

Judgment of the Court (Ninth Chamber) of 10 December 2015 — El Corte Inglés, SA v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-603/14 P) ⁽¹⁾

(Appeal — Community trade mark — Application for the word mark *The English Cut* — Opposition by the proprietor of the national and Community word and figurative marks including the word elements ‘El Corte Inglés’ — Regulation (EC) No 207/2009 — Article 8(1)(b) — Likelihood of confusion — Article 8(5) — Risk that the relevant public will make a connection with a trade mark which has a reputation — Degree of similarity required)

(2016/C 048/08)

Language of the case: Spanish

Parties

Appellant: El Corte Inglés, SA (represented by: J. Rivas Zurdo, abogado)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Crespo Carrillo, acting as Agent)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 15 October 2014 in *El Corte Inglés v OHIM — English Cut (The English Cut)* (T-515/12, EU:T:2014:882) in so far as it was held in that judgment that it was apparent from the fact that the degree of similarity between the signs at issue was not sufficient to result in the application of Article 8(1)(b) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark that the conditions for the application of Article 8(5) of that regulation were therefore also not satisfied in the present case;
2. Dismisses the appeal as to the remainder;
3. Refers the case back to the General Court of the European Union;
4. Reserves the costs.

⁽¹⁾ OJ C 107, 30.3.2015.

Judgment of the Court (Seventh Chamber) of 10 December 2015 (request for a preliminary ruling from the Finanzgericht Düsseldorf — Germany) — TSI GmbH v Hauptzollamt Aachen

(Case C-183/15) ⁽¹⁾

(Reference for a preliminary ruling — Common Customs Tariff — Tariff classification — Combined Nomenclature — Sub-heading 9027 10 10 — Ultraviolet aerodynamic particle sizer spectrometers — Handheld particle counters)

(2016/C 048/09)

Language of the case: German

Referring court

Finanzgericht Düsseldorf

Parties to the main proceedings

Applicant: TSI GmbH

Defendant: Hauptzollamt Aachen

Operative part of the judgment

The Combined Nomenclature in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 1031/2008 of 19 September 2008 must be interpreted as meaning that ultraviolet aerodynamic particle sizer spectrometers and handheld particle counters, such as those at issue in the main proceedings, do not fall under subheading 9027 10 10 thereof.

⁽¹⁾ OJ C 254, 3.8.2015.

Appeal brought on 24 April 2015 by Fetim BV against the judgment of the General Court (Third Chamber) delivered on 11 February 2015 in Case T-395/12: Fetim v OHIM

(Case C-190/15 P)

(2016/C 048/10)

Language of the case: English

Parties

Appellant: Fetim BV (represented by: L. Bakers, advocaat)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

By order of 19 November 2015 the Court of Justice (Sixth Chamber) held that the appeal was inadmissible.

Appeal brought on 14 April 2015 by Sun Mark Ltd and Bulldog Energy Drink Ltd against the judgment of the General Court (Eighth Chamber) delivered on 5 February 2015 in Case T-78/13: Red Bull v OHIM

(Case C-206/15 P)

(2016/C 048/11)

Language of the case: English

Parties

Appellants: Sun Mark Ltd and Bulldog Energy Drink Ltd (represented by: A. Meskarian, Solicitor, S. Zaiwalla, Solicitor, T. Sampson, Barrister)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

By order of 24 November 2015 the Court of Justice (Tenth Chamber) held that the appeal is inadmissible.
