

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* Kurt Hesse (Nuremberg, Germany)

### **Details of the proceedings before EUIPO**

*Proprietor of the trade mark at issue:* Applicant

*Trade mark at issue:* EU figurative mark containing the word elements 'TESTA ROSSA' — EU trade mark No 7 070 519

*Proceedings before EUIPO:* Revocation proceedings

*Contested decision:* Decision of the First Board of Appeal of EUIPO of 5 October 2016 in Case R 68/2016-1

### **Form of order sought**

The applicant claims that the Court should:

- annul or amend the contested decision in so far as it dismissed the applicant's appeal and declared the applicant's mark to be revoked in respect of Classes 7, 11, 20, parts of Classes 21 and 25, Class 28, parts of Class 30, and Classes 34 and 38, and in so far as it confirmed the decision of the Cancellation Division of 17 November 2015 in that regard (however, the part of the contested decision upholding the applicant's appeal remains unchallenged by the applicant);
- order EUIPO to pay the costs.

### **Pleas in law**

- Infringement of Article 51(1) of Regulation No 207/2009;
- Infringement of Article 15(1)(a) of Regulation No 207/2009;
- Infringement of Rule 40(5) of Regulation No 2868/95, in conjunction with Rule 22(3) and (4) thereof.

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**Action brought on 2 January 2017 — La Mafia Franchises v EUIPO — Italy (La Mafia SE SIENTA A LA MESA)**

**(Case T-1/17)**

(2017/C 053/55)

*Language in which the application was lodged: English*

### **Parties**

*Applicant:* La Mafia Franchises, SL (Zaragoza, Spain) (represented by I. Sempere Massa, lawyer)

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* Republic of Italy

### **Details of the proceedings before EUIPO**

*Proprietor of the trade mark at issue:* Applicant

*Trade mark at issue:* EU figurative mark containing the word elements 'La Mafia SE SIENTA A LA MESA' — EU trade mark No 5 510 921

*Procedure before EUIPO:* Proceedings for a declaration of invalidity

*Contested decision:* Decision of the First Board of Appeal of EUIPO of 27 October 2016 in Case R 803/2016-1

### **Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- declare the contested European Union Trademark No 5 510 921 ‘LA MAFIA SE SIENTA A LA MESA’ valid;
- order EUIPO to pay the costs.

### **Pleas in law**

- Infringement of Article 52(1)(a) of Regulation No 207/2009;
- Infringement of Article 7(1)(f) of Regulation No 207/2009.

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## **Action brought on 4 January 2017 — Sharif v Council**

**(Case T-5/17)**

(2017/C 053/56)

*Language of the case: English*

### **Parties**

*Applicant:* Ammar Sharif (Damascus, Syria) (represented by: B. Kennelly, QC and J. Pobjoy, Barrister)

*Defendant:* Council of the European Union

### **Form of order sought**

The applicant claims that the Court should:

- annul Council Implementing Decision (CFSP) 2016/1897 of 27 October 2016 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria (OJ 2016 L 293, p. 36, hereafter the ‘Contested Decision’) and Council Implementing Regulation (EU) 2016/1893 of 27 October 2016 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (OJ 2016 L 293, p. 25, hereafter the ‘Contested Regulation’) insofar as they apply to the applicant;
- declare, pursuant to Article 277 TFEU, that Article 28(2)(a) of the Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria (OJ 2013 L 147, p. 14) and Article 15(l a)(a) of the Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011 (OJ 2012 L 16, p. 1) are inapplicable insofar as they apply to the Applicant, and the consequential annulment, insofar as they apply to the Applicant, of the Contested Decision and Contested Regulation;
- indemnify the applicant, pursuant to Article 340(2) TFEU, for the damages arising from the non-contractual liability of the EU for the unlawful acts of the Council; and
- order the Council to bear the costs of the proceedings.

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

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging that the Council has made manifest errors of assessment in considering that the criterion for listing the applicant in Article 28 of Decision 2013/255/CFSP and Article 15 of Regulation No 36/2012 was satisfied.