

Judgment of the Court (Fourth Chamber) of 11 October 2017 — European Union Intellectual Property Office (EUIPO) v Cactus SA, Isabel Del Rio Rodríguez

(Case C-501/15 P) ⁽¹⁾

(Appeal — EU trade mark — Regulation (EC) No 207/2009 — Figurative mark containing the word elements ‘CACTUS OF PEACE CACTUS DE LA PAZ’ — Opposition by the proprietor of word and figurative EU trade marks containing the word element ‘Cactus’ — Nice Classification — Article 28 — Point (a) of the second subparagraph of Article 15(1) of Regulation No 207/2009 — Genuine use of the mark in an abbreviated form)

(2017/C 412/10)

Language of the case: English

Parties

Appellant: European Union Intellectual Property Office (EUIPO) (represented by: A. Folliard-Monguiral, Agent)

Other parties to the proceedings: Cactus SA (represented by: K. Manhaeve, avocate), Isabel Del Rio Rodríguez

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders the European Union Intellectual Property Office (EUIPO) to pay the costs.

⁽¹⁾ OJ C 414, 14.12.2015.

Judgment of the Court (Fifth Chamber) of 12 October 2017 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — X BV v Staatssecretaris van Financiën

(Case C-661/15) ⁽¹⁾

(Reference for a preliminary ruling — Customs union — Community Customs Code — Article 29 — Import of vehicles — Determination of the customs value — Article 78 — Revision of the declaration — Article 236(2) — Repayment of import duties — Period of three years — Regulation (EEC) No 2454/93 — Article 145(2) and (3) — Risk of defects — Period of 12 months — Validity)

(2017/C 412/11)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: X BV

Defendant: Staatssecretaris van Financiën

Operative part of the judgment

1. Article 145(2) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, as amended by Commission Regulation (EC) No 444/2002 of 11 March 2002, read in conjunction with Article 29(1) and (3) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, must be interpreted as meaning that it applies in a case, such as that at issue in the main proceedings, where it is established that, at the time of acceptance of the declaration for entry to free circulation for specific goods, there was a manufacture-related risk that the goods might become defective in use, and in view of this the seller, pursuant to a contractual warranty towards the buyer, grants the latter a price reduction in the form of reimbursement of the costs incurred by the buyer in modifying the goods in order to exclude that risk.
2. Article 145(3) of Regulation No 2454/93, as amended by Regulation No 444/2002, in so far as it provides for a time limit of 12 months from acceptance of the declaration for entry to free circulation of the goods, within which an adjustment of the price actually paid or payable must be made, is invalid.

⁽¹⁾ OJ C 98, 14.3.2016.

Judgment of the Court (Eighth Chamber) of 12 October 2017 (request for a preliminary ruling from the Finanzgericht München — Germany) — Tigers GmbH v Hauptzollamt Landshut

(Case C-156/16) ⁽¹⁾

(Reference for a preliminary ruling — Implementing Regulation (EU) No 412/2013 — Article 1(3) — Community Customs Code — Article 78 — Rule making the application of individual anti-dumping duty rates conditional upon presentation of a valid commercial invoice — Whether a valid commercial invoice may be presented after the customs declaration — Refusal to refund)

(2017/C 412/12)

Language of the case: German

Referring court

Finanzgericht München

Parties to the main proceedings

Applicant: Tigers GmbH

Defendant: Hauptzollamt Landshut

Operative part of the judgment

Article 1(3) of Council Implementing Regulation (EU) No 412/2013 of 13 May 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tableware and kitchenware originating in the People's Republic of China must be interpreted as meaning that it allows the presentation, after the customs declaration has been made, of a valid commercial invoice, for the purposes of fixing a definitive anti-dumping duty, in the case where all the other preconditions necessary for obtaining a company-specific anti-dumping duty rate are satisfied and compliance with the proper application of the anti-dumping duties is ensured, this being a matter for the referring court to verify.

⁽¹⁾ OJ C 211, 13.6.2016.