

**Re:**

APPLICATION for annulment of the Commission's letter of 2 December 2004, informing the applicant of the decision to take no further action on its complaint concerning State aid allegedly granted by the Hellenic Republic to the Hyatt Regency consortium in connection with the Casino Mont Parnès public contract.

**Operative part**

The Court:

1. Dismisses the action as inadmissible;
2. Orders Athinaïki Techniki AE to pay all the costs.

**Judgment of the Court of First Instance (First Chamber)  
of 27 September 2006 — Telefónica v OHIM — Branch (emergia)**

**(Case T-172/04)**

Community trade mark — Opposition proceedings — Application for the figurative Community trade mark emergia — Earlier word Community trade mark EMERGEA — Likelihood of confusion — Refusal to register — Article 8(1)(b) of Regulation (EC) 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 74, 75, 82)*

**Re:**

ACTION for annulment of the decision of the First Board of Appeal of OHIM of 12 March 2004 (Case R 676/2002-1) relating to opposition proceedings between David Branch and Telefónica, SA.

**Information relating to the case**

Applicant for the Community trade mark:	Telefónica, SA
Community trade mark sought:	Figurative mark emergia for goods and services in Classes 9, 38 and 42 — Application No 1694157
Proprietor of the mark or sign cited in the opposition proceedings:	David Branch
Mark or sign cited in opposition:	Community word mark EMERGEA for goods and services in Class 38
Decision of the Opposition Division:	Opposition upheld in part in so far as concerning 'telecommunications and communications by computer networks' in Class 38
Decision of the Board of Appeal:	Appeal dismissed

**Operative part**

The Court:

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