

Order of the Court of 14 May 2012 — Sepracor Pharmaceuticals (Ireland) Ltd v European Commission

(Case C-477/11 P) ⁽¹⁾

(Appeals — Regulation (EC) No 726/2004 — Medicinal products for human use — Active substance ‘eszopiclone’ — Marketing authorisation — Procedure — Statement of position by the Commission — Status of ‘new active substance’ — Concept of ‘actionable measure’)

(2012/C 303/10)

Language of the case: English

Parties

Appellant: Sepracor Pharmaceuticals (Ireland) Ltd (represented by: I. Dodds-Smith, solicitor, D. Anderson QC, and J. Stratford, barrister)

Other party to the proceedings: European Commission (represented by: M. Wilderspin and M. Šimerdová, acting as Agents)

Re:

Appeal brought against the order of the General Court (Fourth Chamber) of 4 July 2011 in Case T-275/09 P *Sepracor Pharmaceuticals v Commission*, dismissing as inadmissible an application for the annulment of the Commission’s decision of 6 May 2009 finding, in the context of the procedure for granting marketing authorisation for the medicinal product ‘Lunivia’, produced by the appellant, that the active substance ‘eszopiclone’, which it contains, does not constitute a new active substance within the meaning of Article 3(2)(a) of Regulation (EC) No 726/2004 of the European Parliament and of the Council (OJ 2004 L 136, p. 1) — Concept of actionable measure

Operative part of the order

1. *The appeal is dismissed.*
2. *Sepracor Pharmaceuticals Ltd is ordered to pay the costs.*

⁽¹⁾ OJ C 347, 26.11.2011.

Order of the Court (Eighth Chamber) of 10 July 2012 — Rügen Fisch AG v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Schwaaner Fischwaren GmbH

(Case C-582/11 P) ⁽¹⁾

(Appeal — Regulation (EC) No 40/94 — Article 7(1) and (2) — Community trade mark — Word mark SCOMBER MIX — Absolute ground for invalidity — Descriptive character)

(2012/C 303/11)

Language of the case: German

Parties

Appellant: Rügen Fisch AG (represented by: O. Spuhler and M. Geitz, Rechtsanwälte)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, Agent), Schwaaner Fischwaren GmbH (represented by: A. Jaeger-Lenz and T. Bösling, Rechtsanwälte)

Re:

Appeal brought against the judgment of the General Court (Third Chamber) of 21 September 2011 in Case T-201/09 *Rügen Fisch v OHIM*, by which the General Court dismissed the appellant’s action against the decision of the Fourth Board of Appeal of OHIM of 20 March 2009 (Case R 230/2007-4), relating to invalidity proceedings between Rügen Fisch AG and Schwaaner Fischwaren GmbH — Breach of Articles 7(1)(c) and 51(1)(a) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1) — Descriptive character of the word sign SCOMBER MIX

Operative part of the order

1. *The appeal is dismissed;*
2. *Rügen Fisch AG is ordered to pay the costs.*

⁽¹⁾ OJ C 25, 28.1.2012.

Order of the Court (Fifth Chamber) of 28 June 2012 — TofuTown.com GmbH; other parties to the proceedings: Meica Ammerländische Fleischwarenfabrik Fritz Meinen GmbH & Co. KG, Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-599/11 P) ⁽¹⁾

(Appeal — Article 119 of the Rules of Procedure — Community trade mark — Application for registration of the word sign ‘TOFUKING’ — Opposition by the proprietor of the trade mark Curry King — Regulation (EC) No 207/2009 — Article 8(1)(b) — Likelihood of confusion — Degree of similarity)

(2012/C 303/12)

Language of the case: German

Parties

Appellant: TofuTown.com GmbH (represented by: B. Krause, Rechtsanwältin)

Other parties to the proceedings: Meica Ammerländische Fleischwarenfabrik Fritz Meinen GmbH & Co. KG (represented by: S. Russlies, Rechtsanwalt), Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, Agent)

Re:

Appeal against the judgment of the General Court (Second Chamber) of 20 September 2011 in Case T-99/10 *Meica v OHIM — TofuTown.com (TOFUKING)*, in which the General Court annulled the decision of the Fourth Board of Appeal of OHIM of 7 January 2010 (Case R 63/2009-4) concerning opposition proceedings between Meica Ammerländische Fleischwarenfabrik Fritz Meinen GmbH & Co. KG and TofuTown.com GmbH — Likelihood of confusion

Operative part of the order

The Court:

1. Dismisses the appeal;
2. Orders TofuTown.com GmbH to bear its own costs and to pay the costs incurred by Meica Ammerländische Fleischwarenfabrik Fritz Meinen GmbH & Co. KG;
3. Orders the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) to bear its own costs.

⁽¹⁾ OJ C 133, 5.5.2012.

Order of the Court (Seventh Chamber) of 6 July 2012 (reference for a preliminary ruling from the Gyulai Törvényszék — Hungary) — HERMES Hítel és Faktor Zrt v Nemzeti Földalapkezelő Szervezet

(Case C-16/12) ⁽¹⁾

(Reference for a preliminary ruling — General principles of European Union law — Forestry Act — Lack of connection to European Union law — Clear lack of jurisdiction of the Court)

(2012/C 303/13)

Language of the case: Hungarian

Referring court

Gyulai Törvényszék

Parties to the main proceedings

Applicant: HERMES Hítel és Faktor Zrt

Defendant: Nemzeti Földalapkezelő Szervezet

Re:

Reference for a preliminary ruling — Gyulai Törvényszék — Interpretation of the general principles of European Union law — Mortgage loan contract concluded between a financial establishment and a public body — Legislative amendment declaring

non-transferable certain forested areas which were previously traded — Amendment preventing public auction of the property mortgaged following legal proceedings brought by a creditor for non-performance of the contract by the debtor

Operative part of the order

The Court of Justice of the European Union clearly has no jurisdiction to answer the questions referred by the Gyulai Törvényszék (Hungary), by decision of 4 January 2012

⁽¹⁾ OJ C 126, 28.4.2012.

Order of the Court of 4 July 2012 — Gino Trevisanato v European Commission

(Case C-25/12 P) ⁽¹⁾

(Appeal — Article 119 of the Rules of Procedure — Application seeking an order that the Commission take a position concerning the interpretation and the transposition of a directive — Manifest inadmissibility)

(2012/C 303/14)

Language of the case: Italian

Parties

Appellant: Gino Trevisanato (represented by L. Sulpharo, lawyer)

Other party to the proceedings: Commission

Re:

Appeal against the Order of the General Court (Seventh Chamber) of 13 December 2011 in Case T-510/11 *Trevisanato v Commission*, in which the General Court dismissed an action seeking an order that the Commission take a position on the complaint lodged by the applicant — Failure by the Commission to adopt a binding opinion on the scope of Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies — (OJ 1998 L 225, p. 16) — Manifest lack of jurisdiction of the General Court — Conditions for application of Article 111 of the Rules and Procedures of the General Court

Operative part of the order

1. The appeal is dismissed.
2. Mr Trevisanato is ordered to bear his own costs.

⁽¹⁾ OJ C 65, 3.3.2012.