

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: I. de Medrano Caballero, agent, and D. Waelbroeck, lawyer)

**Re:**

Application for annulment, first, of OHIM's decision of 7 July 2004 rejecting the applicant's complaint of 11 March 2004 and, secondly, of OHIM's decision of 15 December 2003 establishing the cumulative total of the applicant's merit points under the 2003 promotion procedure and of the Joint Evaluation Board's opinion of 12 December 2003.

**Operative part of the judgment**

*The Court:*

1. annuls OHIM's decision of 15 December 2003 definitively allocating merit points under the 2003 promotion procedure to the applicant and OHIM's decision of 7 July 2004 rejecting the applicant's complaint of 11 March 2004 in so far as they entail a finding that the balance of the applicant's merit points has disappeared, as acknowledged by decision PERS-PROM-39-03rev1 on promotion, of 30 March 2004;
2. dismisses the action as to the remainder;
3. orders OHIM to pay the costs.

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<sup>(1)</sup> OJ C 6, 8.1.2005.

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**Judgment of the Court of First Instance of 6 February 2007 — Aktieselskabet af 21. november 2001 v OHIM — TDK Kabushiki Kaisha (TDK)**

(Case T-477/04) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for Community word mark TDK — Earlier Community figurative mark TDK — Earlier national word or figurative marks TDK — Relative ground for refusal — Reputation — Taking unfair advantage of the distinctive character or the reputation of the earlier mark — Article 8(5) of Regulation (EC) No 40/94)*

(2007/C 82/77)

*Language of the case: English*

**Parties**

*Applicant:* Aktieselskabet af 21. november 2001 (Brande, Denmark) (represented by C. Barret Christiansen, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by S. Laitinen and G. Schneider, Agents)

*Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance:* TDK Kabushiki Kaisha (TDK Corp.) (Tokyo, Japan) (represented by A. Norris, Barrister)

**Re:**

ACTION brought against the decision of the First Board of Appeal of OHIM of 7 October 2004 (Case R 364/2003-1) concerning opposition proceedings between TDK Kabushiki Kaisha (TDK Corp.) and Aktieselskabet af 21 november 2001.

**Operative part of the judgment**

*The Court:*

1. Dismisses the action;
2. Orders the applicant, Aktieselskabet af 21. november 2001 to pay the costs.

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<sup>(1)</sup> OJ C 69, 19.3.2005.

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**Judgment of the Court of First Instance of 15 February 2007 — Bodegas Franco-Españolas v OHIM — Companhia Geral da Agricultura das Vinhas do Alto Douro (ROYAL)**

(Case T-501/04) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for the Community word mark ROYAL — Earlier Community word mark ROYAL FEITORIA — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)*

(2007/C 82/78)

*Language of the case: Spanish*

**Parties**

*Applicant:* Bodegas Franco-Españolas, SA (Logroño, Spain) (represented by: E. López Camba, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. García Murillo, Agent)

*Other party to the proceedings before the Board of Appeal of OHIM:* Companhia Geral da Agricultura das Vinhas do Alto Douro, SA (Real Companhia Velha) (Vila Nova de Gaia, Portugal) (represented by: D. Martins Pereira, lawyer)