

**Judgment of the Court of First Instance (First Chamber)  
of 22 February 2006 — Nestlé v OHIM**

**(Case T-74/04)**

Community trade mark — Opposition procedure — Application for Community figurative trade mark including the word element 'QUICKY' — Earlier Community, national and international figurative trade marks including the word element 'QUICK' — Earlier national and international word marks 'QUICK' — Earlier national word marks 'QUICKIES' — Likelihood of confusion — Refusal to register — 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 (Council Regulation No 40/94, Art. 8(1)(b)) (see paras 56, 57)*

**Re:**

ACTION brought against the decision of the Second Board of Appeal of OHIM of 17 December 2003 (Case R 922/2001-2) regarding opposition proceedings between Société des Produits Nestlé SA and Quick restaurants SA.

**Information relating to the case**

Applicant for the Community trade mark:	Société des produits Nestlé SA
Community trade mark sought:	Figurative mark 'QUICKY' — Application No 467746, lodged for goods in Classes 29 (meats, etc.), 30 (coffee, etc.) and 32 (mineral water, etc.)
Proprietor of the mark or sign cited in the opposition proceedings:	Société anonyme de droit belge Quick restaurants
Mark or sign cited in the opposition proceedings:	Word and figurative national and international marks, 'QUICK' and 'QUICKIES'
Decision of the Opposition Division:	Rejection of the registration
Decision of the Board of Appeal:	Dismissal of the appeal

**Operative part**

The Court:

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