INFORMATION ON UNPUBLISHED DECISIONS

Reports of Cases

Judgment of the General Court (Third Chamber) of 8 March 2012 — Arrieta D. Gross v OHIM – International Biocentric Foundation and Others (BIODANZA)

(Case T-298/10)

(Community trade mark — Opposition proceedings — Application for the Community figurative mark BIODANZA — Earlier national word mark BIODANZA — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Death of the trade mark applicant before adoption of the decision of the Board of Appeal — Admissibility of the response — No genuine use of the earlier trade mark — Article 42(2) and (3) of Regulation No 207/2009 — Proceedings before the Board of Appeal — Rights of defence — Article 75 of Regulation No 207/2009)

1. *Community trade mark — Community trade mark as an item of property — Assimilation of the Community trade mark to the national trade mark — Application for a Community trade mark as an item of property (Council Regulation No 207/2009, Arts 16(1), and 24) (see paras 36-37)*

2. *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 207/2009, Art. 42(2)) (see paras 54-55)*

3. *Community trade mark — Observations of third parties and opposition — Examination of the opposition — Proof of use of the earlier mark — Genuine use — Concept — Determination of a quantitative threshold of minimum use — Not included (Council Regulation No 207/2009, Art. 42(2)) (see paras 56-57)*

Re:

ACTION brought against the decision of the Second Board of Appeal of OHIM of 13 April 2010 (Case R 1149/2009-2), relating to opposition proceedings between Christina Arrieta D. Gross and Rolando Mario Toro Araneda.

Operative part

The Court:

1. Grants leave to the International Biocentric Foundation Ltd, Gabriela Cedilia Toro Acuña and Hilda Pilar Toro Acuña, Rolando Patricio Toro Acuña, Maria Verónica Toro Acuña, Ricardo Marcela Toro Durán and German Toro Gonzalez, Claudia Danae Toro Sanchez, Rodrigo Paulo Toro Sanchez, Mariela Paula Toro Sanchez, Viviana Luz Toro Matuk, Morgana Fonteles Toro, Anna Laura Toro Sant'ana, Joana Castoldi Toro Araneda and Claudete Sant'ana to intervene before the General Court;

2. Dismisses the action;

3. Orders Christina Arrieta D. Gross to pay the costs.