

Republic of Iraq  
Federal Supreme Court  
Ref. 189 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 3/9/2023 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul Rahman Suleiman, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Ha Zar Hama Gharib Rasheed – his agent, the barrister Hayder Hasan Al-Saffar.

The Defendants: 1. the Prime Minister in Kurdistan Region/ being in this capacity.  
2. Minister of Trade and Industry in Kurdistan Region Government/ being in this capacity.

Their agent  
The barrister  
counselor  
Ayad Ismaeel  
Mohammed

### **The Claim**

The plaintiff claimed through his agent that the first defendant had previously issued the letter No. (74) on 4/1/2010 addressed to all ministries affiliated to him to notify them of granting the second defendant the authority to register trademarks under the Trademarks and Geographical Indications Law No. (21) of 1957, as amended, and he also issued his decision No. (29) At the meeting of the Economic Council No. (9) held on 8/2/2010, in which he granted the second defendant the authority to register trademarks under the Trademarks and Geographical Indications Law. No. (21) of 1957 as amended, and that the decision was directed and circulated to the second defendant under the letter No. (1747) on 16/2/2010 and in the light of those books, the second defendant established the Directorate of Trademark Registration with him, to register trademarks within the powers of the first defendant, which led to duplication in the registration of trademarks and created legal problems for trademarks registered at the level of Iraq and within the powers of the federal government, including the trademark registered in his name, i.e. (the plaintiff) with the number (75105) at the Ministry of Industry and Minerals in the Federal Government. Whereas Article (2/1<sup>st</sup>) of the Trademarks

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and Commercial Data Law No. (21) of 1957, as amended, specified the only and exclusive body for the registration of trademarks in Iraq, which is the Ministry of Industry and Minerals, and that this text may not be amended, copied, and its application modified except under a legislative text, but the first defendant violated this by issuing the aforementioned decision and the two letters, and the second defendant applied the decision of the first defendant without a legal basis. Accordingly, and based on the law of the court, the plaintiff requested a ruling on the illegality of the decision numbered (29) in the meeting of the Economic Council No. (9) held on 8/2/2010 and letters (74) on 4/1/2010 and (1747) on 16/2/2010 issued by the first defendant and their cancellation and annulment and cancellation of all procedures carried out by the second defendant to register trademarks and charge them fees, expenses and advocacy fees. The lawsuit was registered with this court in the number (189/federal/2023), and the legal fee was collected for it and notified to the defendants / in addition to their jobs following Article (21 / first and second) of the internal regulations of the Federal Supreme Court No. (1) of 2022, and for the lapse of the period stipulated in item (third) of the same article without receiving the defendants' answers, he set a date for considering the lawsuit without pleading, in which the court was formed and checked the plaintiff's requests and supports, and noted that the defendants' agent submitted a dated list on 4/9/2023 (according to which the lawsuit was dismissed due to the lack of jurisdiction of the court to consider it and the lack of interest of the plaintiff because he filed the lawsuit in his capacity and therefore his litigation towards the defendants is absent, in addition to the previous adjudication of the lawsuit, as the plaintiff, in particular, challenged the registration of trademarks in the lawsuit numbered 11/Federal/2019, and the lawsuit was dismissed by the court for lack of jurisdiction) and after the court completed its checks, the end of the minutes has been made clear and issued the following decision:

**The decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff's request (Ha Zar Hama Gharib Rashid) was focused on demanding a ruling on the illegality of decision No. (29) At the meeting of the Economic Council in the Kurdistan Region No. (9) held on 8/2/2010 and the two letters (74)

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on 4/1/2010 and (1747) on 16/2/2010 issued by the Council of Ministers in the Kurdistan Region, canceling them, invalidating and canceling all procedures taken by the Minister of Commerce and Industry in the Kurdistan Regional Government regarding the registration of trademarks. For the reasons and merits relied upon by the plaintiff in his petition and upon careful consideration of the plaintiff's requests, it was found that their consideration does not fall within the competences of this court specified in Articles (52) and (93) of the Constitution of the Republic of Iraq for the year 2005 and Article (4) of the Federal Supreme Court Law No. (30) for the year 2005 amended, the judiciary of this court also settled that its jurisdiction contained in Article (93/3<sup>rd</sup>) of the Constitution is limited to considering decisions and procedures issued by the federal authorities without the authorities of the regions and governorates that are not organized in a region, so the court decided to dismiss the plaintiff's lawsuit (Hah Zar Hama Gharib Rashid) for lack of jurisdiction and to charge him the expenses and fees and the amount of one hundred thousand dinars advocacy fees for the defendants' agent in 2005 as amended. The decision has been issued with the majority, according to the provisions of articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been made clear 17/Sufur/1445 Hijri coinciding with 3/September/2023 AD.

**Judge**

**Jassim Mohammed Abbood**

**President of the Federal Supreme Court**

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