

*Appeals — Grounds — Incorrect assessment of the evidence — Inadmissibility — Review by the Court of Justice of the assessment of the evidence (Art. 225(1) EC; Statute of the Court of Justice, Art. 58, first para.) (see para. 34)*

**Re:**

Appeal against the judgment of the Court of First Instance (Fifth Chamber) of 22 March 2007 in Case T 322/05 *Brinkmann v OHIM — Terra Networks (Terranus)* dismissing the action brought by the applicant for the Community word mark 'TERRANUS' (for goods in Class 36) for annulment of Decision R 1145/2004-1 of the First Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 10 June 2005, by which the appeal against the decision of the Opposition Division to refuse registration of the mark was dismissed in opposition proceedings brought by the holder of the Community trade mark and national figurative mark 'TERRA' for goods in Class 36 — Likelihood of confusion between the two marks.

**Operative part**

The Court:

1. Dismisses the appeal;
2. Orders Mr Brinkmann to pay the costs.

**Order of the Court (Seventh Chamber) of 19 February 2008 —  
Tokai Europe v Commission**

**(Case C-262/07 P)**

(Appeal — Regulation (EC) No 384/2004 — Classification of certain goods in the Combined Nomenclature — Person not individually concerned — Appeal in part manifestly inadmissible and in part manifestly unfounded)

1. *Procedure — Obligation of the Court of First Instance to open the oral procedure before ruling on an objection of inadmissibility — None (Rules of Procedure of the Court of First Instance, Arts 111 to 114) (see paras 24-28)*
  
2. *Appeals — Grounds — Mistaken assessment of the facts — Inadmissibility — Review by the Court of the assessment of the evidence — Possible only where the clear sense of the evidence has been distorted (Art. 225(1) EC; Statute of the Court of Justice, Art. 58, first para.; Rules of Procedure of the Court of Justice, Art. 119) (see paras 30-32)*

**Re:**

Appeal against the order of the Court of First Instance (Fourth Chamber) of 19 March 2007 in Case T-183/04 *Tokai Europe v Commission*, by which that Court dismissed as inadmissible an action for the annulment of Commission Regulation (EC) No 384/2004 of 1 March 2004 concerning the classification of certain goods in the Combined Nomenclature (OJ 2004 L 64, p. 21) — Requirement to be individually concerned by the contested regulation — Right to a fair hearing.

**Operative part**

The Court:

1. Dismisses the appeal;
  
2. Orders Tokai Europe GmbH to pay the costs.