

— as far as the effects of the annulment are concerned, misapplied Article 264(2) TFEU by drawing a distinction between Article 52(2)a — second subparagraph — of former Regulation No. 1580/2007 and Article 50(3) of Regulation No. 543/2011, on the one hand, and Article 60(7) of Regulation No. 543/2011 on the other, and by delivering a judgment that is impossible to execute with reference to Article 60(7) of Regulation No. 543/2011.

— order the Commission to pay all costs and expenses before the Court of Justice.

### Pleas in law and main arguments

The Appellants put forward the following grounds in support of their Appeal:

- (<sup>1</sup>) 543/2011/EU: Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors OJ L 157, p. 1
- (<sup>2</sup>) Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector OJ L 350, p. 1

1. the GC committed an error of law in concluding that the Contested Regulations entailed implementing measures within the meaning of Article 263(4) TFEU;
2. the GC committed an error of law in concluding that Regulation 393/2011 (<sup>1</sup>) was not of individual concern to the Appellants;
3. the GC committed an error of law in rejecting the plea of illegality, as a result of errors (1) and (2) above.

**Appeal brought on 09/08/2013 by T & L Sugars Ltd, Sidul Açúcares, Unipessoal Lda against the judgment of the General Court (Fifth Chamber) delivered on 6 June 2013 in Case T-279/11: T & L Sugars Ltd, Sidul Açúcares, Unipessoal Lda v European Commission**

(Case C-456/13 P)

(2013/C 325/27)

*Language of the case: English*

### Parties

**Appellants:** T & L Sugars Ltd, Sidul Açúcares, Unipessoal Lda (represented by: D. Waelbroeck, avocat, D. Slater, Solicitor)

**Other parties to the proceedings:** European Commission, Council of the European Union, French Republic

### Form of order sought

The appellants claim that the Court should:

- declare the present appeal admissible and well founded;
- set aside the judgment of the General Court of 6 June 2013 in Case T-279/11 ('the Contested Judgment') to the extent it dismisses as inadmissible the Appellants' action for annulment and rejects its related pleas of illegality;
- refer the case back to the General Court for examination of the substance;

As a result, the Appellants request your Court (i) to set aside the Contested Judgment to the extent that it declares inadmissible the Application for Annulment and rejects the plea of illegality; and (ii) refer the case back to the GC.

- (<sup>1</sup>) Commission Implementing Regulation (EU) No 393/2011 of 19 April 2011 fixing the allocation coefficient for the issuing of import licences applied for from 1 to 7 April 2011 for sugar products under certain tariff quotas and suspending submission of applications for such licences OJ L 104, p. 39

**Appeal brought on 16 September 2013 by GRE Grand River Enterprises Deutschland GmbH against the judgment of the General Court (Third Chamber) delivered on 3 July 2013 in Case T-205/12 GRE Grand River Enterprises Deutschland GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)**

(Case C-494/13 P)

(2013/C 325/28)

*Language of the case: German*

### Parties

**Appellant:** GRE Grand River Enterprises Deutschland GmbH (represented by: I. Memmler and S. Schulz, Rechtsanwältinnen)

**Other parties to the proceedings:** Office for Harmonisation in the Internal Market (Trade Marks and Designs), Villiger Söhne GmbH

### Form of order sought

The appellant claims that the Court should:

— Set aside the judgment of the General Court of 3 July 2013 in Case T-205/12 and annul the decision of the First Board of Appeal of OHIM of 1 March 2012 in Case R 387/2011-1;

— Order the defendant to bear the costs.

### Pleas in law and main arguments

The appellant puts forward a single plea in law, namely misinterpretation and misapplication of Article 8(1)(b) of Regulation (EC) 207/2009. <sup>(1)</sup>

In support of that plea, the appellant alleges that:

The General Court misinterpreted the term ‘identity of the goods’ because it equated the goods ‘cigars’ with the generic term ‘tobacco products’. By so doing, the General Court unduly extended the scope of the opposing mark.

The General Court misinterpreted the term ‘similarity of the goods’ because in assessing the similarity of the goods it also should not have sweepingly considered the individual goods ‘cigars’ to be similar to the generic term ‘smokers’ articles’.

When comparing the signs, the General Court did not correctly apply the global assessment theory because it sweepingly compared the components ‘LIBERTAD’ and ‘LIBERTE’ and in so doing took no account of all the other components of the marks.

In particular, several other components of the marks at issue have dominant aspects, including the colour combination of the mark at issue and the opposing figurative mark and the ‘LA’ label.

The General Court also misapplied the principles established by the Court of Justice on conceptual similarity since it did not sufficiently take into account the different languages of the marks.

Overall, the General Court thereby came to a wrong conclusion.

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

**Appeal brought on 16 September 2013 by GRE Grand River Enterprises Deutschland GmbH against the judgment of the General Court (Third Chamber) delivered on 3 July 2013 in Case T-206/12 GRE Grand River Enterprises Deutschland GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)**

**(Case C-495/13 P)**

(2013/C 325/29)

*Language of the case: German*

### Parties

**Appellant:** GRE Grand River Enterprises Deutschland GmbH (represented by: I. Memmler and S. Schulz, Rechtsanwältinnen)

**Other parties to the proceedings:** Office for Harmonisation in the Internal Market (Trade Marks and Designs), Villiger Söhne GmbH

### Form of order sought

The appellant claims that the Court should:

— Set aside the judgment of the General Court of 3 July 2013 in Case T-206/12 and annul the decision of the First Board of Appeal of OHIM of 1 March 2012 in Case R 411/2011-1;

— Order the defendant to bear the costs.

### Pleas in law and main arguments

The present appeal is against the judgment of the General Court, by which it dismissed the appellant’s claim for annulment of the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market of 1 March 2012 concerning opposition proceedings between Villiger Söhne GmbH and GRE Grand River Enterprises Deutschland GmbH.

The appellant puts forward a single plea in law, namely misinterpretation and misapplication of Article 8(1)(b) of Regulation (EC) 207/2009. <sup>(1)</sup>

In support of that plea, the appellant alleges that:

The General Court misinterpreted the term ‘identity of the goods’ because it equated the goods ‘cigars’ with the generic term ‘tobacco products’. By so doing, the General Court unduly extended the scope of the opposing mark.