

- impose on the Republic of Poland, in accordance with Article 260(3) TFEU, a penalty payment for failure to comply with the obligation to notify measures transposing Directive 2007/65, at a daily rate of EUR 112 190,40 and payable from the date on which judgment is delivered in the present case;
- order the Republic of Poland to pay the costs.

Pleas in law and main arguments

The period for transposition of the directive expired on 19 December 2011.

⁽¹⁾ OJ 2007 L 332, p. 27.

Reference for a preliminary ruling from the Østre Landsret lodged on 16 July 2012 — Ministeriet for Forskning, Innovation og Videregående Uddannelser v Manova A/S

(Case C-336/12)

(2012/C 287/47)

Language of the case: Danish

Referring court

Østre Landsret

Parties to the main proceedings

Applicant: Ministeriet for Forskning, Innovation og Videregående Uddannelser

Defendant: Manova A/S

Question referred

Does the EU law principle of equal treatment mean that a contracting authority, following expiry of the time-limit for applying to take part in a tendering procedure, may not obtain information required in the call for tenders concerning a tenderer's most recent published balance sheet, when the tenderer in question did not provide such a balance sheet in its application for pre-qualification?

Appeal brought on 17 July 2012 by Mizuno KK against the judgment of the General Court (Fourth Chamber) of 8 May 2012 in Case T-101/11 Mizuno KK v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-341/12 P)

(2012/C 287/48)

Language of the case: German

Parties to the proceedings

Appellant: Mizuno KK (represented by: T. Wessing, T. Raab and H. Lauf, Rechtsanwälte)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs)(OHIM)

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court of 8 May 2012 in Case T-101/11 and the decision of the First Board of Appeal of OHIM of 15 December 2010 — Case R 0821/2010-1;

- order the other party to the proceedings to pay the costs incurred both at first instance and in the present proceedings.

Grounds of appeal and main arguments

The present appeal challenges the General Court's judgment of 8 May 2012 in Case T-101/11, whereby the General Court dismissed the appellant's action against the decision of the First Board of Appeal of OHIM of 15 December 2010 (Case R 821/2010-1) relating to opposition proceedings between Golfino AG and Mizuno KK.

The appellant bases its appeal essentially on the following grounds:

The General Court erred in law in its assessment of the scope of protection and the distinctiveness of an existing figurative mark comprising the letter 'G' and the symbol '+'. The General Court wrongly proceeded on the basis that the combination of both those elements was of no importance.

Hence, the General Court wrongly found that there was a likelihood of confusion between the earlier figurative mark and the mark applied for by the appellant, comprising the letter 'G', the symbol '+', and an arrow symbol, inasmuch as, in the assessment of the similarity of the signs, the General Court did not focus on the overall impression of the two marks, but rather on their individual details.

In doing so, the General Court incorrectly assumed that the similarity of the letter 'G' in both figurative marks was of greater importance than their other, different, elements. In order properly to assess the marks, the General Court ought, however, to have examined only the overall symbols, and not focused on the letters 'G' in isolation.

Although it is true that both of the marks at issue consist in the phoneme/g/, the focal point of the marks clearly lies in their graphic design and not in their phonetic arrangement. Consequently, the existence of a likelihood of confusion between the two marks has not been shown.