

which rejected in part the opposition filed by the owner of the Community and international figurative marks containing the word element 'Seven' in respect of goods within Classes 3, 9, 12, 14, 15, 16, 18, 20, 25 and 28, against the registration of the word mark 'SEVEN FOR ALL MANKIND' in respect of goods within Classes 14 and 18 — Interpretation and application of Article 8(1)(b) of Regulation No 207/2009 — Factors to be taken into account when assessing the similarity of the signs

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Seven for all mankind LLC to bear its own costs and to pay those incurred by Seven SpA;
3. Orders the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) to bear its own costs.

(¹) OJ C 65, 3.3.2012.

Judgment of the Court (Second Chamber) of 28 February 2013 (request for a preliminary ruling from the Tribunal da Relação de Lisboa — Portugal) — Ordem dos Técnicos Oficiais de Contas v Autoridade da Concorrência

(Case C-1/12) (¹)

(Association of chartered accountants — Rules relating to a system of compulsory training for chartered accountants — Article 101 TFEU — Association of undertakings — Restriction of competition — Justifications — Article 106(2) TFEU)

(2013/C 114/24)

Language of the case: Portuguese

Referring court

Tribunal da Relação de Lisboa

Parties to the main proceedings

Applicant: Ordem dos Técnicos Oficiais de Contas

Defendant: Autoridade da Concorrência

Re:

Request for a preliminary ruling — Tribunal da Relação de Lisboa — Interpretation of Articles 56, 57, 58, 59, 60, 61, 62, 101 and 102 TFEU — Notion of association of undertakings — Association of chartered accountants — Creation of a mandatory training system for members of the association of chartered accountants — Training provided solely by the association of chartered accountants — Freedom of establishment and freedom to provide services.

Operative part of the judgment

1. A regulation such as the Training Credits Regulation (Regulamento da Formação de Créditos), adopted by a professional association such as the Ordem dos Técnicos Oficiais de Contas (Order of Chartered Accountants), must be regarded as a decision of an association of undertakings within the meaning of Article 101(1) TFEU.

The fact that a professional association, such as the Ordem dos Técnicos Oficiais de Contas, is legally required to put into place a system of compulsory training for its members cannot remove from the scope of Article 101 TFEU the rules drawn up by that professional association, insofar as those rules are a matter for it alone.

The fact that those rules do not have any direct effect on the economic activity of the members of that professional association does not affect the application of Article 101 TFEU, where the infringement of which that professional association is accused concerns a market on which it itself carries on an economic activity.

2. A regulation which puts into place a system of compulsory training for chartered accountants in order to guarantee the quality of the services offered by them, such as the Training Credits Regulation, adopted by a professional association such as the Ordem dos Técnicos Oficiais de Contas, constitutes a restriction on competition prohibited by Article 101 TFEU to the extent, which it is for the referring court to ascertain, that it eliminates competition on a substantial part of the relevant market, to the benefit of that professional association, and that it imposes, on the other part of that market, discriminatory conditions to the detriment of competitors of that professional association.

(¹) OJ C 89, 24.3.2012.