2. Orders Far Eastern New Century Corp. to bear its own costs, together with those incurred by the Council of the European Union;

3. Orders the European Commission to bear its own costs.

Judgment of the General Court (Seventh Chamber) of 13 April 2011 — Tubesca v OHIM – Tubos del Mediterráneo (T TUMESA TUBOS DEL MEDITERRANEO S.A.)

(Case T-98/09)

(Community trade mark — Opposition proceedings — Application for Community figurative mark T TUMESA TUBOS DEL MEDITERRANEO S.A. — Earlier national word mark and international figurative mark TUBESCA — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009)

1. *Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — High distinctiveness of the earlier mark — Criteria for assessment (Council Regulation No 40/94, Art. 8(1)(b)) (see paras 82-84)*

2. *Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark (Council Regulation No 40/94, Art. 8(1)(b)) (see paras 70, 85)*

Re:

ACTION brought against the decision of the Fourth Board of Appeal of OHIM of 17 December 2008 (Case R 518/2008-4) relating to opposition proceedings between Tubesca and Tubos del Mediterráneo, SA.

Information relating to the case

Applicant for the Community trade mark:	Tubos del Mediterráneo, SA
Community trade mark sought:	Figurative mark T TUMESA TUBOS DEL MEDITERRANEO S.A. for goods and services in Classes 6, 35 and 42 — Application No 4085098
Proprietor of the mark or sign cited in the opposition proceedings:	Tubesca
Mark or sign cited in opposition:	National and international word and figurative marks TUBESCA for goods in Classes 6, 19 and 20
Decision of the Opposition Division:	Opposition partially upheld; partial refusal to register the mark applied for
Decision of the Board of Appeal:	Decision of the Opposition Division annulled; opposition dismissed

Operative part

1. Dismisses the action;

2. Orders Tubesca to pay the costs.