

Case T-28/06

RheinfelsQuellen H. Hövelmann GmbH & Co. KG

v

**Office for Harmonization in the Internal Market
(Trade Marks and Designs) (OHIM)**

(Community trade mark — Application for the Community word mark VOM
URSPRUNG HER VOLLKOMMEN — Absolute grounds for refusal — Descriptive
character — Article 7(1)(b) and (c) of Regulation (EC) No 40/94)

Judgment of the Court of First Instance (First Chamber), 6 November 2007 II - 4415

Summary of the Judgment

*Community trade mark — Definition and acquisition of the Community trade mark —
Absolute grounds for refusal — Marks composed exclusively of signs or indications which may
serve to designate the characteristics of goods
(Council Regulation No 40/94, Art. 7(1)(c))*

From the point of view of the average German-speaking consumer, the word mark VOM URSPRUNG HER VOLLKOMMEN, registration of which as a Community trade mark is sought for 'beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages; mixtures of these drinks' and 'alcoholic beverages (except beers)', falling within Classes 32 and 33 of the Nice Agreement, is descriptive of the products concerned for the purposes of Article 7(1)(c) of Regulation No 40/94 on the Community trade mark.

The slogan clearly refers to the purity and perfection of the ingredients of the drinks, and in particular to that of the water used. The purity and perfection of the ingredients are of particular significance for goods falling within Classes 32 and 33. With regard to mineral waters, the perfect state of the source water used is decisive in determining the quality of the drink, both as regards the taste and as regards health. So far as fruit

juices, beers and other alcoholic drinks are concerned, the origin of their ingredients is also a factor of great significance in determining the quality of those products.

Thus, those words, alone or in combination, refer directly and clearly to the characteristics of the goods in question. It is reasonable to acknowledge that the purity and the original perfection of the ingredients of the drinks are characteristics which are taken into consideration by the consumer addressed when making his choice. From the viewpoint of the public addressed, there is therefore a sufficiently direct and concrete relationship between the word combination concerned and the goods falling within Classes 32 and 33.

(see paras 37-40)