

**Order of the President of the Court of First Instance of  
7 June 2007 — IMS v Commission**

(Case T-346/06 R)

*(Applications for interim measures — Application for suspension of operation of a measure — Directive 98/37/EC — Admissibility — Prima facie case — Urgency — Balancing of the interests involved)*

(2007/C 183/64)

*Language of the case: Italian*

**Parties**

*Applicant:* Industria Masetto Schio Srl (IMS) (Schio, Italy) (represented by: F. Colonna and T. Romolotti, lawyers)

*Defendant:* Commission of the European Communities (represented by: C. Zadra and D. Lawunmi, Agents)

**Re:**

Application for the suspension of operation of Commission Opinion C (2006) 3914 of 6 September 2006 concerning a prohibition measure adopted by the French authorities relating to certain IMS brand mechanical presses.

**Operative part of the order**

1. *The operation of Commission Opinion C(2006) 3914 of 6 December 2006 concerning a prohibition measure adopted by the French authorities relating to certain IMS brand mechanical presses is suspended until the Court of First Instance has ruled on the action in the main proceedings.*
2. *Costs are reserved.*

**Action brought on 8 May 2007 — SC Gerovital Cosmetics v OHIM — SC Farmec (GEROVITAL H3 Prof. Dr. A. Aslan)**

(Case T-163/07)

(2007/C 183/65)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* SC Gerovital Cosmetics S.A. (Bucharest, Romania) (represented by: D. Boștinșă, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

*Other party to the proceedings before the Board of Appeal:* Farmec S. A. (Cluj-Napoca, Romania)

**Form of order sought**

- The invalidation of Decision of 27 February 2007 of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trademarks and Designs) in Case R 271/2006-2 — GEROVITAL H3; and subsequently
- the invalidation of Cancellation Division decision of 23 December 2005 in the proceedings for a declaration of invalidity of OHIM reference number 872C 0000986 034, CTM 986034 GEROVITAL H3;
- order that the costs of the proceedings be paid by the defendant.

**Pleas in law and main arguments**

*Registered Community trade mark subject of the application for a declaration of invalidity:* The Community figurative mark containing word elements 'GEROVITAL H3 Prof. Dr. A. Aslan' for goods and services in Class 3 and 42 — application No 986 034

*Proprietor of the Community trade mark:* The applicant

*Party requesting the declaration of invalidity of the Community trade mark:* Farmec S.A.

*Trade mark right of the party requesting the declaration of invalidity:* The figurative national trade mark 'Gerovital H3 PROF. DR. ANA ASLAN' for certain goods in Class 3

*Decision of the Cancellation Division:* Declared the trade mark invalid in its entirety

*Decision of the Board of Appeal:* Dismissed the appeal.

*Pleas in law:* Infringement of Articles 52 and 53(2) of Council Regulation No 40/94.

The applicant considers that the Romanian figurative mark it was partially assigned — with respect to specific products provided in the assignment contract — by the holder of the international and national trade mark registrations is an earlier well known mark enjoying such reputation in more than one Member State. Hence, it claims to be entitled to priority and exclusivity for registration purposes.