Operative part

The Court:

1. Dismisses the application as inadmissible;

2. Orders Fachvereinigung Mineralfaserindustrie eV Deutsche Gruppe der Eurima — European Insulation Manufacturers Association to bear its own costs and to pay the costs of the Commission;

3. Orders the Federal Republic of Germany to bear its own costs.

Judgment of the Court of First Instance (Fifth Chamber) of 27 September 2007 — La Mer Technology v OHIM — Laboratoires Goëmar (LA MER)

(Case T-418/03)

Community trade mark — Opposition proceedings — Application for Community word mark LA MER — Earlier national word mark LABORATOIRE DE LA MER — Relative ground for refusal — Genuine use of the mark — Article 43(1) and (2) of Regulation (EC) No 40/94 — No likelihood of confusion — Article 8(1)(b) 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 — Likelihood of confusion with the earlier mark (Council Regulation No 40/94, Art. 8(1)(b)) (see paras 114, 127, 129, 130)

Re:

ACTION for annulment of the decision of the Second Board of Appeal of OHIM of 23 October 2003 (Case R 814/2000-2) relating to opposition proceedings between Laboratoires Goëmar and La Mer Technology, Inc.

Information relating to the case

Applicant for the Community trade mark:	La Mer Technology, Inc.
Community trade mark sought:	Word mark LA MER for goods in Class 3
Proprietor of the mark or sign cited in the opposition proceedings:	Laboratoires Goëmar
Mark or sign cited in opposition:	International and national word mark LABORATOIRE DE LA MER for goods in Classes 3, 5, 29 and 31
Decision of the Opposition Division:	Opposition upheld. Application for registration dismissed in its entirety
Decision of the Board of Appeal:	Appeal dismissed

Operative part

The Court:

1. Dismisses the action;

2. Orders La Mer Technology, Inc. to pay its own costs and those of the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) and Laboratoires Goëmar.