**Re:**

ACTION brought against the decision of the Fourth Board of Appeal of the Office for Harmonization in the Internal Market (OHIM), of 24 February 2006, (Case R 0075/2005-4) concerning registration of the shape of a packet of cigarettes as a Community trade mark.

## Information relating to the case

| | |
|---|---|
| Applicant for the Community trade mark: | Philip Morris Products SA |
| Community trade mark sought: | Three-dimensional mark representing a packet of cigarettes for goods in Class 34 — Application No 2681351 |
| Decision of the Examiner: | Registration refused |
| Decision of the Board of Appeal: | Appeal dismissed |

## Operative part

The Court:

1. Dismisses the appeal;

2. Orders Philip Morris Products SA to pay the costs.

## Judgment of the Court of First Instance (Second Chamber) of 12 September 2007 — Glaverbel v OHIM (Texture of a glass surface)

**(Case T-141/06)**

Community trade mark — Application for a Community figurative mark representing the texture of a glass surface — Absolute ground for refusal — Absence of evidence of distinctive character acquired through use

1. *Community trade mark — Appeals procedure — Action before the Community judicature (Rules of Procedure of the Court of First Instance, Art. 135(4)) (see para. 14)*

2. *Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Marks devoid of any distinctive character — Exception — Acquisition of distinctive character through use (Council Regulation No 40/94, Art. 7(1)(b), (2) and (3)) (see paras 19-23, 32-40)*

3. *Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Absence of distinctive character — Exception — Acquisition of distinctive character through use (Council Regulation No 40/94, Art. 7(1)(b) and (3)) (see paras 35-38)*

**Re:**

ACTION brought against the decision of the Fourth Board of Appeal of OHIM of 1 March 2006 (Case R 0986/2004-4), relating to an application for registration as a Community trade mark of a figurative mark representing the texture of a glass surface.

## Information relating to the case

| | |
|---|---|
| Applicant for the Community trade mark: | Glaverbel SA |
| Community trade mark sought: | Figurative mark consisting of a motif applied to the surface of goods of Classes 19 and 21 — Application No 3183068 |
| Decision of the Examiner: | Application for a community trade mark for all goods is dismissed |
| Decision of the Board of Appeal: | Appeal dismissed |

**Operative part**

The Court:

1. Dismisses the appeal;

2. Orders Glaverbel SA to pay the costs.

## Judgment of the Court of First Instance (Fourth Chamber) of 12 September 2007 — ColArt/Americas v OHIM (BASICS)

**(Case T-164/06)**

Community trade mark — Application for the Community word mark BASICS — Absolute grounds for refusal — Lack of distinctive character — Descriptive mark — Article 7(1)(b) and (c) of Regulation (EC) No 40/94 — Distinctive character acquired through use — Article 7(3) of Regulation No 40/94

1. *Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Marks composed exclusively of signs or indications which may serve to designate the characteristics of goods (Council Regulation No 40/94, Art. 7(1)(c)) (see paras 24, 25)*

2. *Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Marks devoid of any distinctive character — Exception — Acquisition of distinctive character through use (Council Regulation No 40/94, Art. 7(3)) (see paras 45-47, 53)*