

The appellant thus alleges that, by finding that Article 52(1)(b) of Regulation No. 207/2009 presupposed or required the existence of a likelihood of confusion on the part of the public and thus similarity or identity in the goods and services at stake, the General Court misinterpreted Chocoladefabriken Lindt & Sprüngli and misapplied Article 52(1)(b) of Regulation No. 207/2009. It consequently erred in law.

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

Reference for a preliminary ruling from Court of Appeal (England & Wales) (Civil Division) made on 14 February 2018 — Sandoz Ltd, Hexal AG v G.D. Seale LLC, Janssen Sciences Ireland

(Case C-114/18)

(2018/C 152/20)

Language of the case: English

Referring court

Court of Appeal (England & Wales) (Civil Division)

Parties to the main proceedings

Applicants: Sandoz Ltd, Hexal AG

Defendants: G.D. Seale LLC, Janssen Sciences Ireland

Question referred

Where the sole active ingredient the subject of a supplementary protection certificate issued under [the SPC Regulation] ⁽¹⁾ is a member of a class of compounds which fall within a Markush definition in a claim of the patent, all of which class members embody the core inventive technical advance of the patent, is it sufficient for the purposes of Article 3(a) of the SPC Regulation that the compound would, upon examination of its structure, immediately be recognised as one which falls within the class (and therefore would be protected by the patent as a matter of national patent law) or must the specific substituents necessary to form the active ingredient be amongst those which the skilled person could derive, based on their common general knowledge, from a reading of the patent claims?

⁽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 2009, L 152, p. 1).

Request for a preliminary ruling from the Tribunal correctionnel de Saint-Brieuc — Chambre détachée de Guingamp (France) lodged on 12 February 2018 — Procureur de la République v Tugdual Carlier and Others

(Case C-115/18)

(2018/C 152/21)

Language of the case: French

Referring court

Tribunal correctionnel de Saint-Brieuc — Chambre détachée de Guingamp

Parties to the main proceedings

Applicant: Procureur de la République