

7. Only if the answer to Question 5 is in the affirmative and the answers to Questions 6 and 3 are in the negative:

In the present case, is no value added tax to be levied on the total turnover of the gaming machines, or is it to be levied only on the part that cannot be passed on, and how is that part to be determined: for example, on the turnover at which the stake per game could not be increased, or on the turnover at which the contents of the cash box per hour could not be increased?

8. Is Article 1(2) of Directive 2006/112 to be interpreted as precluding a national regulation on an unharmonised tax under which the value added tax owed is set in full against that tax?

9. Only if the answer to Question 8 is in the affirmative:

Does the setting of value added tax against a national, unharmonised tax in the case of traders liable to pay the latter tax have the effect that value added tax may not be levied on their competitors who, though not subject to this unharmonised tax, are subject to another special tax and for whom there is no provision for such offsetting?

(¹) OJ 2006 L 347, p. 1.

Reference for a preliminary ruling from High Court of Justice (Chancery Division) (United Kingdom) made on 3 October 2012 — Actavis Group PTC EHF, Actavis UK Ltd v Sanofi

(Case C-443/12)

(2012/C 389/07)

Language of the case: English

Referring court

High Court of Justice (Chancery Division)

Parties to the main proceedings

Applicants: Actavis Group PTC EHF, Actavis UK Ltd

Defendant: Sanofi

Third party: Sanofi Pharma Bristol-Myers Squibb SNC

Questions referred

1. What are the criteria for deciding whether 'the product is protected by a basic patent in force' in Article 3(a) of Regulation 469/2009/EC (¹) ('the Regulation')?

2. In a situation in which multiple products are protected by a basic patent in force, does the Regulation, and in particular Article 3(c), preclude the proprietor of the patent being issued a certificate for each of the products protected?

(¹) Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products
OJ L 152, p. 1

Reference for a preliminary ruling from the Finanzgericht Düsseldorf (Germany), lodged on 8 October 2012 — HARK GmbH & Co. KG Kamin- und Kachelofenbau v Hauptzollamt Duisburg

(Case C-450/12)

(2012/C 389/08)

Language of the case: German

Referring court

Finanzgericht Düsseldorf

Parties to the main proceedings

Applicant: HARK GmbH & Co. KG Kamin- und Kachelofenbau

Defendant: Hauptzollamt Duisburg

Questions referred

1. Is heading 7321 of the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, (¹) as amended by Commission Regulation (EC) No 1031/2008 of 19 September 2008, (²) to be interpreted as meaning that the stove pipe sets described in greater detail in the grounds can be regarded as parts of stoves, ranges, grates, and cookers?
2. If the answer to Question 1 is in the negative, can the stove pipe sets then be classified under heading 7307?

(¹) OJ 1987 L 256, p. 1.

(²) OJ 2008 L 291, p. 1.