EIP

UPC continues the Mushroom Saga with decision by default

Amycel LLC v Szymon Spyra UPC_CFI_499/2024

LD The Hague Decision of 21 October 2025[1]

We previously reported[2] on Amycel's provisional injunction (PI) issued on 31 July 2024 against a Polish individual (named in earlier documents but later redacted from decisions, in accordance with the UPC's general policy to redact individual names).

Amycel proceeded to timely file an infringement action on 30 August 2024. The action was delayed by difficulties with service – registered letters sent to the defendant in Poland were returned unopened – so ultimately the Court made an order for alternative service on 19 December 2024, setting the deadline for filing any Statement of Defence at 25 February 2025.[3]

The same UPC representative who represented the defendant in the PI proceedings registered representation in the CMS on 6 January 2025, and ultimately uploaded a Statement of Defence on 4 March 2025 with a request for re-establishment of rights. This request was rejected by order of 1 April 2025, which specified that a decision by default should be taken.[4] The defendant submitted further materials and requested a stay of proceedings.

The court decided not to admit the further submissions and proceeded to consider the case on the basis of the defendant's default. Usually a decision by default in favour of the claimant requires substantive consideration of whether the facts put forward by the claimant justify the remedy sought (as recently clarified by the Court of Appeal[5]). However, in this case, the court had already decided on a provisional injunction, and

therefore simply referred to its previous analysis to conclude that the infringement action was well-founded. The court essentially granted the claimant the relief it sought, with only minor amendments. This included ordering the defendant to display a notice on its website announcing the decision.

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The defendant can apply to set aside this decision by default but given that the original request for re-establishment was unsuccessful, it seems likely that an application to set aside the decision by default would be unsuccessful for the same reasons.[6]

[1] https://www.unifiedpatentcourt.org/en/node/159551

[2] https://eip.com/uk/latest/article/upc_orders_provisional_injunction_on_mushroom_strain/

[3] https://www.unifiedpatentcourt.org/en/node/1364

[4] https://www.unifiedpatentcourt.org/en/node/82271

[5] https://eip.com/uk/latest/article/court_of_appeal_clarifies_upc_rules_on_decisions_by_default/

[6] Applying the standard set out in Bayerische Motoren Werke Aktiengesellschaft v ITCiCo Spain S.L. UPC_CFI_412/2023 Order of 9 January 2025 https://eip.com/uk/latest/article/upc_confirms_decision_by_default