

Operative part:

The Court:

1. Dismisses the action;
2. Orders the applicant to pay the costs.

**Judgment of the Court of First Instance (Second Chamber) of 13 April 2005 —
Gillette v OHIM — Wilkinson Sword (RIGHT GUARD XTREME sport)**

(Case T-286/03)

Community trade mark — Opposition proceedings — Application for Community figurative mark RIGHT GUARD XTREME sport — Earlier national figurative mark WILKINSON SWORD XTREME III — Likelihood of confusion — Refusal of registration — Article 8(1)(b) of Regulation (EC) No 40/94

Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Figurative marks 'RIGHT GUARD XTREME sport' and 'WILKINSON SWORD XTREME III' (Council Regulation No 40/94, Art. 8(1)(b)) (see paras 81-82)

Re

ACTION against the decision of the Fourth Board of Appeal of OHIM of 17 April 2003 (Case R 221/2002-4), refusing registration of the figurative mark RIGHT GUARD XTREME sport.

Information relating to the case

Applicant for the Community trade mark:	The Gillette Company
Community trade mark sought:	The figurative mark 'RIGHT GUARD XTREME sport' for goods in Class 3 — Application No 1486745
Proprietor of mark or sign cited in the opposition proceedings:	Wilkinson Sword GmbH
Mark or sign cited in opposition:	German figurative marks 'WILKINSON SWORD XTREME III' for goods in Class 3
Decision of the Opposition Division:	Rejection of the opposition
Decision of the Board of Appeal:	Annulment of the decision of the Opposition Division and refusal of the applicant's application

Operative part

The Court:

1. Dismisses the action;
2. Orders the applicant to pay the costs.