

**Judgment of the Court of First Instance (Second Chamber) of 12 June 2007 —
Assembled Investments (Proprietary) v OHIM — Waterford Wedgwood
(WATERFORD STELLENBOSCH)**

(Case T-105/05)

Community trade mark — Opposition proceedings — Application for the figurative
Community mark WATERFORD STELLENBOSCH — Earlier Community word
mark WATERFORD — Relative ground for refusal — No likelihood of confusion —
Absence of similarity between the goods — Absence of complementarity —
Article 8(1)(b) of Regulation (EC) No 40/94

1. *Community trade mark — Appeals procedure — Appeals before the
Community judicature — Jurisdiction of the Court of First Instance (Council
Regulation No 40/94, Art. 63(3)) (see para. 13)*
2. *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 para. 27)*
3. *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 para. 27)*

Re:

ACTION brought against the decision of the First Board of Appeal of OHIM of
15 December 2004 (Case R 240/2004-1) relating to opposition proceedings between
Waterford Wedgwood and Assembled Investments (Proprietary) Ltd.

Information relating to the case

Applicant for the Community trade mark:	Assembled Investments (Proprietary) Ltd
Community trade mark sought:	Figurative mark WATERFORD STELLEN-BOSCH for goods in Class 33 — Application No 1438860
Proprietor of the mark or sign cited in the opposition proceedings:	Waterford Wedgwood plc
Mark or sign cited in opposition:	Community Word mark WATERFORD for goods in Classes 3, 8, 11, 21, 24 and 34 — Community mark No 397521
Decision of the Opposition Division:	Opposition dismissed
Decision of the Board of Appeal:	Contested decision annulled; application for registration dismissed

Operative part

The Court:

1. Annuls the decision of the First Board of Appeal of OHIM of 15 December 2004 (Case R 240/2004-1);
2. Orders the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) and Waterford Wedgwood plc to pay, in addition to their own costs, the costs incurred by the applicant.

**Judgment of the Court of First Instance (Fifth Chamber) of 12 June 2007 —
MacLean-Fogg v OHIM (LOKTHREAD)**

(Case T-339/05)

Community trade mark — Application for the Community word mark LOKTHREAD — Absolute grounds for refusal of registration — Descriptive character — Article 7(1)(c) of Regulation (EC) No 40/94