

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

### **Details of the proceedings before OHIM**

*Trade mark at issue:* Three-dimensional Community trade mark (Shape of a container) — Application for registration No 12 649 364

*Contested decision:* Decision of the Fifth Board of Appeal of OHIM of 27 March 2015 in Case R 2568/2014-5

### **Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- order the defendant to resume the registration procedure;
- in the alternative, declare that Article 7(1)(b) of Regulation No 207/2009 does not preclude the registration and refer the case back to the Board of Appeal;
- order OHIM to pay the costs.

### **Plea in law**

- Infringement of Article 7(1)(b) of Regulation No 207/2009.

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## **Action brought on 17 July 2015 — European Dynamics Luxembourg and Others v European Railway Agency**

**(Case T-392/15)**

(2015/C 328/12)

*Language of the case: Greek*

### **Parties**

*Applicants:* European Dynamics Luxembourg SA (Luxembourg, Luxembourg), Evropaiki Dinamiki — Proigmena Sistimata Tilepikinonion Pliroforikis kai Tilematikis AE (Athens, Greece), European Dynamics Belgium SA (Brussels, Belgium) (represented by: I. Ambazis and M. Sfyri, lawyers)

*Defendant:* European Railway Agency (ERA)

### **Form of order sought**

The applicants claim that the General Court should:

- annul the decision of the European Railway Agency which was communicated to the applicants by letter dated 08/05/2015 from the Head of Resources and Support Unit and whereby ERA ranked in second place the applicant's tender for one of three individual lots and specifically for Lot 1 'On-site time and means information system development, support and assistance', in the framework of the open procurement procedure No 2015/S 019-029728 titled 'ERA/2015/01/OP ESPEISD 5 — External Service Provision for ERA Information System'.

- annul the decision of the European Railway Agency which was communicated to the applicants by letter dated 01/07/2015 from the Head of Resources and Support Unit and whereby ERA ranked in second place the applicant's tender for one of three individual lots and specifically for Lot 2 'Off-site information system development, support and assistance', in the framework of the open procurement procedure No 2015/S 019-029728 titled 'ERA/2015/01/OP ESP-EISD 5 — External Service Provision for ERA Information System', and
- order the European Railway Agency to pay all the costs of the applicants.

### **Pleas in law and main arguments**

In the opinion of the applicants, the contested decisions should be annulled, under Article 263 TFEU, due to a breach by ERA of the obligation to state reasons, since it provided an inadequate statement of reasons with regard to the assessment of the applicants' technical tender with respect to the existence of excessively low tenders.

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### **Action brought on 28 July 2015 — Gappol Marzena Porczyńska v OHIM — GAP (ITM) (GAPPoL)**

(Case T-411/15)

(2015/C 328/13)

*Language in which the application was lodged: Polish*

### **Parties**

*Applicant:* PP Gappol Marzena Porczyńska (Łódź, Poland) (represented by: J. Gwiazdowska, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* GAP (ITM), Inc. (San Francisco, United States of America)

### **Details of the proceedings before OHIM**

*Applicant for the Community trade mark:* The applicant

*Trade mark at issue:* Community figurative mark containing the word element 'GAPPoL' — Application No 8 346 165

*Procedure before OHIM:* Opposition proceedings

*Contested decision:* Decision of the First Board of Appeal of OHIM of 13 May 2015 in Case R 686/2013-1

### **Form of order sought**

The applicant claims that the Court should:

- set aside the contested decision;
- give a final decision by amending the decision of the Board of Appeal by rejecting the opposition also in regard to the goods in Classes 20 and 25;
- order OHIM to pay the costs of the proceedings.