

Parties to the main proceedings

Applicant: Massachusetts Institute of Technology

Re:

Reference for a preliminary ruling — Bundesgerichtshof — Interpretation of Article 1(b) of Council Regulation (EEC) No 1768/92 of 18 June 1992 concerning the creation of a supplementary protection certificate for medicinal products (OJ 1992 L 182, p. 1) — Concept of ‘combination of active ingredients of a medicinal product’ — Medicinal product composed of an active ingredient and an excipient, which constitutes a necessary form of administration of the active ingredient in order to avoid toxic effect

Operative part of the judgment

Article 1(b) of Council Regulation No 1768/92 of 18 June 1992 concerning the creation of a supplementary protection certificate for medicinal products, in the version resulting from the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded, must be interpreted so as not to include in the concept of ‘combination of active ingredients of a medicinal product’ a combination of two substances, only one of which has therapeutic effects of its own for a specific indication, the other rendering possible a pharmaceutical form of the medicinal product which is necessary for the therapeutic efficacy of the first substance for that indication.

(¹) OJ C 300, 4.12.2004.

Judgment of the Court (First Chamber) of 18 May 2006 (reference for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands)) — Magpar VI BV v Staatssecretaris van Financiën

(Case C-509/04) (¹)

(Indirect taxes on the raising of capital — Directive 69/335/EEC — Article 7(1)(b) and (bb) — Capital duty — Exemption — Requirements — Retention for a period of five years of shares acquired)

(2006/C 165/15)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Magpar VI BV

Defendant: Staatssecretaris van Financiën

Re:

Reference for a preliminary ruling — Hoge Raad der Nederlanden — Interpretation of Article 7(1)(bb) of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital (OJ English Special Edition 1969 (II), p.412), inserted by Council Directive 73/79/EEC of 9 April 1973 varying the field of application of the reduced rate of capital duty provided for in respect of certain company reconstruction operations by Article 7(1)(b) of the Directive concerning indirect taxes on the raising of capital — Shares in a company which are no longer retained by another company following a merger — Five-year period — Disposal of shares

Operative part of the judgment

The Court:

1. Article 7(1)(b) and (bb) of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital, as amended by Council Directive 73/79/EEC of 9 April 1973 and by Council Directive 85/303/EEC of 10 June 1985, must be interpreted as meaning that, where a first capital company, within five years after the acquisition of shares in a second capital company in the course of a share merger that is exempt from capital duty, ceases to hold those shares because the second company has itself merged with a third capital company and has, as a result, ceased to exist, the first company having acquired shares in the third company by way of consideration, the requirement to retain for a period of five years the shares initially acquired, laid down by subparagraph (bb) of the provision in question, is not transferred to the shares the first company holds in the third company.
2. The fact that the second sentence of the second sub-subparagraph of Article 7(1)(bb) of Directive 69/335, as amended by Directives 73/79 and 85/303, refers to a ‘transfer’ of shares held as a result of a transaction that is exempt from capital duty is not relevant to the first question.

(¹) OJ C 31, 05.02.2005.