

Judgment of the Court (Fifth Chamber) of 3 March 2022 (request for a preliminary ruling from the Oberlandesgericht Düsseldorf — Germany) — Acacia Srl v Bayerische Motoren Werke AG

(Case C-421/20) ⁽¹⁾

(Reference for a preliminary ruling — Intellectual property — Community designs — Regulation (EC) No 6/2002 — Article 82(5) — Action brought before the courts of the Member State in which an act of infringement has been committed or threatened — Claims supplementary to the action for infringement — Applicable law — Article 88(2) — Article 89(1)(d) — Regulation (EC) No 864/2007 — Law applicable to non-contractual obligations (Rome II) — Article 8(2) — Country in which the intellectual property right was infringed)

(2022/C 171/13)

Language of the case: German

Referring court

Oberlandesgericht Düsseldorf

Parties to the main proceedings

Applicant: Acacia Srl

Defendant: Bayerische Motoren Werke AG

Operative part of the judgment

Article 88(2) and Article 89(1)(d) of Council Regulation (EC) No 6/2002 of 12 December 2001 of Community designs, and Article 8(2) of Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) must be interpreted as meaning that the Community design courts before which an action for infringement pursuant to Article 82(5) of Regulation No 6/2002 is brought concerning acts of infringement committed or threatened within a single Member State must examine the claims supplementary to that action, seeking the award of damages, the submission of information, documents and accounts and the handing over of the infringing products with a view to their being destroyed, on the basis of the law of the Member State in which the acts allegedly infringing the Community design relied upon are committed or are threatened, which is the same, in the circumstances of an action brought pursuant to that Article 82(5), as the law of the Member State in which those courts are situated.

⁽¹⁾ OJ C 433, 14.12.2020.

Judgment of the Court (Eighth Chamber) of 10 March 2022 (request for a preliminary ruling from the Rechtbank Midden-Nederland — Netherlands) — ZK, in his capacity as successor to JM, liquidator in the bankruptcy of BMA Nederland BV v BMA Braunschweigische Maschinenbauanstalt AG

(Case C-498/20) ⁽¹⁾

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EU) No 1215/2012 — Point 2 of Article 7 — Jurisdiction in matters relating to tort, delict or quasi-delict — Claim made by a liquidator against a third party for the benefit of the creditors — Place where the damage occurred — Point 2 of Article 8 — Application for leave to intervene by a protector of collective interests — Regulation (EC) No 864/2007 — Scope — General rule)

(2022/C 171/14)

Language of the case: Dutch

Referring court

Rechtbank Midden-Nederland

Parties to the main proceedings

Applicant: ZK, in his capacity as successor to JM, liquidator in the bankruptcy of BMA Nederland BV

Defendant: BMA Braunschweigische Maschinenbauanstalt AG

Intervener: Stichting Belangbehartiging Crediteuren BMA Nederland

Operative part of the judgment

1. Point 2 of Article 7 of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that the court for the place of establishment of a company whose debts have become irrecoverable because the ‘grandparent’ company of that company has breached its duty of care towards that company’s creditors has jurisdiction to hear and determine a collective claim for damages in matters relating to tort, delict or quasi-delict which the liquidator in the bankruptcy of that company has made by virtue of his statutory duty to wind up the estate for the benefit of, but not on behalf of, the general body of creditors.
2. The answer to the first question referred for a preliminary ruling is no different if account is taken of the fact that, in the case in main proceedings, a foundation is acting to protect the collective interests of the creditors and that the claim made for that purpose does not take account of the individual circumstances of the creditors.
3. Point 2 of Article 8 of Regulation No 1215/2012 must be interpreted as meaning that, if the court seised of the original proceedings reverses its decision that it has jurisdiction in respect of those proceedings, such a reversal also automatically excludes its jurisdiction in respect of the claims made by the intervening third party.
4. Article 4 of Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) must be interpreted as meaning that the law applicable to an obligation to redress in connection with the duty of care of the ‘grandparent’ company of a company declared bankrupt is, in principle, that of the country in which the latter has its registered office, although the fact that there is a pre-existing financing agreement between those two companies, together with a jurisdiction clause, is a circumstance which may establish a manifestly closer connection with another country within the meaning of paragraph 3 of that article.

⁽¹⁾ OJ C 443, 21.12.2020.

**Judgment of the Court (Fifth Chamber) of 10 March 2022 (request for a preliminary ruling from the
Amtsgericht Hannover — Germany) — Proceedings against K**

(Case C-519/20) ⁽¹⁾

(Reference for a preliminary ruling — Immigration policy — Directive 2008/115/EC — Detention for the purpose of removal — Article 16(1) — Direct effect — Specialised detention facility — Concept — Detention in prison accommodation — Conditions — Article 18 — Emergency situation — Concept — Article 47 of the Charter of Fundamental Rights of the European Union — Effective judicial review)

(2022/C 171/15)

Language of the case: German

Referring court

Amtsgericht Hannover

Parties to the main proceedings

Person concerned: K

Other party to the proceedings: Landkreis Gifhorn