

### 3. Failure to have regard to the significance of the principle of *ex proprio motu* investigation

The General Court failed to recognise that the Board of Appeal infringed the principle of *ex proprio motu* investigation in its decision. The Office, however, merely referred to the fact that the present appellant had produced no evidence purporting to show that the mark is perceived by the target public as an indication of origin.

### 4. Incorrect interpretation and application of Article 7(1)(b) of the Community Trade Mark Regulation (CTMR)

The General Court failed to recognise the incorrect interpretation and application of Article 7(1)(b) CTMR by the Office and thereby also incorrectly interpreted and applied that provision.

Contrary to the view taken by the General Court, red aglets which stand out in terms of colour from the rest of the shoelace are quite capable of fulfilling an essential function of indicating origin. The General Court, however, set a higher standard for the mark in the present case than for figurative and word marks. It also failed to recognise the fact that distinctive character does not depend on the mark submitted for registration differing significantly from industry standards.

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#### Order of the President of the Court of 23 July 2013 — European Commission v Republic of Poland

(Case C-245/12) <sup>(1)</sup>

(2013/C 344/91)

*Language of the case: Polish*

The President of the Court has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 200, 7.7.2012.

#### Order of the President of the Court of 20 August 2013 — European Commission v Hungary

(Case C-310/12) <sup>(1)</sup>

(2013/C 344/92)

*Language of the case: Hungarian*

The President of the Court has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 366, 24.11.2012.

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#### Order of the President of the Court of 23 July 2013 — European Commission v Republic of Poland

(Case C-544/12) <sup>(1)</sup>

(2013/C 344/93)

*Language of the case: Polish*

The President of the Court has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 46, 16.2.2013.

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#### Order of the President of the Court of 23 July 2013 (request for a preliminary ruling from the Verwaltungsgericht Giessen — Germany) — Johannes Peter v Bundeseisenbahnvermögen

(Case C-610/12) <sup>(1)</sup>

(2013/C 344/94)

*Language of the case: German*

The President of the Court has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 101, 6.4.2013.