

**Order of the Court of First Instance of 28 August 2007 —
Galileo Lebensmittel v Commission**

(Case T-46/06) ⁽¹⁾

(Action for annulment — Implementation of the Top Level Domain 'eu' — Registration of the domain name 'galileo.eu' — Use restricted to the institutions and bodies of the Community — Locus standi — Inadmissibility)

(2007/C 247/57)

Language of the case: German

Parties

Applicant: Galileo Lebensmittel GmbH & Co. KG (Trierweiler, Germany) (represented by: K. Bott, lawyer)

Defendant: Commission of the European Communities (represented initially by: E. Montaguti and T. Jürgensen, then by: G. Braun and E. Montaguti, acting as Agents)

Re:

Action for annulment of the Commission's decision to register 'galileo.eu' as an eu. Top Level Domain reserved for use by the Community institutions and bodies, pursuant to Article 9 of Commission Regulation (EC) No 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the 'eu' Top Level Domain and the principles governing registration (OJ 2004 L 162, p. 40)

Operative part of the order

1. *The action is dismissed as inadmissible.*
2. *Galileo Lebensmittel GmbH & Co. KG is ordered to bear its own costs and pay those incurred by the Commission.*

⁽¹⁾ OJ C 86, 8.4.2006.

Action brought on 5 August 2007 — Lumenis v OHIM (FACES)

(Case T-301/07)

(2007/C 247/58)

Language of the case: English

Parties

Applicant: Lumenis Ltd (Yokneam, Israel) (represented by: S. Malynicz, Barrister, B. Gerber, Solicitor)

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

Form of order sought

- The decision of the Second Board of Appeal dated 1 June 2007 in Case R 1532/2006-2 shall be annulled;
- the Office shall bear its own costs and pay those of the applicant.

Pleas in law and main arguments

Community trade mark concerned: The international word mark 'FACES' for goods in class 10 — International registration No W0874799

Decision of the examiner: Refused registration in whole

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: In support of its claims, the applicant advances the following grounds:

First, the applicant claims that the Board failed to analyse distinctiveness in relation to all the goods applied for;

Second, according to the applicant, the Board's finding that promotion and marketing in the trade commonly employs facial photographs was unsupported and, in any event, relevant, if at all, to Article 7(1)(b) or Article 7(1)(c);

Third, the applicant contends that the Board failed to analyse the aptness of the term FACES as a descriptive indication in relation to the goods concerned;