

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

*Other party/parties to the proceedings before the Board of Appeal of OHIM:* Teco Electric & Machinery Co. Ltd (Taipai, Taiwan)

### Form of order sought

- Amend the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 18 February 2010 in Case R 230/2009-1 so as to reject opposition No B 1 112 889 of 5 February 2007 based on the German figurative word mark No 30 327 439, the British and Northern Irish figurative word mark No 233 226, the Benelux figurative word mark No 742 535 and the Spanish figurative word mark No 2 545 860 TECO;
- In the alternative, annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 18 February 2010 in Case R 230/2009-1;
- Order the defendant to pay the costs of the proceedings.

### Pleas in law and main arguments

*Applicant for a Community trade mark:* The applicant.

*Community trade mark concerned:* Word mark 'SYTECO' for goods and services in Classes 9, 37 and 42.

*Proprietor of the mark or sign cited in the opposition proceedings:* Teco Electric & Machinery Co. Ltd.

*Mark or sign cited in opposition:* Four national figurative marks which include the element 'TECO', for goods in Classes 7, 9 and 11.

*Decision of the Opposition Division:* The opposition was upheld in part.

*Decision of the Board of Appeal:* The appeal was dismissed.

*Pleas in law:* Infringement of Article 8(1)(b) of Regulation (EC) No 207/2009,<sup>(1)</sup> since there is no likelihood of confusion between the opposing marks.

<sup>(1)</sup> Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

**Action brought on 21 May 2010 — Couture Tech Limited v OHMI (representation of an escutcheon containing the globe, a star, the hammer and sickle)**

(Case T-232/10)

(2010/C 195/46)

*Language of the case:* English

### Parties

*Applicant:* Couture Tech Ltd (Tortola, British Virgin Islands) (represented by: B. Whyatt, Barrister)

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

### Form of order sought

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 5 March 2010 in case R 1509/2008-2; and
- Order the defendant to pay the costs of the proceedings.

### Pleas in law and main arguments

*Community trade mark concerned:* A figurative mark in colour representing an escutcheon with the globe, a star, the hammer and sickle for goods and services in classes 3, 14, 18, 23, 26 and 43 — Community trade mark application No 5585898

*Decision of the examiner:* Refused registration of the application for a Community trade mark

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

*Pleas in law:* The applicant advances two pleas in law in support of its application

On the basis of its first plea, the applicant claims that the contested decision infringes Articles 7(1) and 7(2) of Council Regulation No 207/2009, as the Board of Appeal wrongly applied these articles to the Community trade mark application

By its second plea, the applicant considers that the contested decision fails to apply the rules of natural justice by not recognising the applicant's right to legitimate expectations that its Community trade mark application would be registered.