European Union

“ONEL/OMEL”

**Council Regulation (EC) No. 207/2009 of 26 February 2009
on the Community Trade Mark, Art. 15(1) – *Leno Merken BV*
*v. Hagelkruis Beheer BV***

**Decision of the European Court of Justice (Second Chamber)
19 December 2012 – Case No. C-149/11**

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1. Article 15(1) of Regulation No 207/2009 of 26 February 2009 on the Community trade mark must be interpreted as meaning that the territorial borders of the Member States should be disregarded in the assessment of whether a trade mark has been put to “genuine use in the Community” within the meaning of the provision.
2. A Community trade mark is put to “genuine use” within the meaning of Article 15(1) of Regulation No 207/2009 when it is used in accordance with its essential function and for the purpose of maintaining or creating market share within the European Community for the goods or services covered by it. It is for the referring court to assess whether the conditions are met in the main proceedings, taking account of all the relevant facts and circumstances, including the characteristics of the market concerned, the nature of the goods or services protected by the trade mark and the territorial extent and the scale of the use as well as its frequency and regularity.

Official headnotes.

Available at <http://curia.europa.eu>.