

**Action brought on 23 March 2009 — Protege International v Commission****(Case T-119/09)**

(2009/C 113/86)

*Language of the case: French***Parties***Applicant:* Protege International Ltd (London, United Kingdom) (represented by: D. Shefet, lawyer)*Defendant:* Commission of the European Communities**Form of order sought**

— annul the decision adopted by the Commission on 23 January relating to a proceeding under Article 82 of the EC Treaty (Case COMP/39.414 — Protégé International/Pernod Ricard).

**Pleas in law and main arguments**

The applicant seeks annulment of the Commission decision of 23 January 2009 whereby the Commission, in making a finding of no sufficient Community interest to continue with the investigation, rejected the complaint brought by the applicant against Pernod Ricard regarding alleged abuse of dominant position committed by the latter in the Irish whiskey market consisting, first, of legal proceedings filed by Pernod Ricard against the applicant with regard to the application for registration as trade marks of 'WILD GEESE', 'WILD GEESE RARE IRISH WHISKEY' and 'WILD GEESE IRISH SOLDIERS AND HEROS' by the applicant and, second, in a refusal to supply.

In support of its action, the applicant claims that

- the legal proceedings initiated by Pernod Ricard had the aim, not of protecting Pernod Ricard's intellectual property rights in its trade mark 'WILD TURKEY', since no risk of confusion exists between the opposing marks, but that of eliminating the applicant as a competitor of Pernod Ricard in the Irish whiskey market;
- there was an abuse of dominant position when Pernod Ricard refused to provide Irish whiskey to the applicant by reason of the latter's refusal to accept conditions restricting sale to markets approved by Pernod Ricard;
- there is a Community interest, since the alleged abuses concern different Member States and the Community territory as a whole.

**Action brought on 27 March 2009 — Al Shanfari v Council and Commission****(Case T-121/09)**

(2009/C 113/87)

*Language of the case: English***Parties***Applicant:* Thamer Al Shanfari (represented by: P. Saini, QC, T. Nesbitt and B. Kennelly, Barristers, A. Patel, N. Sheikh, and K. Mehta, Solicitors)*Defendant:* Council of the European Union and Commission of the European Communities**Form of order sought**

- the annulment of Council Regulation (EC) No 314/2004 as amended by Commission Regulation (EC) No 77/2009, in so far as it concerns the applicant; and
- an order that the Council and the Commission pay the applicant's costs of this action.

**Pleas in law and main arguments**

By operation of Council Regulation (EC) No 314/2004 <sup>(1)</sup> as amended by Commission Regulation (EC) No 77/2009 <sup>(2)</sup> ('the Contested Regulation'), all of the applicant's funds within the Member States of the European Union have been frozen with the effect of preventing him from doing business in the EU, as well as being branded as having ties to the repressive regime in Zimbabwe and as being implicated in activities that seriously undermine democracy, respect of human rights and the rule of law. In addition, the applicant is subject to a travel ban pursuant to Article 4 of Council Common Position 2004/161/CFSP <sup>(3)</sup>.

The applicant contends that the Contested Regulation should be annulled on the following grounds, each of which is addressed below:

First, the applicant submits that the Contested Regulation has no proper legal basis since neither Article 60 EC nor Article 301 EC give the Council the power to freeze the entirety of an individual's funds who is not connected with the Government of Zimbabwe.

Second, according to the applicant's submissions, the Contested Regulation infringes the Council and the Commission's obligation to state reasons under Article 253 EC since the brief statement relating to the applicant in Annex III is manifestly inadequate and the Council Common Position which subjects the applicant to a travel ban provides no further particulars. Third, the applicant claims that the Contested Regulation infringes the applicant's fundamental rights, by interfering with his rights to effective judicial protection and to a fair hearing; as well as by interfering to a disproportionate extent with his rights to peaceful enjoyment of his property.

(<sup>1</sup>) Council Regulation (EC) No 314/2004 of 19 February 2004 concerning certain restrictive measures in respect of Zimbabwe (OJ 2004 L 55, p. 1)

(<sup>2</sup>) Commission Regulation (EC) No 77/2009 of 26 January 2009 amending Council Regulation (EC) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe (OJ 2009 L 23, p. 5)

(<sup>3</sup>) Council Common Position 2004/161/CFSP of 19 February 2004 renewing restrictive measures against Zimbabwe (OJ L 50, p. 66)

**Order of the Court of First Instance of 13 March 2009 —  
Torres v OHIM — Vinícola de Tomelloso  
(TORREGAZATE)**

(Case T-273/07) (<sup>1</sup>)

(2009/C 113/88)

*Language of the case: Spanish*

The President of the Sixth Chamber has ordered that the case be removed from the register.

(<sup>1</sup>) OJ C 235, 6.10.2007.

**Order of the Court of First Instance of 19 March 2009 —  
FMC Chemical and Others v Commission**

(Case T-349/07 and T-350/07) (<sup>1</sup>)

(2009/C 113/89)

*Language of the case: English*

The President of the Second Chamber has ordered that the case be removed from the register.

(<sup>1</sup>) OJ C 269, 10.11.2007.

**Order of the Court of First Instance (Seventh Chamber) of  
11 March 2009 — Batchelor v Commission**

(Case T -342/08) (<sup>1</sup>)

(2009/C 113/90)

*Language of the case: English*

The President of the Court of First Instance (Seventh Chamber) has ordered that the case be removed from the register.

(<sup>1</sup>) C 272, 25.10.2008.

**Order of the Court of First Instance of 5 March 2009 —  
Portugal v Commission**

(Case T-378/08) (<sup>1</sup>)

(2009/C 113/91)

*Language of the case: Portuguese*

The President of the Third Chamber has ordered that the case be removed from the register.

(<sup>1</sup>) OJ C 285, 8.11.2008.

**Order of the Court of First Instance of 24 March 2009 —  
Intel v Commission**

(Case T-457/08) (<sup>1</sup>)

(2009/C 113/92)

*Language of the case: English*

The President of the Fifth Chamber has ordered that the case be removed from the register.

(<sup>1</sup>) OJ C 301, 22.11.2008.