

Action brought on 28 May 2009 — Yorma's AG v OHIM — Norma Lebensmittelfilialbetrieb (YORMAS'S)

(Case T-213/09)

(2009/C 180/105)

*Language in which the application was lodged: German***Parties***Applicant:* Yorma's AG (Deggendorf, Germany) (represented by A. Weiß, lawyer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)*Other party to the proceedings before the Board of Appeal of OHIM:* Norma Lebensmittelfilialbetrieb GmbH & Co. KG**Form of order sought**

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 20 February 2009 in Case R 1879/2007-1; and

— Order the defendant to pay the costs.

Pleas in law and main arguments*Applicant for a Community trade mark:* The applicant*Community trade mark concerned:* Figurative mark composed of a word element 'YORMA'S' in blue and yellow for services in Classes 35 and 42 (Registration No 2 048 205)*Proprietor of the mark or sign cited in the opposition proceedings:* Norma Lebensmittelfilialbetrieb GmbH & Co. KG*Mark or sign cited in opposition:* Word mark 'Norma' (Community trade mark No 213 769) for goods in Classes 3, 5, 8, 16, 18, 21, 25, 28, 29, 30, 31, 32, 33, 34, 35 and 36 and the commercial symbol 'NORMA' used in the course of trade in Germany, as well as the figurative sign 'NORMA'*Decision of the Examiner:* Rejection of the opposition.*Decision of the Board of Appeal:* Annulment of the appealed decision and rejection of the Community trade mark application.*Pleas in law:* Infringement of Article 8(1)(b) and (4) of Council Regulation No 40/94 (now Article 8(1)(b) and (4) of Regulation (EC) No 207/2009 ⁽¹⁾)

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

Action brought on 26 May 2009 — COR Sitzmöbel Helmut Lübke v OHIM — El Corte Inglés (COR)

(Case T-214/09)

(2009/C 180/106)

*Language in which the application was lodged: German***Parties***Applicant:* COR Sitzmöbel Helmut Lübke (Rheda-Wiedenbrück, Germany) (represented by Y-G. von Amsberg, lawyer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)*Other party to the proceedings before the Board of Appeal of OHIM:* El Corte Inglés (Madrid, Spain)**Form of order sought**

— Annul the decision of the Second Board of Appeal of 4 March 2009 (R 376/2008-2); and

— Order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs of the proceedings

Pleas in law and main arguments*Applicant for a Community trade mark:* The applicant*Community trade mark concerned:* Word Mark 'COR' for goods in Classes 20 and 27 (International Registration No 839 721)*Proprietor of the mark or sign cited in the opposition proceedings:* El Corte Inglés, SA*Mark or sign cited in opposition:* Word Mark 'CADENACOR' (Community Trade mark No 2 362 598) for goods in Class 20*Decision of the Examiner:* Refusal of Protection*Decision of the Board of Appeal:* Dismissal of the Appeal*Pleas in law:* Infringement of Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009 ⁽¹⁾), in as much as there is no likelihood of confusion between the opposing marks.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).