or sign cited in the opposition proceedings:	J. Capela & Irmãos, Lda
Mark or sign cited in opposition:	Portuguese trade mark registration No 143183 of the word mark VOGUE Portugal for goods in Class 25; Portuguese business name No 32046 VOGUE — SAPATARIA

Decision of the Opposition Division:	Opposition upheld in its entirety
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 30 June 2008 (Case R 328/2003-2);

2. Dismisses the action as to the remainder;

3. Orders OHIM to bear its own costs and those incurred by Advance Magazine Publishers, Inc.

Judgment of the General Court (Eighth Chamber) of 19 January 2011 — Häfele v OHIM — Topcom Europe (Topcom)

(Case T-336/09)

(Community trade mark — Opposition proceedings — Application for Community word mark Topcom — Earlier Community and Benelux word marks TOPCOM — Relative ground for refusal — Likelihood of confusion — Similarity of the goods — Article 8(1)(b) of Regulation (EC) No 207/2009)