

Action brought on 21 February 2013 — Laboratoires Polive/OHIM — Arbora & Ausonia (dodie)

(Case T-122/13)

(2013/C 123/33)

Language in which the application was lodged: English

Parties

Applicant: Laboratoires Polive (Levallois Perret, France) (represented by: A. Sion, lawyer)

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

Other party to the proceedings before the Board of Appeal: Arbora & Ausonia, SL (Barcelona, Spain)

Form of order sought

The applicant claims that the Court should:

— Annul the contested decision rendered by the second Board of Appeal on 28 November 2012;

— Order the OHIM to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The figurative mark (in colour) 'dodie', for goods in classes 3, 5, 8, 9, 10, 11, 16, 18, 21, 25 and 28 — Community trade mark application No 9 037 821

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited in opposition: Spanish and Portuguese trade marks of the word mark 'DODOT' for goods in classes 3, 5, 10, 12, 16, 18, 20, 21, 24, 25, 28, 44

Decision of the Opposition Division: Partially upheld the opposition

Decision of the Board of Appeal: Annulled the contested decision, upheld the opposition and rejected the trade mark applied for in relation to certain goods in classes 3, 5, 8, 10, 11, 16, 18, 21, 25 and 28

Pleas in law: Infringement of Articles 8(1)(b) Council Regulation No 207/2009.

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