

Part (c)

The General Court infringed Articles 10, 19 and 36(6) of Regulation No 6/2002 in finding that those articles imply that the holder of a registered design right can prevent third parties not having its consent from using on any sort of product the design which it holds and any design which does not produce on the informed user a different overall impression.

Ground 2

In taking the view that the limits of the review of legality had been exceeded, as it did in the last sentence of paragraph 137 of its judgment, the General Court infringed Article 61 of Regulation No 6/2002.

⁽¹⁾ Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ 2002 L 3, p. 1).

Request for a preliminary ruling from the Commissione Tributaria Regionale di Roma (Italy) lodged on 16 July 2015 — Mercedes Benz Italia SpA v Agenzia delle Entrate Direzione Provinciale Roma 3

(Case C-378/15)

(2015/C 337/05)

Language of the case: Italian

Referring court

Commissione Tributaria Regionale di Roma

Parties to the main proceedings

Applicant: Mercedes Benz Italia SpA

Defendant: Agenzia delle Entrate Direzione Provinciale Roma 3

Question referred

For the purposes of exercising the right of deduction, are national provisions (in particular Articles 19(5) and 19-bis of Decree 633/1972 of the President of the Republic) and the practice of the national tax authorities which require that reference be had to the composition of a trader's turnover, including in order to identify so-called incidental transactions, but make no provision for a method of calculation that is based on [both] the composition and the actual destination of the acquisitions and that objectively reflects the actual share of the expenditure attributable to each of the — taxed and untaxed — activities engaged in by the taxpayer incompatible with an interpretation of Articles 168, 173, 174 and 175 of Directive 2006/112/EC ⁽¹⁾ which is guided by the principles of proportionality, effectiveness and neutrality, as set out in Community law?

⁽¹⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).
