

**Notification de refus provisoire de protection fondée sur une opposition
conformément à l'article 5 du protocole de Madrid, à la règle 17, paragraphes 1
et 2, du règlement d'exécution commun à l'arrangement et au protocole de
Madrid, et à la règle 115 du REMUE**

Alicante, 08/09/2016

N° de demande internationale: **1251407**
Date de notification: **21-04-2016**
Marque: **TESLA**
Titulaire: **Internet group d.o.o.**
Savski nasip 7
11070 Beograd
Numéro d'opposition: **2745670**

La protection de la marque susmentionnée est provisoirement refusée pour l'Union européenne.

Le refus provisoire est fondé sur le fait qu'une opposition a été déposée contre l'enregistrement international.

I. Les motifs de la présente opposition sont les suivants:

conflit avec une marque antérieure en raison de la similitude des produits ou des services, ou de la similitude des marques concernées, et risque de confusion (article 8, paragraphe 2, du RMUE);

II. Nom et adresse de l'opposante:

F.A.R.H.O. Fabrica de Radiadores Hermanos Ochoa SLU
Pol. de Tabaza II. Parcela 9 - 13
E-33439 CARREÑO (Asturias)
ESPAÑA

III. L'opposition est fondée sur une marque qui a fait l'objet d'une demande ou d'un enregistrement.

- type de marque: **marque nationale**
- date de dépôt, date d'enregistrement et, le cas échéant, date de priorité: **09/01/2009; 07/05/2009**
- numéro de dépôt et, si différent, numéro d'enregistrement:
2858873
- représentation de la marque: (voir annexe)
- liste des produits et services sur lesquels se fonde l'opposition: (voir annexe)

IV. Le refus provisoire concerne uniquement les produits et services suivants couverts par la désignation de l'Union européenne:

11 Lamp reflectors; lamps for lighting; electric lamps; electric light bulbs; light bulbs; light-emitting diode [LED] lighting apparatus; lighters; lighting apparatus and installations; electric lights for Christmas trees; flashlights; safety lamps; street lamps; flashlights for lighting; luminous tubes for lighting; electric pressure cookers; bakers' ovens; barbecues; beverage-cooling apparatus; bread baking machines; bread-making machines; coffee roasters; electric coffee percolators; electric coffee machines; cookers (cooking stoves); cooking rings; electric cooking utensils; cooking apparatus and installations; electric deep friers; extractor hoods for kitchens; fruit roasters; heating showcases; electric heaters for feeding bottles; heating plates; hot plates; electric kettles; kitchen ranges [ovens]; malt roasters; microwave cooking apparatus; microwave ovens for industrial use; oven fittings made of fire clay; pasteurizers; plate warmers; electric pressure cooking saucepans; roasters; grills [cooking appliances]; roasting jacks; roasting spits; rotisseries; electric waffle apparatus; water softening apparatus and installations; electric appliances for making yogurt; filters for drinking water; electric fans for personal use; hair driers; hand-drying apparatus for washrooms; hot water bottles; air driers; desiccating apparatus; driers [apparatus]; drying apparatus and installations; electric laundry driers; cooling installations and machines; cooling apparatus and installations; cooling installations for liquids; cooling installations for tobacco; freezers; ice machines and apparatus; ice cube machines; milk-cooling equipment; refrigerating cabinets; refrigerating chambers; refrigerating display cabinets [display cases]; refrigerating containers; refrigerating apparatus and installations; refrigerators; bread toasters; air deodorizing apparatus; air filtering installations; air-purifying apparatus and machines; air sterilizers; deodorizing apparatus not for personal use; germicidal lamps for purifying air; humidifiers for central heating radiators; ionization apparatus for the treatment of air or water; ventilation hoods.

V. L'EU IPO notifiera l'opposition à la titulaire de l'enregistrement international séparément, y compris toute preuve sur laquelle elle est fondée, conformément à la règle 18, paragraphe 1, du REMUE. L'EU IPO fixera des délais à la titulaire. Cette notification ouvrira une période de deux mois (prorogeable) – « cooling off », ainsi qu'une nouvelle période de deux mois pour permettre à l'opposante d'étayer son opposition. La notification fixera un délai de six mois – en principe – à la titulaire de l'enregistrement international pour qu'elle fasse part de ses observations.

Olga VALDELOMAR

Annexes: Acte d'opposition, 5 pages

Date of document (dd/mm/yyyy)	Number of pages (including current page)
01/08/2016	3

Reference

Your reference	OPP/TESLA/7
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Opposition proceedings

Language of proceedings	EN (English)
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Opponent(s)

	Opponent number	1	Opponent EUIPO ID\	To be assigned
Type of opponent	Legal entity			
Name of organization	F.A.R.H.O. Fabrica de Radiadores Hermanos Ochoa SLU			
Nationality	Spain			
Street name & house No	Pol. de Tabaza II. Parcela 9 - 13			
City/Town	CARREÑO (Asturias)			
Postal code	33439			
Country	Spain			
Postal address				
Telephone number				
Fax number				
Email address				

Representative(s)

	Representative number	1	EUIPO Representative ID number\	26512
Representative type	Association			
Name of organization	P.E. ENTERPRISE, S.L.			
Street name & house no	Gran Via 81, planta 5°, Dpto. 9			
City/Town	Bilbao (Vizcaya)			
Postal code	48011			
Country	Spain			
Postal address	P.E. ENTERPRISE, S.L. Gran Via 81, planta 5°, Dpto. 9 E-48011 Bilbao (Vizcaya) ESPAÑA			
Telephone number	944420640			
Fax number	944420782			
Email address	peenterprise@peenterprise.com			

Challenged application

	Number	1251407
Trade mark origin	International registration	
Application date	22/01/2015	
Publication date	22/04/2016	
Application representation	TESLA	
Name of the applicant	Internet group d.o.o.	
First language	FR (French)	
Second language	EN (English) Selected	

List of goods & services - Against parts of the goods and services

Class	Goods & services
11	Lamp reflectors; lamps for lighting; electric lamps; electric light bulbs; light bulbs; light-emitting diode [LED] lighting apparatus; lighters; lighting apparatus and installations; electric lights for Christmas trees; flashlights; safety lamps; street lamps; flashlights for lighting; luminous tubes for lighting; electric pressure cookers; bakers' ovens; barbecues; beverage-cooling apparatus; bread baking machines; bread-making machines; coffee roasters; electric coffee percolators; electric coffee machines; cookers (cooking stoves); cooking rings; electric cooking utensils; cooking apparatus and installations; electric deep fryers; extractor hoods for kitchens; fruit roasters; heating showcases; electric heaters for feeding bottles; heating plates; hot plates; electric kettles; kitchen ranges [ovens]; malt roasters; microwave cooking apparatus; microwave ovens for industrial use; oven fittings made of fire clay; pasteurizers; plate warmers; electric pressure cooking saucepans; roasters; grills [cooking appliances]; roasting jacks; roasting spits; rotisseries; electric waffle apparatus; water softening apparatus and installations; electric appliances for making yogurt; filters for drinking water; electric fans for personal use; hair driers; hand-drying apparatus for washrooms; hot water bottles; air driers; desiccating apparatus; driers [apparatus]; drying apparatus and installations; electric laundry driers; cooling installations and machines; cooling apparatus and installations; cooling installations for liquids; cooling installations for tobacco; freezers; ice machines and apparatus; ice cube machines; milk-cooling equipment; refrigerating cabinets; refrigerating chambers; refrigerating display cabinets [display cases]; refrigerating containers; refrigerating apparatus and installations; refrigerators; bread toasters; air deodorizing apparatus; air filtering installations; air-purifying apparatus and machines; air sterilizers; deodorizing apparatus not for personal use; germicidal lamps for purifying air; humidifiers for central heating radiators; ionization apparatus for the treatment of air or water; ventilation hoods.

Basis of the opposition #1 - Trade mark

Trade mark number		2858873
Trade mark origin	National trade mark	
Country	Spain	
Trade mark name	TESSLA	
Application date	09/01/2009	
Registration number	2858873	
Registration date	07/05/2009	
Type of the representation of the earlier right	Word	
Word element(s) of the earlier right	TESSLA	
Character set of the representation of the mark	Spanish	
Reputation claimed	No	

List of goods & services - Based on all goods and services

Class	Goods & services
11	Apparatus for lighting; heating; steam generating; cooking; refrigerating; drying; ventilating; water supply and sanitary purposes

Entitlement

Entitlement of opponent	Owner/Co-owner/Licencee
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Grounds for the opposition

Grounds #1	Article 8(1)(b) EUTMR - there exists a likelihood of confusion on the part of the public.
Explanation of grounds and other remarks	To follow
Evidence	Sitadex-M2858873-TESSLA.pdf (58Kb)
Translation	Translation-M2858873.pdf (20Kb)

Payment of fees

Pay by	Bank transfer
Opposition fee	320 EUR

Bank	Address	Account number	BIC Code	IBAN
Banco Bilbao Vizcaya Argentaria	Alicante, SPAIN	0182-5596-90-009222222	BBVAESMMXXX	ES88 0182 5596 9000 9222 2222
La Caixa	Alicante, SPAIN	2100-2353-01-0700000888	CAIXESBBXXX	ES03 2100 2353 0107 0000 0888

Signature			
First name	Surname	Capacity of the signatory	Position
P.E. ENTERPRISE, SL	P.E. ENTERPRISE, SL	The EUIPO professional representative	

Resultado de la consulta

Modalidad: M **Número:** 2858873(S) **Bis:** **Tipo:** **Fecha:** 01/08/2016 12:07:04

MARCA PRODUCTOS/SERVICIOS

FECHA PRESENTACION SOLICITUD.....: 09/01/2009 A LAS 16:10 EN INTERNET

FECHA PRESENTACION SOLICITUD OTORGADA.: 09/01/2009

TIPO.....: DENOMINATIVA

DENOMINACION.....:

 TESSLA

SOLICITANTE/TITULAR...: FARHO, FABRICA DE RADIADORES HERMANOS OCHOA, SLU

DOMICILIO.....: POL. TABAZA II, PARCELAS 9-13

LOCALIDAD.....: TABAZA

PROVINCIA/COD.POSTAL..: 33439 ASTURIAS

REPRESENTANTE.....: SIN REPRESENTANTE

----- CLASES Y PRODUCTOS/SERVICIOS O ACTIVIDADES SOLICITADOS -----

11 APARATOS DE ALUMBRADO, DE CALEFACCION, DE PRODUCCION DE VAPOR, DE COCCION,
DE REFRIGERACION, DE SECADO, DE VENTILACION, DE DISTRIBUCION DE AGUA E INST
ALACIONES SANITARIAS.

----- CLASES Y PRODUCTOS/SERVICIOS O ACTIVIDADES CONCEDIDOS -----

* LOS SOLICITADOS

----- ACTOS DE TRAMITACION -----

29/01/2009 COMUNICACION A TITULARES DERECHOS ANTERIORES (ART.18,4LM):

 H0324796 H0324797 H0504569

16/02/2009 PUBLICACION DE SOLICITUD

21/05/2009 PUBLIC. CONCESION DE F. RESOL. 07/05/2009

Result of the query (SITADEx)

Category: M Number: 2858873(8) Bis: Type: Date: 01/08/2016 12:07:04

TRADEMARK GOODS/SERVICES

FILING DATE: 09/01/2009 AT 16:10 IN INTERNET

GRANTED FILING DATE: 09/01/2009

TYPE OF MARK.....: WORD MARK

TRADE MARK NAME.....:

TESSLA

APPLICANT/OWNER.....: FARHO, FABRICA DE RADIADORES HERMANOS
OCHOA, SLU

ADDRESS.....: POL. TABAZA II, PARCELAS 9-13

TOWN.....: TABAZA

POSTAL CODE.....: 33439 ASTURIAS

REPRESENTATIVE... : NO REPRESENTATIVE

- - - - - APPLIED GOODS/SERVICES OR ACTIVITIES - - - - -
11 APPARATUS FOR LIGHTING, HEATING, STEAM GENERATING,
COOKING, REFRIGERATING, DRYING, VENTILATING, WATER
SUPPLY AND SANITARY PURPOSE.

- - - - - GRANTED GOODS/SERVICES OR ACTIVITIES - - - - -
THOSE APPLIED FOR

- - - - - PROCEDURES - - - - -
29/01/2009 COMMUNICATION TO HOLDERS OF PRIOR RIGHTS
(ART. 18.4 LM):
H0324796 H0324797 H0504569
16/02/2009 PUBLICATION OF THE APPLICATION
21/05/2009 PUBLICATION OF REGISTRATION
DATE OF RESOLUTION 07/05/2009