

Decision of the Opposition Division:	Opposition dismissed
Decision of the Board of Appeal:	Decision of the Opposition Division set aside and application for registration dismissed

Operative part

The Court:

1. Dismisses the action;
2. Orders Antartica Srl to pay the costs.

Judgment of the Court of First Instance (Second Chamber) of 15 May 2007 — Black & Decker v OHIM — Atlas Copco (Three-dimensional representations of yellow and black electric power tools)

(Joined Cases T-239/05, T-240/05, T-245/05 to T-247/05, T-255/05 and T-274/05 to T-280/05)

Community trade mark — Opposition proceedings — Opposition period — Fax transmission — Admissibility — Clear identification of the earlier trade mark — Rule 18(1) of Regulation (EC) No 2868/95

1. *Community trade mark — Proceedings before the OHIM authorities — Transmission of communications to the Office (Commission Regulation No 2868/95, Art. 1, rule 80(2)) (see paras 59-64)*

2. *Community trade mark — Observations of third parties and opposition — Examination of the opposition — Obligation of the opponent to clearly identify the earlier mark (Council Regulation No 40/94, Art. 42(1); Commission Regulation No 2868/95, Art. 1, rule 18(1)) (see para., 102)*

Re:

THIRTEEN ACTIONS brought against the decisions of the First Board of Appeal of OHIM of 19 April 2005 (R 727/2004-1, R 729/2004-1, R 723/2004-1, R 730/2004-1 and R 724/2004-1), of 27 April 2005 (R 722/2004-1) and of 3 May 2005 (R 788/2004-1, R 789/2004-1, R 790/2004-1, R 791/2004-1, R 792/2004-1, R 793/2004-1 and R 794/2004-1), relating to opposition proceedings between Atlas Copco AB and The Black & Decker Corporation.

Information relating to the cases

Applicant for the Community trade mark:	The Black & Decker Corporation
Community trade mark sought:	Figurative marks coloured yellow and black representing electric tools; three-dimensional representations of two electric tools in yellow and black and one representation of the juxtaposition of the two colours yellow and black, for products in Class 7
Proprietor of the mark or sign cited in the opposition proceedings:	Atlas Copco AB
Mark or sign cited in opposition :	Unregistered marks and signs, commercially used in all Member States to designate electric tools
Decision of the Opposition Division:	Oppositions dismissed as inadmissible
Decision of the Board of Appeal:	Annulment of the contested decisions and matters referred back to the Opposition Division for further consideration

Operative part

The Court:

1. Dismisses the actions;
2. Orders the applicant to pay the costs.

Judgment of the Court of First Instance (Third Chamber) of 16 May 2007 — Merant v OHIM — Focus Magazin Verlag (FOCUS)

(Case T-491/04)

Community trade mark — Opposition proceedings — Application for the
Community word mark FOCUS — Earlier national figurative mark MICRO FOCUS
— Likelihood of confusion — Similarity of signs — Article 8(1)(b) of Regulation (EC)
No 40/04

*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 47-65)*

Re:

ACTION brought against the decision of the Second Board of Appeal of OHIM of
18 October 2004 (Case R 542/2002-2) in opposition proceedings between Merant
GmbH and Focus Magazin Verlag GmbH.