

Action brought on 26 October 2011 — tesa v OHIM — Superquímica (tesa TACK)**(Case T-555/11)**

(2012/C 6/38)

*Language in which the application was lodged: English***Parties***Applicant:* tesa SE (Hamburg, Germany) (represented by: F. Schwab, lawyer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)*Other party to the proceedings before the Board of Appeal:* La Superquímica, SA (L'Hospitalet de Llobregat, Spain)**Form of order sought**

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 5 July 2011 in case R 866/2010-1, and annul the decision of the Opposition Division in case No B 1301987; and

— Order the defendant to bear the costs.

Pleas in law and main arguments*Applicant for a Community trade mark:* The applicant*Community trade mark concerned:* The figurative mark 'tesa TACK', for goods in class 16 — Community trade mark application No 6233506*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 trade mark registration No 585323 of the word mark 'TACK', for goods in class 16; Spanish trade mark registration No 2515958 of the figurative mark 'TACK Ceys', for goods in class 16*Decision of the Opposition Division:* Upheld the opposition*Decision of the Board of Appeal:* Dismissed the appeal*Pleas in law:* Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal wrongly assessed the existence of likelihood of confusion between the opposing marks.**Action brought on 21 October 2011 — European Dynamics Luxembourg and Others v OHIM****(Case T-556/11)**

(2012/C 6/39)

*Language of the case: English***Parties***Applicants:* European Dynamics Luxembourg SA (Ettelbrück, Luxembourg); European Dynamics Belgium SA (Brussels, Belgium); and Evropaïki Dynamiki — Proigmena Systemata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: N. Korogiannakis and M. Dermitzakis, lawyers)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)**Form of order sought**

— Annul the decision of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) to reject the bid of the applicants filed in response to the open call for tender AO/029/10 (E-Alicante: software development and maintenance services)⁽¹⁾, communicated by letter dated 11.08.2011, and all the related decisions of the OHIM including those to award the respective contract to the first, second and third cascade contractor; and

— Order the OHIM to pay the applicants' damages suffered on account of the tendering procedure in question in the amount of 67 500 000 euros (EUR); and

— Order the OHIM to pay the applicants' damages suffered on account of loss of opportunity and damage in its reputation and credibility in the amount of 6 750 000 euros (EUR); and

— Order the OHIM to pay the applicants' legal and other costs and expenses incurred in connection with the present application, even if the present application is rejected.

Pleas in law and main arguments

In support of the action, the applicants rely on three pleas in law.

1. First plea in law, alleging

— Non-compliance of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) with the provisions of Article 100(2) of the Financial Regulation; in that:

(a) it failed to state reasons;

(b) it failed to disclose the relative merits of successful tenderers.