

- 4) Point 1 of the Explanatory Notes to the Combined Nomenclature in Annex I to Regulation No 2658/87, as amended by Regulation No 1006/2011, on subheadings 2707 99 91 and 2707 99 99 thereof must be interpreted as being non-exhaustive, so that a product falling within Heading 2707 of the Combined Nomenclature which cannot be classified under a specific subheading must be classified under subheading 2707 99 99 thereof.

⁽¹⁾ OJ C 245, 24.8.2013.

Judgment of the Court (Second Chamber) of 19 June 2014 (request for a preliminary ruling from the Supreme Court — Ireland) — Karen Millen Fashions Ltd v Dunnes Stores, Dunnes Stores (Limerick) Ltd

(Case C-345/13) ⁽¹⁾

(Regulation (EC) No 6/2002 — Community design — Article 6 — Individual character — Different overall impression — Article 85(2) — Unregistered Community design — Validity — Conditions — Burden of proof)

(2014/C 282/20)

Language of the case: English

Referring court

Supreme Court

Parties to the main proceedings

Applicant: Karen Millen Fashions Ltd

Defendants: Dunnes Stores, Dunnes Stores (Limerick) Ltd

Operative part of the judgment

1. Article 6 of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs is to be interpreted as meaning that, in order for a design to be considered to have individual character, the overall impression which that design produces on the informed user must be different from that produced on such a user not by a combination of features taken in isolation and drawn from a number of earlier designs, but by one or more earlier designs, taken individually.
2. Article 85(2) of Regulation No 6/2002 must be interpreted as meaning that, in order for a Community design court to treat an unregistered Community design as valid, the right holder of that design is not required to prove that it has individual character within the meaning of Article 6 of that regulation, but need only indicate what constitutes the individual character of that design, that is to say, indicates what, in his view, are the element or elements of the design concerned which give it its individual character.

⁽¹⁾ OJ C 260, 7.9.2013.