

**Action brought on 22 October 2007 — Commission of the European Communities v Grand Duchy of Luxembourg**

(Case C-469/07)

(2008/C 8/10)

*Language of the case: French*

**Parties**

*Applicant:* Commission of the European Communities (represented by: H. Kraemer, Agent)

*Defendant:* Grand Duchy of Luxembourg

**Form of order sought**

The Commission of the European Communities claims that the Court should:

- declare that, by failing to communicate the Community design courts to the Commission, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Article 80(2) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs <sup>(1)</sup>;
- order the Grand Duchy of Luxembourg to pay the costs.

**Pleas in law and main arguments**

The Grand Duchy of Luxembourg has not fulfilled the obligation laid down in Article 80(2) of Regulation (EC) No 6/2002, under which each Member State is to communicate to the Commission not later than 6 March 2005 a list of Community design courts, indicating their names and their territorial jurisdiction.

<sup>(1)</sup> OJ 2002 L 3, p. 1.

**Reference for a preliminary ruling from the Hof van beroep te Antwerpen (Belgium) lodged on 29 October 2007 — N.V. Gerlach & Co v Belgische Staat**

(Case C-477/07)

(2008/C 8/11)

*Language of the case: Dutch*

**Referring court**

Hof van beroep te Antwerpen

**Parties to the main proceedings**

*Applicant:* N.V. Gerlach & Co

*Defendant:* Belgische Staat

**Questions referred**

1. Is the entry in the accounts referred to in Article 221(1) of the Community Customs Code (established by Council Regu-

lation (EEC) No 2913/92 of 12 October 1992 <sup>(1)</sup>); hereinafter 'the customs code') the entry in the accounts referred to in Article 217 of the customs code, which consists in the amount of duty being entered by the customs authorities in the accounting records or on any other equivalent medium, and is that entry in the accounts to be distinguished from the inclusion of the amount of duty in the accounts for own resources as referred to in Article 6 of Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources <sup>(2)</sup> (now Article 6 of Council Regulation 1150/2000 (EC, Euratom) of 22 May 2000 implementing Decision 2000/597/EC, Euratom on the system of the Communities' own resources <sup>(3)</sup>)?

2. Is Article 221(1) of the customs code to be understood to mean that notification of the amount of duty by the customs authorities to the debtor in accordance with appropriate procedures can be regarded as the communication of the amount of duty to the debtor as referred to in Article 221(1) of the customs code only if the amount of duty has previously been entered in the accounts by the customs authorities?
3. Is Article 221(1) of the customs code to be understood to mean that, if the debtor is notified of the amount of duty by the customs authorities in accordance with appropriate procedures but without the amount of duty being entered in the accounts prior to the customs authorities' notification, payment of the amount of duty cannot be demanded, as a consequence of which, in order to obtain payment of the amount of duty, the customs authorities must again notify the debtor of the amount of duty in accordance with appropriate procedures after the amount of duty has been entered in the accounts and provided that the entry in the accounts occurs within the applicable limitation period?

<sup>(1)</sup> Regulation establishing the Community Customs Code OJ 1992 L 302, p. 1.

<sup>(2)</sup> OJ 1989 L 155, p. 1.

<sup>(3)</sup> OJ 2000 L 130, p. 1.

**Reference for a preliminary ruling from the Rechtbank 's-Gravenhage (Netherlands) lodged on 2 November 2007 — AHP Manufacturing BV v Bureau voor de Industriële Eigendom, also operating under the name Octrooi Centrum Nederland**

(Case C-482/07)

(2008/C 8/12)

*Language of the case: Dutch*

**Referring court**

Rechtbank 's-Gravenhage

**Parties to the main proceedings**

*Applicant:* AHP Manufacturing BV

*Defendant:* Bureau voor de Industriële Eigendom (Industrial Property Office), also operating under the name Octrooicentrum Nederland (Netherlands Patent Centre)

**Appeal brought on 5 November 2007 by Galileo Lebensmittel GmbH & Co KG against the order of the Court of First Instance (Second Chamber) delivered on 28 August 2007 in Case T-46/06 Galileo Lebensmittel GmbH & Co KG v Commission of the European Communities**

**(Case C-483/07 P)**

(2008/C 8/13)

*Language of the case: German*

**Questions referred**

1. Does Council Regulation (EEC) No 1768/92 of 18 June 1992 concerning the creation of a supplementary protection certificate for medicinal products <sup>(1)</sup>, as subsequently amended, and more specifically Article 3(1)(c) thereof, preclude the grant of a certificate to the holder of a basic patent for a product for which, at the time of the submission of the application for a certificate, one or more certificates have already been granted to one or more holders of one or more other basic patents?
2. Does Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products <sup>(2)</sup>, as subsequently amended, and more specifically recital 17 and the second sentence of Article 3(2) thereof, give rise to a different answer to Question 1?
3. When answering the previous questions, is it relevant whether the last application submitted, like the previous application or applications, is submitted within the period prescribed by Article 7(1) of Regulation (EEC) No 1768/92 or that prescribed by Article 7(2) of Regulation (EEC) No 1768/92?
4. When answering the previous questions, is it relevant whether the period of protection afforded by the grant of a certificate pursuant to Article 13 of Regulation (EEC) No 1768/92 expires at the same time as, or at a later time than, under one or more certificates already granted for the product concerned?
5. When answering the previous questions, is it relevant that Regulation (EEC) No 1768/92 does not specify the period within which the competent authority, as referred to in Article 9(1) of that Regulation, must process the application for a certificate and ultimately grant a certificate, as a result of which a difference in the speed with which the authorities concerned in the Member States process applications may lead to differences between them as to the possibility of a certificate being granted?

<sup>(1)</sup> OJ 1992 L 182, p. 1.

<sup>(2)</sup> OJ 1996 L 198, p. 30.

**Parties**

*Appellant:* Galileo Lebensmittel GmbH & Co KG (represented by: K. Bott, lawyer)

*Other party to the proceedings:* Commission of the European Communities

**Form of order sought by the appellant**

1. Set aside the order of the Second Chamber of the Court of First Instance of the European Communities of 28 August 2007 and
2. Annul the respondent's decision to reserve the Domain galileo.eu;
3. Order the respondent to pay the costs of the appeal proceedings and of the proceedings before the Court of First Instance;
4. Only in the alternative to the orders sought under points 2 and 3 above, refer the case back to the Court of First Instance and order the respondent to pay the costs of the appeal proceedings.

**Pleas in law and main arguments**

The appellant contends in this appeal that there has been an infringement of Community law (second sentence of Article 58(1) of the Court Statute), namely the fourth paragraph of Article 230 EC. According to the appellant, the Court of First Instance committed such a legal infringement by dismissing its action as inadmissible on the basis that the appellant was not 'individually concerned' by the contested decision of the respondent to reserve the domain galileo.eu for itself. The appellant regards itself as individually concerned within the meaning of the case-law of the Court of Justice by the decision of the Commission to reserve the Domain galileo.eu for itself, on the ground of its rights in respect of the German word mark Galileo, on the ground of its legal standing in the registration procedure conferred on it by Commission Regulation 874/2004 and on the basis that the Domain galileo.eu is a marketable economic asset and can only be allocated once.