

Re:

APPLICATION for annulment of Commission Decision C(2005) 4683 of 25 November 2005, concerning a reduction of the assistance granted by the European Regional Development Fund (ERDF) pursuant to Decision C(97) 2199, of 27 July 1997, approving assistance from the ERDF for measures provided for in the Objective 2 Single Programming Document for the period 1997-1999 concerning the region of Piedmont (Italy).

Operative part

The Court:

1. Dismisses the application as inadmissible;
2. Orders Investire Partecipazioni SpA to pay the costs.

**Judgment of the Court of First Instance (Fifth Chamber) of 27 November 2007
— Gateway v OHIM — Fujitsu Siemens Computers (ACTIVY Media Gateway)**

(Case T-434/05)

Community trade mark — Opposition proceedings — Application for the Community word mark ACTIVY Media Gateway — Earlier Community and national word and figurative marks Gateway and GATEWAY — Relative grounds for refusal — No likelihood of confusion — Absence of similarity between the signs — Article 8(1)(b) of Regulation (EC) No 40/94 — Article 8(5) of Regulation 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 50, 51)

Re:

ACTION brought against the decision of the First Board of Appeal of OHIM of 14 September 2005 (Case R 1068/2004-1), relating to opposition proceedings between Fujitsu Siemens Computers GmbH and Gateway, Inc.

Information relating to the case

Applicant for the Community trade mark:	Fujitsu Siemens Computers GmbH
Community trade mark sought:	Word mark ACTIVY Media Gateway for goods and services in Classes 9, 35, 38 and 42 — Application No 2190627
Proprietor of the mark or sign cited in the opposition proceedings:	Gateway, Inc.
Mark or sign cited in opposition:	Community and national word marks and figurative marks GATEWAY, GATEWAY 2000, GATEWAY.NET, GATEWAY PROFILE and GATEWAY ASTRO, for goods and services in Classes 9, 16, 35, 36, 37 and 38
Decision of the Opposition Division:	Opposition dismissed
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Dismisses the action;

2. Orders Gateway, Inc., to bear its own costs and to pay those of the Office for Harmonization in the Internal Market (Trade Marks and Designs).

**Order of the Court of First Instance (First Chamber) of 5 December 2007 —
Kapman v OHIM (Representation of a saw blade in blue)**

(Case T-127/06)

Community trade mark — Application for a Community figurative mark representing a saw blade in the colour blue — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 — Action manifestly lacking any foundation in law

Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Marks devoid of any distinctive character (Council Regulation No 40/94, Art. 7(1)(b)) (see paras 24, 25, 27, 29)

Re:

ACTION brought against the decision of the Second Board of Appeal of OHIM of 10 February 2006 (Case R 303/2004-2), refusing registration as a Community trade mark of a figurative mark in the colour blue representing a saw blade.

Operative part

The Court:

1. Dismisses the action as manifestly lacking any foundation in law;
2. Orders Kapman AB to pay the costs.