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WORKING GROUP 1

What are protective measures?

I. Read the case below, and provide the words missing.

CASE STUDY

Mr JPR, who resides in Germany, is the owner of (1) …….. property in Perpignan, France, ownership of which he donated to his son, Mario Reichert, by a notarial instrument executed at Marseille, France. That donation was (2) ……. by Dresdner Bank AG, a creditor of Mr JPR, in the Tribunal de Grande Instance (Regional Court), Grasse, in whose judicial district the property (3) ……. issue lies, on the basis of Article 1167 of the French Civil Code, under which creditors may 'challenge in their own name transactions entered into by their debtors in fraud of their rights' by a procedure known as the 'action panlienné.

(1) a) unmoved b) unmovable c) immovable

(2) a) denied b) declined c) challenged

(3) a) at b) in c) of

Mr JPR challenged the jurisdiction of French courts to deal with the case.

Dresdner Bank (4) …….. that the *action paulienne* seeks to give the creditor a (5) …… security and so constitutes a 'protective measure' , so French courts have jurisdiction according to art.35 of Regulation 1215/2012: „Application may be made to the courts of a Member State for such provisional, including protective, measures as may be available (6) …… the law of that Member State, even if the courts of another Member State have jurisdiction as to the substance of the matter.”

(4) a) asks b) requests c) claims

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(5) a) passing b) provisional c) transient

(6) a) in b) under c) within

II. Explain the following words and phrases or provide synonyms or near-synonyms for them.

(1) to enter into appearance;

(2) to be summoned

(3) to safeguard rights

(4) defendant

(5) plaintiff

(6) sum awarded

III. Rephrase the following sentences using your own words.

(1) actions seeking to preserve a factual or legal situation

(2) an interim payment of a contractual consideration

(3) an interim relief sought by the defendant against the claimant after the commencement of the legal proceedings

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WORKING GROUP 2 PM

RECOGNITION/ENFORCEMENT

I. Read the case below, and provide the words missing.

At 15 January 2015 a claim for (1) …… was brought by CD and against Mr Albert at the High Court of Justice (England & Wales), Chancery Division.

(1) a) damage b) damages c) restitution

On 26 February 2015, on application by CD, the High Court of Justice made an order which, on the one hand, restrained Mr Albert on a temporary basis from dealing with some of his assets ('freezing order') and, on the other hand, instructed him to (2) …….. details of his assets and certain documents in his possession concerning the principal claim ('disclosure order'). On 11 March 2015 that order was served by the Swiss authorities (3) …….. Mr Albert, who entered an appearance in the proceedings (4) …….. the High Court.

(2) a) reveal b) unveil c) disclose

(3) a) on b) to c) Ø

(4) a) before b) in front of c) at

Mr Albert did not comply (5) …… the disclosure order. The High Court then, on application by CD, an order which barred Mr Albert from taking any further part in the proceedings (6) …… he complied, within the prescribed time-limit, with the obligations regarding disclosure of the information and documents requested ('unless order').

(5) a) to b) before c) with

(6) a) if b) even if c) unless

Since Mr Albert, despite a second ”unless order” , did not, within the prescribed time-limit, completely fulfill the obligations laid down in the new order, he was held to be in contempt of court and was excluded from the proceedings (‘debarment’).

By judgment of 10 December 2015, the High Court entered judgment as if Mr Albert was in default and allowed the application of CD, ordering Mr Albert to pay them damages of USD 129 974 770, with interest.

On application by CD, the Corte d’appello di Milano (Court of Appeal, Milan, Italy), by order of 17 December 2015, declared the High Court judgments to be enforceable in Italy.

Mr Albert appealed against that order. He claims that the High Court judgments cannot be recognised in Italy, on the ground that they are contrary to public policy, because they were made in breach of the rights of the defence and of the adversarial principle.

II. Explain the following words and phrases or provide synonyms or near-synonyms for them.

(1) in contempt of court

(2) in default of appearance

(3) adversarial principle

(4) enforcement is sought

(5) defendant

(6) right to be heard

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IV. Rephrase the following sentences using your own words.

(1) judgments which are delivered without the party against which they are directed having been summoned to appear;

(2) provisional, including protective, measures were ordered by a court without the defendant being summoned to appear, unless the judgment containing the measure is served on the defendant prior to enforcement.

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WORKING GROUP 3 PM

JURISDICTION ON PROTECTIVE MEASURES

I. Read the case below, and provide the words missing.

On 6 March 2009, JPM, the proprietor of European patent EP 0 858 440, brought (1) …… in the Rechtbank 's-Gravenhage for infringement of the national parts of that patent, as in (2) …….. in Denmark, Ireland, Greece, Luxembourg, Austria, Portugal, Finland, Sweden, Liechtenstein and Switzerland, against the HW companies for marketing a product HFC-245 fa, manufactured by HW International Inc. and identical to the product covered by that patent.

(1) a) a suit b) a procedure c) an action

(2) a) power b) strength c) force

Specifically, JPM (3) …….. HW Products Europe BV and HW Europe NV of performing the reserved actions in the whole of Europe and HW Belgium NV of performing the reserved actions in Northern and Central Europe.

(3) a) charges b) accuses c) blames

In the course of its action for infringement, on 9 February 2016, JPM also lodged an interim claim against the HW companies, seeking provisional relief in the form of a cross-border prohibition against infringement until a decision had been made in the main (4) …….

(4) a) procedure b) case c) proceedings

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In the (5) ……. proceedings, the HW companies (6) …….. the defence of invalidity of the national parts of the patent concerned without, however, having brought or even declared their intention of bringing proceedings for the annulment of the national parts of that patent, and without contesting the competence of the Dutch court to hear both the main proceedings and the interim proceedings.

(5) a) provisional b) interim c) temporary

(6) a) raised b) rised c) rose

II. Rephrase or explain the following sentences or phrases, using your own words.

(1) JPM also lodged an interim claim against the HW companies, seeking provisional relief in the form of a cross-border prohibition against infringement

(2) declared their intention of bringing proceedings for the annulment of the national parts of that patent

(3) the defendant entered into appearance and did not challenge the jurisdiction