

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Repsol YPF, SA

Form of order sought

The appellant requests that:

- The decision of the Court of Justice of the European Union (General Court) of June 26, 2014 (Case T-372/11) shall be annulled and the case shall be referred to the General Court for reapplication;
- The defendant shall bear all costs of this proceeding.

Pleas in law and main arguments

The applicant contests the General Court's interpretation of the definition of '*distribution services*' which is — as a matter of law — a preliminary issue in the assessment of similarity of services. The applicant consequently claims that the General Court has taken an incorrect perception as the legal basis for its subsequent assessment concerning the likelihood of confusion between the trademarks at issue.

The applicant would point out that the ECJ's main function is to supply a uniform interpretation of the concept and scope of the respective services (C-418/02, paragraph 33 — *Praktiker*; joined cases C-414/99 to C-416/99 *Zino Davidoff and Levi Strauss*, paragraphs 42 and 43) and of the judgment '*IP-Translator*' (C-307/10, June 19, 2012) whereby '*goods and services have to be definable in an objective manner in order to fulfil the trademark's function as an indication of origin*' and asks the ECJ for a '*sufficient precise and clear*' definition of '*distribution services*'.

In the opinion of the applicant, the service '*distribution*' has a very narrow scope and comprises only the activities '*transport; packaging and storage of goods*' but not '*retail and wholesale*' services. The applicant further points out that the Court of Justice clarified in the '*Praktiker*' judgment that the objective of '*retail*' (class 35) is — in contrast to the services in class 39 — the sale of goods to consumers, whereas these activities consist, '*inter alia, in selecting an assortment of goods offered for sale and in offering a variety of services aimed at inducing the consumer to conclude the transaction with the trader in question rather than with a competitor*'.

The general classification of '*distribution*' in Nice Class 39 cannot be ignored in the view of the applicant since the ECJ expressly underlined its argumentation in its *Praktiker* decision in consideration of the Explanatory Note of Nice Class 35 (C-418/02, paragraph 36).

Therefore the decision of the General Court must be annulled and referred back for reapplication.

Request for a preliminary ruling from the Nejvyšší soud České republiky (Czech Republic) lodged on 25 August 2014 — Marie Matoušková, court commissioner in inheritance proceedings v Misha Martinus and Elisabeth Jekaterina Martinus, represented by David Sedlák as trustee; Beno Jeriël Eljada Martinus

(Case C-404/14)

(2014/C 431/16)

Language of the case: Czech

Referring court

Nejvyšší soud České republiky

Parties to the main proceedings

Applicant: Marie Matoušková, court commissioner in inheritance proceedings

Persons concerned by the inheritance proceedings: Misha Martinus and Elisabeth Jekaterina Martinus, represented by David Sedlák as trustee; Beno Jeriël Eljada Martinus

Question referred

If an inheritance settlement agreement concluded on behalf of a minor by his or her trustee requires the approval of a court in order to be valid, is that decision on the part of the court a measure within the meaning of Article 1(1)(b) or a measure within the meaning of Article 1(3)(f) of Council Regulation (EC) No 2201/2003 ⁽¹⁾ of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, repealing Regulation (EC) No 1347/2000?

⁽¹⁾ OJ 2003 L 338, p. 1.

Request for a preliminary ruling from the Nejvyšší správní soud (Czech Republic) lodged on 25 August 2014 — PST CLC a.s. v Generální ředitelství cel

(Case C-405/14)

(2014/C 431/17)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: PST CLC a.s.

Defendant: Generální ředitelství cel

Question referred

Was Commission Regulation (EC) No 384/2004 ⁽¹⁾ of 1 March 2004 concerning the classification of certain goods in the Combined Nomenclature valid at the time of its effectiveness from 22 March 2004 to 22 December 2009 insofar as point 2 of the annex thereto is concerned, which specifies that products consisting of a heat sink and a fan fall within CN Code 8414 59 30, and was it thus applicable to the present case?

⁽¹⁾ OJ 2004 L 64, p. 21.

Request for a preliminary ruling from the Wojewódzki Sąd Administracyjny w Warszawie (Poland) lodged on 27 August 2014 — Wrocław — Miasto na prawach powiatu v Minister Infrastruktury i Rozwoju

(Case C-406/14)

(2014/C 431/18)

Language of the case: Polish

Referring court

Wojewódzki Sąd Administracyjny w Warszawie