Judgment of the General Court (Fifth Chamber) of 28 April 2010 — Claro v OHIM — Telefónica (Claro)

(Case T-225/09)

(Community trade mark — Opposition proceedings — Application for the Community three-dimensional mark Claro — Earlier Community word mark CLARO — Inadmissibility of the appeal brought before the Board of Appeal — Articles 59 and 62 of Regulation (EC) No 40/94 (now Articles 60 and 64 of Regulation (EC) No 207/2009) — Rule 49(1) of Regulation (EC) No 2868/95)

Community trade mark — Appeals procedure — Time-limit and form of appeal — Lodging of a document setting out the grounds within the time-limits — Condition of admissibility (Council Regulation No 40/94, Art. 59; Commission Regulation No 2868/95, Art. 1, Rule 49) (see paras 19-21)

Re:

ACTION brought against the decision of the Second Board of Appeal of OHIM of 26 February 2009 (Case R 1079/2008-2), relating to opposition proceedings between Telefónica, SA and BCP S/A.

Information relating to the case

Applicant for the Community trade mark:	Claro SA
Community trade mark sought:	Three-dimensional trade mark containing the word element Claro for goods and services in Classes 9 and 38 — Application No 5229241

Proprietor of the mark or sign cited in the opposition proceedings:	Telefónica, SA
Mark or sign cited in opposition:	Earlier Community word mark CLARO (No 2017341), for, inter alia, goods and services in Classes 9 and 38
Decision of the Opposition Division:	Opposition upheld
Decision of the Board of Appeal:	Appeal dismissed as inadmissible, since the applicant had not filed the relevant statement of grounds for the appeal

Operative part

The Court:

1. Dismisses the action;

2. Orders Claro, SA to pay the costs.

Judgment of the General Court (Seventh Chamber) of 29 April 2010 — Kerma v OHIM (BIOPIETRA)

(Case T-586/08)

(Community trade mark — Application for the Community word mark BIOPIETRA — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 (now Article 7(1)(b) of Regulation (EC) No 207/2009))