Judgment of the General Court (Fourth Chamber) of 4 May 2011 — Bongrain v OHIM — apetito (APETITO)

(Case T-129/09)

(Community trade mark — Opposition proceedings — Application for Community word mark APETITO — Earlier Community word mark apetito — Relative ground for refusal — Likelihood of confusion — Similarity of the goods — 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 para. 30)

Re:

ACTION brought against the decision of the Fourth Board of Appeal of OHIM of 2 February 2009 (Case R 720/2008-4) relating to opposition proceedings between apetito AG and Bongrain SA.

Information relating to the case

Applicant for the Community trade mark:	Bongrain SA
Community trade mark sought:	Word mark APETITO for goods in Class 29 — Application No 3470598
Proprietor of the mark or sign cited in the opposition proceedings:	apetito AG

Mark or sign cited in opposition:	Community word mark apetito, registered for goods in Classes 5, 11, 21 29, 30, 37, 39, 41 and 42
Decision of the Opposition Division:	Opposition upheld
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Dismisses the action;

2. Orders Bongrain SA to pay the costs.

Judgment of the General Court (Eighth Chamber) of 5 May 2011 — Olymp Bezner v OHIM — Bellido (Olymp)

(Case T-203/09)

(Community trade mark — Invalidity proceedings — Community word mark OLYMP — Earlier national figurative mark OLIMPO — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) and Article 52(1)(a) of Regulation (EC) No 40/94 (now Article 8(1)(b) and Article 53(1)(a) of Regulation (EC) No 207/2009)

Community trade mark — Surrender, revocation and invalidity — Relative grounds of invalidity — Existence of an identical or similar earlier trade mark registered for identical or similar goods or services (Council Regulation No 40/94, Arts 8(1)(b) and 52(1)(a)) (see paras 30, 60-62)