

Pleas in law: Infringement of Article 8(1)(b) of Regulation (EC) No 40/94 ⁽¹⁾ given that there is a likelihood of association and a likelihood of confusion between the marks at issue.

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark.

**Action brought on 12 February 2007 — Zipcar v OHIM —
Canary Islands Car (ZIPCAR)**

(Case T-36/07)

(2007/C 82/94)

Language in which the application was lodged: English

Parties

Applicant: Zipcar, Inc. (Cambridge, USA) (represented by: M. Elmslie, Solicitor, and N. Saunders, Barrister)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Canary Islands Car SL (Lanzarote, Spain)

Form of order sought

— Annul the decision of the Second Board of Appeal dated 30 November 2006 in its entirety and remit the application to the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to allow it to proceed;

— order that the Office pay the applicant's costs.

Pleas in law and main arguments

Applicant for the Community trade mark: The applicant

Community trade mark concerned: The word mark 'ZIPCAR' for goods and services in classes 9, 39 and 42 — application No 3 139 375

Proprietor of the mark or sign cited in the opposition proceedings: Canary Islands Car SL

Mark or sign cited: The national word mark 'CICAR' for services in class 39

Decision of the Opposition Division: Opposition upheld in relation to the contested services in class 39

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Violation of Article 8(1)(b) of Council Regulation No 40/94 as there was no likelihood of confusion and the Board of Appeal failed to reach proper conclusions about both the nature of the average consumer of the relevant services and the nature of the relevant market.

**Action brought on 16 February 2007 — Mohamed El
Morabit v Council of the European Union**

(Case T-37/07)

(2007/C 82/95)

Language of the case: Dutch

Parties

Applicant: Mohamed El Morabit (Amsterdam, Netherlands) (represented by: U. Sarikaya, lawyer)

Defendant: Council of the European Union

Form of order sought

— Annul the contested decision of the Council.

Pleas in law and main arguments

The applicant contests the Council decision placing him on the list of persons, groups and entities that are subject to the restrictive measures provided for in Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism ⁽¹⁾.

The applicant submits that, although he has been found guilty by a court of participating in a criminal organisation with a terrorist aim, he has appealed against the judgment. He submits that there is a real chance that he will be acquitted on appeal. The Council's decision is therefore premature.

⁽¹⁾ OJ 2001 L 344, p. 70.