

Operative part of the judgment

In circumstances such as those in the main proceedings, where, on the basis of a patent protecting an innovative active ingredient and a marketing authorisation for a medicinal product containing that ingredient as the single active ingredient, the holder of that patent has already obtained a supplementary protection certificate for that active ingredient entitling him to oppose the use of that active ingredient, either alone or in combination with other active ingredients, Article 3(c) of 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 must be interpreted as precluding that patent holder from obtaining — on the basis of that same patent but a subsequent marketing authorisation for a different medicinal product containing that active ingredient in conjunction with another active ingredient which is not protected as such by the patent — a second supplementary protection certificate relating to that combination of active ingredients.

⁽¹⁾ OJ C 389, 15.12.2012.

Judgment of the Court (First Chamber) of 12 December 2013 — Rivella International AG v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) and Baskaya di Baskaya Alim e C. Sas

(Case C-445/12 P) ⁽¹⁾

(Appeal — Community trade mark — Figurative mark containing the word element ‘BASKAYA’ — Opposition — Bilateral convention — Territory of a non-Member State — ‘Genuine use’)

(2014/C 52/31)

Language of the case: German

Parties

Appellant: Rivella International AG (represented by: C. Spintig, Rechtsanwalt)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: G. Schneider, Agent), Baskaya di Baskaya Alim e C. Sas

Re:

Appeal against the judgment of 12 July 2012 in Case T-170/11 *Rivella International v OHIM — Baskaya di Baskaya Alim (BASKAYA)* by which the General Court (Sixth Chamber) dismissed the action brought against the decision of the Fourth Board of Appeal of OHIM of 10 January 2011 (Case R 534/2010-4) relating to opposition proceedings between Rivella International AG and Baskaya di Baskaya Alim e C. Sas — Likelihood of confusion between a figurative sign containing the word element ‘BASKAYA’ and an earlier international figurative mark containing the word element ‘Passaia’ — Infringement of Article 42(2) and (3) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1) — Error of assessment in examining the opposition.

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Rivella International AG to pay the costs.

⁽¹⁾ OJ C 366, 24.11.12

Judgment of the Court (Third Chamber) of 19 December 2013 (request for a preliminary ruling from the Landgericht Krefeld — Germany) — Nipponkoa Insurance Co. (Europe) Ltd v Inter-Zuid Transport BV

(Case C-452/12) ⁽¹⁾

(Judicial cooperation in civil and commercial matters — Regulation (EC) No 44/2001 — Articles 27, 33 and 71 — Lis pendens — Recognition and enforcement of judgments — Convention on the Contract for the International Carriage of Goods by Road (CMR) — Article 31(2) — Rules for coexistence — Action for indemnity — Action for a negative declaration — Negative declaratory judgment)

(2014/C 52/32)

Language of the case: German

Referring court

Landgericht Krefeld

Parties to the main proceedings

Applicant: Nipponkoa Insurance Co. (Europe) Ltd

Defendant: Inter-Zuid Transport BV

Intervener: DTC Surhuisterveen BV

Re:

Request for a preliminary ruling — Landgericht Krefeld — Interpretation of Articles 27 and 71 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (‘Brussels I’) (OJ 2001 L 12, p. 1) — Relationship with the Convention on the Contract for the International Carriage of Goods by Road (CMR) — Rules on inter-relationship — *Lis pendens* — Duty to interpret Article 31(2) of the CMR in the light of Article 27 of the Brussels I Regulation — Relationship between an action for damages by the sender of the goods or the consignee thereof and a declaratory action by the carrier seeking a declaration that he is not liable for the damage or, if he is liable, that his liability is limited to a maximum amount (‘action for a negative declaration’).