

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Yoshida Metal Industry Co. Ltd to pay the costs.

⁽¹⁾ OJ C 389, 23.11.2015.

Judgment of the Court (Third Chamber) of 17 May 2017 — European Union Intellectual Property Office v Deluxe Entertainment Services Group Inc.

(Case C-437/15 P) ⁽¹⁾

(Appeal — EU trade mark — Figurative mark containing the word element ‘deluxe’ — Refusal of registration by the examiner)

(2017/C 239/07)

Language of the case: Spanish

Parties

Appellant: European Union Intellectual Property Office (represented by: S. Palmero Cabezas, Agent)

Other party to the proceedings: Deluxe Entertainment Services Group Inc. (represented by: L. Gellman, advocate, and M. Esteve Sanz, abogada)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 4 June 2015, *Deluxe Laboratories v OHIM (deluxe)* (T-222/14, not published, EU:T:2015:364);
2. Refers the case back to the General Court of the European Union;
3. Reserves the costs.

⁽¹⁾ OJ C 346, 19.10.2015.

Judgment of the Court (Second Chamber) of 18 May 2017 (request for a preliminary ruling from the Oberlandesgericht Düsseldorf — Germany) — Hummel Holding A/S v Nike Inc., Nike Retail BV

(Case C-617/15) ⁽¹⁾

(Reference for a preliminary ruling — Intellectual property — Regulation (EC) No 207/2009 — EU trade mark — Article 97(1) — International jurisdiction — Action for infringement brought against an undertaking with its seat in a third country — Second-tier subsidiary with its seat in the Member State of the court seised — Definition of ‘establishment’)

(2017/C 239/08)

Language of the case: German

Referring court

Oberlandesgericht Düsseldorf

Parties to the main proceedings

Applicant: Hummel Holding A/S

Defendant: Nike Inc., Nike Retail BV

Operative part of the judgment

Article 97(1) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the European Union trade mark must be interpreted as meaning that a legally distinct second-tier subsidiary, with its seat in a Member State, of a parent body that has no seat in the European Union is an ‘establishment’, within the meaning of that provision, of that parent body if the subsidiary is a centre of operations which, in the Member State where it is located, has a certain real and stable presence from which commercial activity is pursued, and has the appearance of permanency to the outside world, such as an extension of the parent body.

⁽¹⁾ OJ C 38, 1.2.2016.

Judgment of the Court (Ninth Chamber) of 18 May 2017 (request for a preliminary ruling from the Vilniaus apygardos administracinis teismas — Lithuania) — ‘Litdana’ UAB v Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos

(Case C-624/15) ⁽¹⁾

(Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 314 — Margin scheme — Conditions under which it is applicable — Refusal by the national tax authorities to grant a taxable person the right to apply the margin scheme — References on the invoices relating both to the application of the margin scheme by the supplier and to exemption from VAT — Margin scheme not applied by the supplier to the supply — Indications giving grounds for suspecting an infringement or fraud in the supply)

(2017/C 239/09)

Language of the case: Lithuanian

Referring court

Vilniaus apygardos administracinis teismas

Parties to the main proceedings

Applicant: ‘Litdana’ UAB

Defendant: Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos

Third party: Klaipėdos apskrities valstybinė mokesčių inspekcija

Operative part of the judgment

Article 314 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010, must be interpreted as precluding the competent authorities of a Member State from denying a taxable person the right to apply the margin scheme where he received an invoice that includes references relating both to the margin scheme and to exemption from value added tax (VAT), even if it is apparent from a subsequent check carried out by those authorities that the taxable dealer supplying the second-hand goods had not actually applied that scheme to the supply of those goods, unless it is established by the competent authorities that the taxable person did not act in good faith or did not take every reasonable measure in his power to satisfy himself that the transaction carried out by him does not result in his participation in tax evasion — a matter which it is for the referring court to determine.

⁽¹⁾ OJ C 48, 8.2.2016.