

**Order of the General Court of 27 February 2012 — MIP Metro v OHIM — Jacinto (My Little Bear)**

(Case T-183/11) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Expiry of the earlier national mark — Action devoid of purpose — No need to adjudicate)*

(2012/C 126/36)

*Language of the case: English*

**Parties**

*Applicant:* MIP Metro Group Intellectual Property GmbH & Co. KG (Düsseldorf, Germany) (represented by: J.-C. Plate and R. Kaase, lawyers)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Manuel Jacinto, L<sup>da</sup> (S. Paio de Oleiros, Portugal)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 20 January 2011 (Case R 494/2010-1), relating to opposition proceedings between Manuel Jacinto, L<sup>da</sup>, and MIP Metro Group Intellectual Property GmbH & Co. KG.

**Operative part of the order**

1. *There is no longer any need to adjudicate on the action.*
2. *Each party shall bear its own costs.*

<sup>(1)</sup> OJ C 145, 14.5.2011.

**Action brought on 28 September 2011 — Hamas v Council**

(Case T-531/11)

(2012/C 126/37)

*Language of the case: French*

**Parties**

*Applicant:* Hamas (represented by: L. Glock, lawyer)

*Defendant:* Council of the European Union

**Form of order sought**

The applicant claims that the Court should:

- annul Council Decision 2011/430/CFSP of 18 July 2011 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, in so far as that decision concerns Hamas (including Hamas-Izz-al-Din-al-Quassem);
- annul Council Implementing Regulation (EU) No 687/2011 of 18 July 2011 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, and repealing Implementing Regulations (EU) No 610/2010 and (EU) No 83/2011, in so far as that regulation concerns Hamas (including Hamas-Izz-al-Din-al-Quassem);
- order the Council to pay all the costs.

**Pleas in law and main arguments**

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

1. First plea in law, alleging infringement of Article 1(4) of Common Position 2001/931/CFSP <sup>(1)</sup> concerning the taking of a decision by a competent authority, in so far as that authority:
  - should be a judicial authority and not an administrative authority;
  - should be able to rely upon the principle of cooperation in good faith;
  - cannot be the Government of the United States because of the special features of the rules governing listing in the United States;
  - cannot be an authority which does not respect the procedural rights of the persons concerned.

The applicant further claims that the Council does not produce any evidence showing that, in this case, the national decisions concerned are based on serious evidence or clues.

2. Second plea in law, alleging an error in respect of the accuracy of the facts, since the Council failed to prove the facts that it relies on autonomously. The applicant claims that the inaccuracies observed in its application confirm the error in respect of the accuracy of the facts.
3. Third plea in law, alleging an error of assessment as regards the terrorist nature of the applicant, since the classification proposed by the Council is not consistent with the criteria laid down in Common Position 2001/931/CFSP. The applicant submits that the criteria used by the Council are based on an incorrect interpretation of the term 'terrorism' which is incompatible with international substantive law.
4. Fourth plea in law, alleging that insufficient consideration was taken of the evolution of the situation over time, since the Council did not in fact carry out the review provided for in Article 1(6) of Common Position 2001/931/CFSP.