

## Information relating to the case

Applicant for the Community trade mark:	Cain Cellars, Inc.
Community trade mark sought:	Pentagonal figurative mark for the goods 'wine' in Class 33 — Application No 3425121
Decision of the Examiner:	Application for registration dismissed
Decision of the Board of Appeal:	Appeal dismissed

## Operative part

The Court:

1. Dismisses the appeal;
2. Orders Cain Cellars, Inc. to pay the costs.

## **Judgment of the Court of First Instance (Second Chamber) of 12 September 2007 — Philip Morris Products v OHIM (Shape of a packet of cigarettes)**

**(Case T-140/06)**

Community trade mark — Application for a three-dimensional Community trade mark — Shape of a packet of cigarettes — Refusal of registration — Absolute grounds for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94

*Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Marks devoid of any distinctive character (Council Regulation No 40/94, Art. 7(1)(b)) (see paras 26, 27)*

**Re:**

ACTION brought against the decision of the Fourth Board of Appeal of the Office for Harmonization in the Internal Market (OHIM), of 24 February 2006, (Case R 0075/2005-4) concerning registration of the shape of a packet of cigarettes as a Community trade mark.

**Information relating to the case**

Applicant for the Community trade mark:	Philip Morris Products SA
Community trade mark sought:	Three-dimensional mark representing a packet of cigarettes for goods in Class 34 — Application No 2681351
Decision of the Examiner:	Registration refused
Decision of the Board of Appeal:	Appeal dismissed

**Operative part**

The Court:

1. Dismisses the appeal;
2. Orders Philip Morris Products SA to pay the costs.

**Judgment of the Court of First Instance (Second Chamber) of 12 September 2007 — Glaverbel v OHIM (Texture of a glass surface)**

**(Case T-141/06)**

Community trade mark — Application for a Community figurative mark representing the texture of a glass surface — Absolute ground for refusal — Absence of evidence of distinctive character acquired through use