

**Judgment of the Court of First Instance (Fifth Chamber) of 22 March 2007 —
Brinkmann v OHIM — Terra Networks (Terranus)
(Case T-322/05)**

Community trade mark — Opposition proceedings — Application for Community work mark Terranus — Earlier Community and national figurative mark terra — Relative ground for refusal — Likelihood of confusion — Similar goods and services — Art. 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 36-39, 41)

Re:

ACTION brought against the decision of the First Board of Appeal of OHIM of 10 June 2005 (Case R 1145/2004-1) relating to opposition proceedings between Terra Networks, SA and Carsten Brinkmann.

Information relating to the case

Applicant for the Community trade mark:	Carsten Brinkmann
Community trade mark sought:	Word mark Terranus for goods and services in class 36 — Application No 2061968
Proprietor of the mark or sign cited in the opposition proceedings:	Terra Networks, SA
Mark or sign cited in opposition:	Figurative brand terra for goods and services in class 36 (Community mark No 1332691, as well as Spanish mark No 2261483)

Decision by the Opposition Division:	Application dismissed
Decision of the Board of Appeal:	Appeal dismissed

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 28 March 2007 — Spain v Commission

(Case T-220/04)

EAGGF — ‘Guarantee’ Section — Expenditure excluded from Community financing
— Tomatoes and citrus fruits — Sample checks — Force majeure

1. *Agriculture — EAGGF — Granting of aid and premiums — Obligation on Member States to organise an efficient system of administrative controls and on-the-spot checks (Commission Regulation No 504/97, Art. 15(1)) (see paras 81-83)*
2. *Acts of the Community institutions — Regulations — Regulation prescribing specific control measures (see para. 89)*
3. *Agriculture — EAGGF — Clearance of accounts (see para. 102)*