

8. Eighth plea in law, alleging unlawfulness, on the basis of Article 227 TFEU, of Article 31(3) of the SSM Framework Regulation for breach of the rights of the defence guaranteed by Article 41 of the Charter of Fundamental Rights and infringement of the corresponding general principles of law derived from the constitutional traditions common to the Member States.

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**Action brought on 3 January 2017 — J.M.-E.V. e hijos v EUIPO — Masi (MASSI)**

**(Case T-2/17)**

(2017/C 063/48)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* J.M.-E.V. e hijos, SRL (Granollers, Spain) (represented by: M. Ceballos Rodríguez and J. Güell Serra, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Alberto Masi (Milan, Italy)

**Details of the proceedings before EUIPO**

*Proprietor of the trade mark at issue:* Applicant

*Trade mark at issue:* EU word mark 'MASSI' — EU trade mark No 414 086

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

*Contested decision:* Decision of the First Board of Appeal of EUIPO of 4 October 2016 (rectified by decision of 3 November 2016) in Case R 793/2015-1

**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- reject the application for a declaration of invalidity filed by Mr. Alberto Masi against EUTM Registration No. 414086 'MASSI' in class 12;
- order EUIPO, and the other party to the proceedings before EUIPO in case it takes part in these proceedings, to bear the costs.

**Pleas in law**

- Infringement of Article 56(3) of Regulation No 207/2009 (res judicata);
  - Lack of application of Article 53(1)(a) in connection with Article 8(2)(c) of Regulation No. 207/2009.
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