

2. Does the expression '[application] within the limits of the protection conferred by the basic patent' within the meaning of the judgment [of the Court of Justice] of 19 July 2012, *Neurim* (C-130/11, [EU:C:2012:489]), mean that the scope of the basic patent must be the same as that of the marketing authorisation relied upon and, therefore, be limited to the new medical use corresponding to the therapeutic indication of that marketing authorisation?

⁽¹⁾ Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (OJ 2009 L 152, p. 1).

**Reference for a preliminary ruling from the First-tier Tribunal (Tax Chamber) (United Kingdom)
made on 5 November 2018 — *Amoena Ltd v Commissioners for Her Majesty's Revenue and Customs***

(Case C-677/18)

(2019/C 25/31)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Applicant: Amoena Ltd

Defendant: Commissioners for Her Majesty's Revenue and Customs

Questions referred

1. Was the CCC ⁽¹⁾ and/or the European Commission manifestly wrong to classify the MBs ⁽²⁾:
 - a) under Chapter 62 of the Combined Nomenclature ⁽³⁾ of the European Union with tariff heading 6212, which specifically includes 'Brassieres', and CN code 6212 10 90;

instead of
 - b) Chapter 90 with tariff heading 9021 and CN Code 9021 10 10 as accessories to artificial parts of the body within the meaning of Note 2(b) to Chapter 90 of the CN?
2. Does the CIR ⁽⁴⁾ illegitimately narrow the scope of the classification for accessories for artificial body parts under tariff heading 9021 and Note 2(b) to Chapter 90 of the CN, thereby making it ultra vires the European Commission's powers?
3. Does the CIR constitute a breach of the principal of sincere co-operation set out in Article 4(3) of the Treaty on European Union in circumstances where:
 - a) the European Commission must respect the decisions of national courts, but must also promote the uniform (and correct) application of the Customs Code and CN;
 - b) the United Kingdom Supreme Court came to the unanimous conclusion that the MBs are properly to be classified under Chapter 90 of the CN with tariff heading 9021; and

- c) the Supreme Court's decision was put before the European Commission and submitted by it to all EU Member States along with a summary of the Supreme Court's reasoning?

⁽¹⁾ Customs Code Committee (CCC).

⁽²⁾ Mastectomy bras (MBs).

⁽³⁾ CN.

⁽⁴⁾ Commission Implementing Regulation (EU) 2017/1167 of 26 June 2017 concerning the classification of certain goods in the Combined Nomenclature Commission Implementing Regulation (OJ 2017, L 170, p. 50) (CIR).

**Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on
5 November 2018 — Procureur-Generaal bij de Hoge Raad der Nederlanden**

(Case C-678/18)

(2019/C 25/32)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Procureur-Generaal bij de Hoge Raad der Nederlanden

Question referred

Must Article 90(1) of Regulation No 6/2002 ⁽¹⁾ be interpreted as requiring the mandatory granting, to all courts and tribunals of a Member State referred to therein, of jurisdiction to grant provisional and protective measures, or does it leave the Member States — in full or in part — free to delegate jurisdiction to grant such measures exclusively to the courts and tribunals which, in accordance with Article 80(1) of Regulation No 6/2002, have been designated as courts (of first and second instance) for Community design?

⁽¹⁾ Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ 2002 L 3, pp 1-24).

**Request for a preliminary ruling from the Okresní soud v Ostravě (Czech Republic) lodged on
5 November 2018 — OPR-Finance s.r.o. v GK**

(Case C-679/18)

(2019/C 25/33)

Language of the case: Czech

Referring court

Okresní soud v Ostravě

Parties to the main proceedings

Applicant: OPR-Finance s.r.o.

Defendant: GK