

## Case T-390/03

**CM Capital Markets Holding, SA**

**v**

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

(Community trade mark — Opposition proceedings — Earlier figurative mark including the expression ‘capital markets CM’ — Application for Community figurative mark including the element ‘CM’ — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)

Judgment of the Court of First Instance (Third Chamber), 11 May 2005 . . . II - 1701

### Summary of the Judgment

*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 CM and CAPITAL MARKETS CM  
(Council Regulation No 40/94, Art. 8(1)(b))*

For the relevant public, composed of Spanish consumers who are very attentive and well-informed, there is no likelihood of confusion between a figurative sign consisting of a red square crossed through with a yellow line inside which the letters 'C' and 'M' are written in white, for which registration as a Community trade mark is sought for the goods and services in Classes 1 to 42 of the Nice Agreement, and the figurative mark composed of two elements: the expression 'capital markets' written in black cursive script with the letters 'C' and 'M' placed one on top of the other, previously registered in Spain for 'business management, business administration, office functions', 'insurance, financial affairs, monetary affairs, banking business, real estate', 'telecommunications' and 'legal services and scientific and industrial research' in Classes 35, 36, 38 and 42

respectively, in so far as, on the one hand the services covered by the marks at issue are identical but as the marks are not either visually or conceptually similar those differences are capable of counteracting the phonetic similarity between them, and on the other the earlier mark does not have a highly distinctive character. That conclusion is supported by the fact that the relevant public is highly specialised in the sphere of the services concerned and, therefore, likely to demonstrate a high degree of attention when choosing those services.

(see paras 64-67, 69)