Parties to the main proceedings

Applicant: Securitas — Serviços e Tecnologia de Segurança SA

Defendants: ICTS Portugal — Consultadoria de Aviação Comercial SA, Arthur George Resendes and Others

Operative part of the judgment

1. *Article 1(1)(a) of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses must be interpreted as meaning that, where a contracting entity has terminated the contract concluded with one undertaking for the provision of security guard services at its facilities, then concluded a new contract for the supply of those services with another undertaking, which refuses to take on the employees of the first undertaking, that situation falls within the concept of a 'transfer of an undertaking [or] business' within the meaning of that provision, when the equipment essential to the performance of those services has been taken over by the second undertaking;*

2. *Article 1(1) of Directive 2001/23 must be interpreted as precluding a provision of national law, such as that at issue in the main proceedings, which provides that the loss of a customer by an operator following the award of a service contract to another operator does not fall within the concept of a 'transfer of an undertaking [or] business' within the meaning of Article 1(1).*

([1]) OJ C 211, 13.6.2016.

Judgment of the Court (Second Chamber) of 19 October 2017 (request for a preliminary ruling from the Landgericht Hamburg — Germany) — Merck KGaA v Merck & Co. Inc., Merck Sharp & Dohme Corp., MSD Sharp & Dohme GmbH

(Case C-231/16) ([1])

(Reference for a preliminary ruling — Regulation (EC) No 207/2009 — EU trade mark — Article 109 (1) — Civil actions on the basis of EU trade marks and national trade marks — Lis pendens — Meaning of 'same cause of action' — Use of the name 'Merck' on the internet in domain names and on social media platforms — One action based on a national trade mark followed by another based on an EU trade mark — Disclaimer of jurisdiction — Scope)

(2017/C 424/08)

Language of the case: German

Referring court

Landgericht Hamburg

Parties to the main proceedings

Applicant: Merck KGaA

Defendants: Merck & Co. Inc., Merck Sharp & Dohme Corp., MSD Sharp & Dohme GmbH

Operative part of the judgment

1. *Article 109(1)(a) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the European Union trade mark must be interpreted as meaning that the condition laid down in that provision as to the existence of the 'same cause of action' is satisfied where actions for infringement between the same parties, on the basis of a national trade mark and an EU trade mark respectively, are brought before the courts of different Member States, only in so far as those actions relate to an alleged infringement of a national trade mark and an identical EU trade mark in the territory of the same Member States;*

2. *Article 109(1)(a) of Regulation No 207/2009 must be interpreted as meaning that, where actions for infringement, the first on the basis of a national trade mark concerning an alleged infringement within the territory of a Member State and the second on the basis of an EU trade mark concerning an alleged infringement in the entire territory of the European Union, are brought before the courts of different Member States between the same parties, the court other than the court first seised must decline jurisdiction in respect of the part of the dispute relating to the territory of the Member State referred to in the action for infringement brought before the court first seised;*

3. *Article 109(1)(a) of Regulation No 207/2009 must be interpreted as meaning that the condition laid down in that provision as to the existence of the 'same cause of action' is no longer satisfied where, following a partial withdrawal by an applicant, provided that it was properly declared, of an action for infringement on the basis of an EU trade mark seeking initially to prohibit the use of that trade mark in the territory of the European Union, such a withdrawal concerning the Member State referred to in the action brought before the court first seised, on the basis of a national trade mark seeking to prohibit the use of that trade mark within the territory of that Member State, the actions in question no longer relate to an alleged infringement of a national trade mark and an identical EU trade mark in the territory of the same Member States;*

4. *Article 109(1)(a) of Regulation No 207/2009 must be interpreted as meaning that, where the trade marks are identical, the court other than the court first seised must decline jurisdiction in favour of the court first seised only in so far as those trade marks are valid for identical goods or service.*

([1]) OJ C 279, 1.8.2016.

Judgment of the Court (Fourth Chamber) of 19 October 2017 (request for a preliminary ruling from the Raad van State — Netherlands) — Vereniging Hoekschewaards Landschap v Staatssecretaris van Economische Zaken

(Case C-281/16) ([1])

(Reference for a preliminary ruling — Directive 92/43/EEC — Conservation of natural habitats and of wild fauna and flora — Implementing Decision (EU) 2015/72 — List of sites of Community importance for the Atlantic biogeographical region — Reduction of the size of a site — Scientific error — Validity)

(2017/C 424/09)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicant: Vereniging Hoekschewaards Landschap

Defendant: Staatssecretaris van Economische Zaken

Operative part of the judgment

Commission Implementing Decision (EU) 2015/72 of 3 December 2014 adopting an eighth update of the list of sites of Community importance for the Atlantic biogeographical region is invalid, in so far as, by that decision, the Haringvliet site (NL 1000015) was placed on that list without the inclusion of the Leenheerenpolder.

([1]) OJ C 279, 1.8.2016.