

2. In the event that the first question is answered in the negative: may the exclusive licensee of a Community design, with the consent of the right holder, bring an action on its own claiming damages for its own loss under Article 32(3) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs or can the licensee only intervene in an action brought by the right holder for an infringement of its Community design under Article 32(4) of that regulation?

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

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**Request for a preliminary ruling from the Tribunal de première instance francophone de Bruxelles (Belgium) lodged on 30 July 2015 — Criminal proceedings against U (\*)**

(Case C-420/15)

(2015/C 346/10)

*Language of the case: French*

**Referring court**

Tribunal de première instance francophone de Bruxelles

**Party to the main proceedings**

U (\*)

**Question referred**

Are Articles 2 and 3 of the Royal Decree of 20 July 2001 on the registration of vehicles incompatible with Articles 18, 20, 45, 49 and 56 of the Treaty on the Functioning of the European Union, in that, in order to be driven in Belgium, even if only in order to pass through the country, vehicles belonging to a resident of a Member State of the European Union other than Belgium and registered in that other State must be registered in Belgium, if that person is also a Belgian resident?

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**Appeal brought on 10 August 2015 by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) against the judgment of the General Court (Third Chamber) delivered on 4 June 2015 in Case T-222/14, Deluxe Laboratories v OHIM (Deluxe)**

(Case C-437/15 P)

(2015/C 346/11)

*Language of the case: Spanish*

**Parties**

*Appellant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: S. Palmero Cabezas, acting as Agent)

*Other party to the proceedings:* Deluxe Laboratories, Inc.

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(\*) Information erased within the framework of the protection of individuals with regard to the processing of personal data.

**Form of order sought**

OHIM claims that the Court should:

- annul the judgment under appeal;
  
- order the applicant before the General Court to pay the costs.

**Grounds of appeal and main arguments**

OHIM claims that the judgment under appeal should be annulled since the General Court infringed the first sentence of Article 75 of the CTMR <sup>(1)</sup> in combination with Article 7(1)(b) and (2) of the CTMR, for reasons which may be summarised as follows:

1. The General Court erred in excluding the possibility of a general statement of reasons for various products and services when the perception of the sign in respect of each of them is uniform and, consequently, the reasoning applicable in respect of each of them is invariable.
  
2. To require OHIM to repeat systematically the same reasoning for each of the products or services, or uniform categories of products or services, amounts to making the duty to state reasons a purely formal obligation.
  
3. The Board of Appeal expressly identified the reasons for which the sign, in relation to any of the products and services in question, would be perceived solely as an indication of the superior quality of that product or service.
  
4. It is sufficient that the products and services have a common feature in order to make possible a statement of reasons in respect of all of them, if the sign lacks distinctive character as a result of that feature. In the present case, that common feature is that each of the products and services in question, without exception, are capable of being of high or low quality, with the result that the indication of superior quality is perceived in respect of each and every one of them as a mere selling point.
  
5. The General Court erred in its interpretation of the concept established in the case-law of a 'sufficiently uniform' category of products or services, leading it to limit unduly the criteria for assessing that concept. In the present case, the common feature identified by the Board of Appeal supports the finding that the products and services in question form a sufficiently uniform category which permits a general statement of reasons.
  
6. The judgment under appeal is not in accordance with the existing case-law, in particular with the order of 11 December 2014 in *FTI Touristik GmbH v OHIM (BigXtra)*, C-253/14 P, EU:C:2014:2445.

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