Judgment of the General Court (Seventh Chamber) of 12 May 2011 — Jager & Polacek v OHIM (REDTUBE)

(Case T-488/09)

(Community trade mark — Opposition proceedings — Application for Community word mark REDTUBE — Earlier unregistered national mark Redtube — Failure to pay the opposition fee within the prescribed period — Decision deeming the opposition non-existent — Article 8(3) of Regulation (EC) No 2869/95 — Protection of legitimate expectations — Rule 17 of Regulation (EC) No 2868/95 — Ex parte proceedings — Article 8(2) of Regulation (EC) No 216/96 — Rule 18 of Regulation No 2868/95 — Legal nature of a communication from OHIM informing a party that an opposition has been found to be admissible — Rule of parallelism of procedural requirements and of the actus contrarius — Article 80 of Regulation (EC) No 207/2009)

Community trade mark — Registration procedure — Observation of third parties and opposition — Failure to pay opposition fee (Commission Regulation No 2869/95, Arts 8(3) and 8(4)) (see paras 38-41, 44-49)

Re:

ACTION brought against the decision of the Fourth Board of Appeal of OHIM of 29 September 2009 (Case R 442/2009-4), concerning opposition proceedings between Jager & Polacek GmbH and RT Mediasolutions s.r.o.

Information relating to the case

Applicant for the Community trade mark:	RT Mediasolutions s.r.o.

Community trade mark sought:	Word mark REDTUBE for goods and services in Classes 9, 38 and 41 — Application No 6096309
Proprietor of the mark or sign cited in the opposition proceedings:	Jager & Polacek GmbH
Mark or sign cited in opposition:	Non-registered trade mark Redtube
Decision of the Opposition Division:	The notice of opposition is deemed not to have been entered
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Dismisses the action;

2. Orders Jager & Polacek GmbH to pay the costs.

Judgment of the General Court (Third Chamber) of 17 May 2011 — Diagnostiko kai Therapeftiko Kentro Athinon 'Ygeia' v OHIM (υγεία)

(Case T-7/10)

(Community trade mark — Application for the Community word mark υγεία — Absolute grounds for refusal — No distinctive character and descriptive character — No distinctive character acquired through use — Article 7(1)(b) and (c) and Article 7(3) of Regulation (EC) No 207/2009)