

- a) The General Court declined to find that the Board of Appeal should have requested additional submissions on Article 8(4) in circumstances where the only way to ensure procedural justice would have been for the Board of Appeal to invite those submissions or decide the issue on Article 8(5) only and remit the issue of Article 8(4) back to the Opposition Division. The Board of Appeal's decision should have been set aside by the General Court.
- b) The General Court was wrong to uphold the Board of Appeal's conclusion that TBL had not demonstrated the prerequisites for making out Article 8(4). The General Court ought to have found that the Board of Appeal was in error, set aside the Board of Appeal's findings on Article 8(4) and substituted its own finding that Article 8(4) had been infringed.

Pleas in law alleging infringement of Article 8(1) EUTMR

- a) The General Court erred in applying *Praktiker* because in the light of the decision of the Court of Justice in *EUIPO v Cactus* (C-501/15 P; EU:C:2017:750), *Praktiker* does not apply to the Earlier Marks here.
- b) Further or alternatively, the General Court erred in applying *Praktiker* because that judgment does not apply to shopping arcade services.
- c) Even if TBL's Earlier Marks fell within the scope of 'retail services' and therefore fell within the ambit of *Praktiker*, the General Court was wrong to interpret *Praktiker* as necessarily precluding a finding of confusing similarity.
- d) Because it erred in its findings on the application of *Praktiker*, the General Court failed to either (i) conduct an assessment of the likelihood of confusion or (ii) refer that exercise to the Board of Appeal. In the circumstances, it was obliged to take one of these steps.

⁽¹⁾ Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ 2017, L 154, p. 1).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 19 March 2018 — Pollo del Campo S.c.a., Avi Coop Società Cooperativa Agricola v Regione Emilia-Romagna and Others

(Case C-199/18)

(2018/C 240/18)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellants: Pollo del Campo S.c.a., Avi Coop Società Cooperativa Agricola

Respondents: Regione Emilia-Romagna, Azienda Unità Sanitaria Locale 104 di Modena, A.U.S.L. Romagna

Questions referred

1. By providing that Member States must ensure the collection of fees for the activities referenced in Annex IV, Section A, and Annex V, Section A, must Article 27 of Regulation (EC) No 882/2004 be interpreted as placing an obligation to pay on all agricultural operators, even those which 'carry out the activities of slaughtering and cutting of meat instrumental to and connected with the activity of rearing livestock'?

2. Can a [Member] State make certain categories of undertaking exempt from payment of the veterinary fees in the case where it has set up a system for the collection of fees that, overall, guarantees coverage of the costs of the official controls, or may it apply charges that are lower than those provided for by Regulation (EC) No 8[8]2/2004? ⁽¹⁾

⁽¹⁾ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ 2004 L 165, p. 1).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 19 March 2018 — C.A. F.A.R. — Società Agricola Cooperativa, Società Agricola Guidi di Roncofreddo di Guidi Giancarlo e Nicolini Fausta v Regione Emilia-Romagna and Others

(Case C-200/18)

(2018/C 240/19)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellants: C.A.F.A.R. — Società Agricola Cooperativa, Società Agricola Guidi di Roncofreddo di Guidi Giancarlo e Nicolini Fausta

Respondents: Regione Emilia-Romagna, Azienda Unità Sanitaria Locale 104 di Modena, A.U.S.L. Romagna

Questions referred

1. By providing that Member States must ensure the collection of fees for the activities referenced in Annex IV, Section A, and Annex V, Section A, must Article 27 of Regulation (EC) No 882/2004 be interpreted as placing an obligation to pay on all agricultural operators, even those which 'carry out the activities of slaughtering and cutting of meat instrumental to and connected with the activity of rearing livestock'?
2. Can a [Member] State make certain categories of undertaking exempt from payment of the veterinary fees in the case where it has set up a system for the collection of fees that, overall, guarantees coverage of the costs of the official controls, or may it apply charges that are lower than those provided for by Regulation (EC) No 8[8]2/2004? ⁽¹⁾

⁽¹⁾ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ 2004 L 165, p. 1).

Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) (Portugal) lodged on 26 March 2018 — IDEALMED III — Serviços de Saúde, S.A. v Autoridade Tributária e Aduaneira

(Case C-211/18)

(2018/C 240/20)

Language of the case: Portuguese

Referring court

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)