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.