Judgment of the Court of First Instance (Second Chamber) of 8 March 2005 — Leder & Schuh v OHIM — Schuhpark Fascies (JELLO SCHUHPARK)

(Case T-32/03)

Community trade mark — Opposition proceedings — Earlier national word mark 'Schuhpark' — Application for Community word mark 'JELLO SCHUHPARK' — Relative ground for refusal — Partial refusal to register — Article 8(1)(b) of Regulation (EC) No 40/94

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 — Word Marks JELLO SCHUHPARK and Schuhpark (Council Regulation No 40/94, Art. 8(1)(b)) (see para. 51)

Re

ACTION against the decision of the Third Board of Appeal of OHIM of 27 November 2002, in the corrected version of 9 December 2002 (Case R 494/1999-3), relating to opposition proceedings between Schuhpark Fascies GmbH and Leder & Schuh AG.

Information relating to the case

Applicant for the Community trade mark:	Leder & Schuh AG
Community trade mark sought:	The word mark 'JELLO SCHUHPARK' for goods in Classes 18, 25 and 28 — Application No 107367
Proprietor of mark or sign cited in the opposition proceedings:	Schuhpark Fascies GmbH
Mark or sign cited in opposition:	German word mark 'Schuhpark' for goods in Class 25

Decision of the Opposition Division	Dismissal of the applicant's application for goods in Class 18. Dismissal of the opposition as to the remainder
Decision of the Board of Appeal:	Dismissal of the appeal brought by the applicant

Operative part

The Court:

1. **Dismisses the application;**

2. **Orders the applicant to bear the costs.**

Judgment of the Court of First Instance (Fourth Chamber, Extended Composition) of 17 March 2005 — Eurocoton v Council

(Case T-192/98)

Dumping — Failure by the Council to adopt a Commission proposal for a regulation imposing a definitive anti-dumping duty — Absence of simple majority necessary for the adoption of a regulation — Obligation to state reasons

1. *Actions for annulment — Actionable measures — Definition — Measures producing binding legal effects — Failure to adopt a proposal for a regulation imposing an anti-dumping duty — Effect of the regulatory nature of the anti-dumping procedure — None (Art. 230 EC; Council Regulation No 384/96, Art. 6(9)) (see paras 30-32)*