

4. Sumitomo Chemical Agro Europe and Philagro France are to bear their own costs and pay those incurred by the Commission.

**Judgment of the Court of First Instance (Third Chamber) of 17 October 2007 —
InterVideo v OHIM (WinDVD Creator)**

(Case T-105/06)

Community trade mark — Application for Community figurative mark WinDVD Creator — Absolute grounds for refusal — Articles 4 and 7(1)(b) and (c) of Regulation (EC) No 40/94

1. *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)) (see paras 46, 52)*
2. *Community trade mark — Procedural provisions (Council Regulation No 40/94, Art. 74(1)) (see paras 41, 42)*

Re:

ACTION against the decision of the Second Board of Appeal of OHIM of 31 January 2006 (Case R 987/2005-2), relating to registration of the figurative sign WinDVD Creator as a Community trade mark.

Information relating to the case

Applicant for the Community trade mark:	InterVideo Inc.
Community trade mark sought:	Figurative mark WindDVD Creator for goods in Class 9 — Application No 4106936
Decision of the Examiner:	Refusal of registration
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Dismisses the action;
2. Orders InterVideo Inc. to pay the costs.

**Order of the Court of First Instance of 18 October 2007 —
Ristic and Others v Commission**

(Case T-238/07 R)

Interim measures — Application for stay of execution — Directive 96/23/EC —
Lack of urgency — Balance of interests

1. *Applications for interim measures — Suspension of operation of a measure — Interim measures — Conditions for granting — Prima facie case — Urgency — Balancing of all the interests involved (Arts 242 EC and 243 EC; Rules of Procedure of the Court of First Instance, Art. 104(2)) (see paras 42, 43)*
2. *Applications for interim measures — Suspension of operation of a measure — Interim measures — Conditions for granting — Urgency — Serious and irreparable damage (Arts 242 EC and 243 EC; Rules of Procedure of the Court of First Instance, Art. 104(2)) (see paras 48-50)*