

4. Are Article 118m(2)(c) of Regulation (EC) No 1234/2007 and Article 103(2)(c) of Regulation (EU) No 1308/2013 to be interpreted as meaning that they are applicable only to false or misleading indications which, on the market in question, are liable to create a false impression as to a product's geographical origin?

- <sup>(1)</sup> Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation); OJ 2007 L 299, p. 1.
- <sup>(2)</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007; OJ 2013 L 347, p. 671.

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**Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 1 August 2016 — Hansruedi Raimund v Michaela Aigner**

**(Case C-425/16)**

(2016/C 402/19)

*Language of the case: German*

**Referring court**

Oberster Gerichtshof

**Parties to the main proceedings**

*Applicant:* Hansruedi Raimund

*Defendant:* Michaela Aigner

**Questions referred**

1. May an action for infringement of an EU trade mark (Article 96(a) of Regulation (EC) No 207/2009, <sup>(1)</sup> as amended by Regulation (EU) 2015/2424) be dismissed on the ground of an objection that the trademark application was filed in bad faith (Article 52(1)(b) of Regulation (EC) No 207/2009, as amended by Regulation (EU) 2015/2424) if, despite the defendant having brought a well-founded counterclaim for a declaration of invalidity of the EU trade mark (Article 99(1) of Regulation (EC) No 207/2009, as amended by Regulation (EU) 2015/2424), the court has not yet ruled on that counterclaim?
2. If the answer is in the negative: May the court dismiss an action for infringement on the ground of an objection that the trademark application was filed in bad faith, if the court at least simultaneously upholds the counterclaim for a declaration of invalidity, or must the court delay the decision on the action for infringement in any event until the decision on the counterclaim is *res judicata*?

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<sup>(1)</sup> Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark; OJ 2009 L 78, p. 1.

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**Request for a preliminary ruling from the Tribunal Superior de Justicia de Castilla y León (España) lodged on 2 August 2016 — Instituto Nacional de la Seguridad Social (INSS), Tesorería General de la Seguridad Social (TGSS) v José Blanco Marqués**

**(Case C-431/16)**

(2016/C 402/20)

*Language of the case: Spanish*

**Referring court**

Tribunal Superior de Justicia de Castilla y León