

Parties to the main proceedings

Applicants: W. and V.

Defendant: X.

Question referred

On the basis of Articles 8 to 14 of Council Regulation (EC) No 2201/2003⁽¹⁾ of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, which Member State — that is to say, the Republic of Lithuania or the Kingdom of the Netherlands — has jurisdiction to deal with the case concerning the changes to the place of residence, to the child maintenance amount and to the applicable contact arrangements in respect of the minor child, V., who is habitually resident in the Kingdom of the Netherlands?

⁽¹⁾ OJ 2003 L 338, p. 1.

Appeal brought on 22 September 2015 by Office for Harmonisation in the Internal Market (Trade Marks and Designs) against the judgment of the General Court (First Chamber) delivered on 15 July 2015 in Case T-24/13: Cactus S.A. v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-501/15 P)

(2015/C 414/22)

Language of the case: English

Parties

Appellant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, agent)

Other party to the proceedings: Cactus S.A.

Form of order sought

The appellant claims that the Court should:

- Uphold the Appeal in its entirety
- Annul the Contested Judgment
- Order Cactus S.A. to pay the costs incurred by the Office.

Pleas in law and main arguments

According to the 'IP Translator' Judgment, the designation of a class heading may cover all the goods or services included in the alphabetical list of this class. However such a designation cannot amount to a claim to the totality of all goods and services of a particular class. The General Court misapplied the 'IP Translator' Judgment and violated Article 28 CTMR⁽¹⁾ and Rule 2 CTMIR in equating the coverage of the class heading in class 35 with all the services belonging to this class. Since neither the retail services as such nor the services of 'retailing of natural plants and flowers, grains; fresh fruits and vegetables' are included in the alphabetical list of class 35, the earlier Community trademarks are not protected in respect of such services. The requirement to specify the goods or types of goods to which the retail services relate, which applies to all trademarks including to those filed before the 'Praktiker' Judgment, is a further bar to the General Court's conclusion that the abstract designation of the class heading in class 35 extends to retail services in respect of all possible goods.

The finding that use only of the stylised cactus does not alter the distinctive character of the earlier figurative mark, within the meaning of Article 15(1)(a) CTMR, is vitiated by four errors in law. In basing its conclusion only on the semantic concordance between the logo and the word element, the General Court failed to examine to which extent the word element 'Cactus' was distinctive and important in the earlier composite mark. The General Court failed to have regard to the visual and (possible) phonetic differences between the logo and the composite mark, it wrongly based its finding on the prior knowledge that the public in Luxembourg has of the earlier composite mark and it failed to consider the perception of the European public as a whole.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark OJ L 78, p. 1.

Request for a preliminary ruling from the Secretario Judicial of the Juzgado de Violencia sobre la Mujer de Terrassa (Spain) lodged on 23 September 2015 — Ramón Margarit Panicello v Pilar Hernández Martínez

(Case C-503/15)

(2015/C 414/23)

Language of the case: Spanish

Referring court

Secretario Judicial of the Juzgado de Violencia sobre la Mujer de Terrassa

Parties to the main proceedings

Applicant: Ramón Margarit Panicello

Defendant: Pilar Hernández Martínez

Questions referred

1. Are Articles 34, 35, 207(2), 207(3) and 207(4) of Law 1/2000 [on Civil Procedure], which govern the administrative procedure for recovery of unpaid fees ('jura de cuentas'), incompatible with Article 47 of the Charter of Fundamental Rights of the European Union ⁽¹⁾ in that they preclude the possibility of judicial review? If that is the case:

In the context of the procedure provided for in Articles 34 and 35 of Law 1/2000, is a Secretario Judicial a 'court or tribunal' for the purposes of Article 267 of the Treaty on the Functioning of the European Union?

2. Are Articles 34 and 35 of Law 1/2000 incompatible with Articles 6(1) and 7(2) of Directive [93/13/EEC ⁽²⁾] and Articles 6(1)(d), 11 and 12 of Directive 2005/29/EC ⁽³⁾ inasmuch as they preclude any examination *ex officio* of possible unfair terms or unfair commercial practices in contracts concluded between lawyers and natural persons who are acting for purposes which are outside their trade, business or profession?