

**Parties to the main proceedings**

*Applicants:* Asociación para la Calidad de los Forjados (ASCAFOR), Asociación de Importadores y Distribuidores del Acero para la Construcción (ASIDAC)

*Defendants:* Administración del Estado, Calidad Siderúrgica SL, Colegio de Ingenieros Técnicos Industriales, Asociación Española de Normalización y Certificación (AENOR), Consejo General de Colegios Oficiales de Aparejadores y Arquitectos Técnicos, Asociación de Investigación de las Industrias de la Construcción (AIDICO) Instituto Tecnológico de la Construcción, Asociación Nacional Española de Fabricantes de Hormigón Preparado (ANEFHOP), Ferrovial Agromán SA, Agrupación de Fabricantes de Cemento de España (OFICEMEN), Asociación de Aceros Corrugados Reglamentarios y su Tecnología y Calidad (ACERTEQ)

**Question referred**

Can the exhaustive provisions contained in Annex 19 to Royal Decree No 1247/08 of 18 July 2008, in conjunction with Article 81 thereof, relating to the granting of official recognition of labels of quality be considered to be excessive and disproportionate to the objective pursued and to involve an unjustified restriction which renders the recognition of the equivalence of certificates more difficult and to be an obstacle to or a restriction of the marketing of imported products contrary to Articles 28 and 30 EC?

**Reference for a preliminary ruling from the Tribunal Administratif de Rennes (France) lodged on 11 October 2010 — L'Océane Immobilière SAS v Direction de contrôle fiscal Ouest**

(Case C-487/10)

(2010/C 346/55)

*Language of the case: French*

**Referring court**

Tribunal Administratif de Rennes

**Parties to the main proceedings**

*Applicant:* L'Océane Immobilière SAS

*Defendant:* Direction de contrôle fiscal Ouest

**Question referred**

Does Article 5 of the Sixth Council Directive 77/388/EEC of 17 May 1977 <sup>(1)</sup> allow a Member State to maintain in force or establish a provision imposing value added tax on the supply

by a taxable person to itself of property for the use of its business, although that supply gives rise to a right to deduct the value added tax thereby levied immediately and in full?

<sup>(1)</sup> Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

**Reference for a preliminary ruling from the Juzgado de lo Mercantil No 1 de Alicante (Spain) lodged on 11 October 2010 — Celaya Empananza y Galdos Internacional S.A. v Proyectos Integrales de Balizamientos S.L.**

(Case C-488/10)

(2010/C 346/56)

*Language of the case: Spanish*

**Referring court**

Juzgado de lo Mercantil

**Parties to the main proceedings**

*Applicant:* Celaya Empananza y Galdos Internacional S.A.

*Defendant:* Proyectos Integrales de Balizamientos S.L.

**Questions referred**

1. In proceedings for infringement of the exclusive right conferred by a registered Community design, does the right to prevent the use thereof by third parties provided for in Article 19(1) of Council Regulation (EC) No 6/2002 <sup>(1)</sup> of 12 December 2001 on Community designs extend to any third party who uses another design that does not produce on informed users a different overall impression or, on the contrary, is a third party who uses a subsequent Community design registered in his name excluded until such time as that design is declared invalid?
2. Is the answer to the first question unconnected with the intention of the third party or does it depend on his conduct, a decisive point being whether the third party applied for and registered the later Community design after receiving an extra-judicial demand from the proprietor of the earlier Community design calling on him to cease marketing the product on the ground that it infringes rights deriving from that earlier design?

<sup>(1)</sup> OJ 2002 L 3, p. 1