Court of Justice EU, 14 July 2015, Netto Marken-Discount v Patent Markemant

TRADEMARK LAW

Bringing together services so that the consumer can conveniently compare and purchase them may come within the concept of 'services' ex art. 2 Trade Marks Directive

- **In the light of all the foregoing, the answer to the first question is that the provision of services by an economic operator which consist in bringing together services so that the consumer can conveniently compare and purchase them may come within the concept of 'services' referred to in Article 2 of Directive 2008/95.**

Formulation of trade mark application for service of the bringing together must be clear and precise so as to allow the competent authorities and other economic operators to know which services the applicant intends to bring together

- **Subject to verification by the referring court, that application does not ostensibly specify whether, by citing the entire heading of Class 35 of the Nice Classification, the applicant in the main proceedings seeks protection by that trade mark for the bringing together of all the services included in the alphabetical list of that class or solely of some of those services. In the light of the existence of different approaches within the European Union regarding the way in which the use of a Nice Classification class heading must be understood, an application which does not make it possible to establish whether, by using a particular class heading, the applicant intends to cover all or only some of the goods or services thereof could not be considered sufficiently clear and precise (*Chartered Institute of Patent Attorneys* EU:C:2012:361, paragraphs 58, 59 and 62).**
- **In the light of all the foregoing, the answer to the second question is that Directive 2008/95 must be interpreted as meaning that it requires an application for registration of a trade mark with respect to a service which consists of bringing together services to be formulated with sufficient clarity and precision so as to allow the competent authorities and other economic operators to know which services the applicant intends to bring together.**

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Court of Justice EU, 31 March 2010

(M. Ilešič, C.G. Fernlund, A. Ó Caoimh, C. Toader and E. Jarašiūnas)

JUDGMENT OF THE COURT (Third Chamber)

10 July 2014 (*)

(Reference for a preliminary ruling — Trade marks — Directive 2008/95/EC — Identification of goods or services for which the protection of a trade mark is sought — Requirements of clarity and precision — Nice Classification — Retail trade — Bringing together of services)

In Case C‑420/13,

REQUEST for a preliminary ruling under Article 267 TFEU from the Bundespatentgericht (Germany), made by decision of 8 May 2013, received at the Court on 24 July 2013, in the proceedings

Netto Marken-Discount AG & Co. KG

v

Deutsches Patent- und Markenamt,

THE COURT (Third Chamber),

composed of M. Ilešič (Rapporteur), President of the Chamber, C.G. Fernlund, A. Ó Caoimh, C. Toader and E. Jarašiūnas, Judges,

Advocate General: M. Wathelet,

Registrar: K. Malacek, Administrator,

having regard to the written procedure and further to the hearing on 30 April 2014,

after considering the observations submitted on behalf of:

– Netto Marken-Discount AG & Co. KG, by M. Rauscher, Rechtsanwalt,

– the French Government, by D. Colas and F.-X. Bréchot, acting as Agents,

– the Polish Government, by B. Majczyna, acting as Agent,

– the United Kingdom Government, by J. Beeko, acting as Agent, and by S. Ford, Barrister,

– the European Commission, by F.W. Bulst and E. Montaguti, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 2 of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (OJ 2008 L 299, p. 25; and corrigendum OJ 2009 L 11, p. 86).

2 The request has been made in the course of proceedings between Netto Marken‑Discount AG & Co. KG ('Netto Marken-Discount') and Deutsches Patent- und Markenamt (German Patent and Trade Mark Office: 'the DPMA') concerning the dismissal by the latter of an application to register a trade mark.

Legal context

International law

3 Trade-mark law is governed at international level by the Convention for the Protection of Industrial Property signed in Paris on 20 March 1883, as last revised at Stockholm on 14 July 1967 and amended on 28

September 1979 (*United Nations Treaties Series*, No 11851, vol. 828, p. 305; 'the Paris Convention'). All the Member States of the European Union are signatories to the Convention.

4 Under Article 19 of the Paris Convention, the States to which that convention applies reserve the right to make separately between themselves special agreements for the protection of industrial property.

5 That article served as the basis for the adoption of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, concluded at the Nice Diplomatic Conference on 15 June 1957, last revised in Geneva on 13 May 1977 and amended on 28 September 1979 (*United Nations Treaty Series*, Vol. 1154, No I‑18200, p. 89; 'the Nice Agreement'). Article 1 thereof provides:

'(1) The countries to which this Agreement applies constitute a Special Union and adopt a common classification of goods and services for the purposes of the registration of marks (hereinafter designated as "the [Nice] Classification").

(2) The [Nice] Classification consists of:

(i) a list of classes, together with, as the case may be, explanatory notes;

(ii) an alphabetical list of goods and services ... with an indication of the class into which each of the goods or services falls.

...'

6 Article 2 of the Nice Agreement, headed 'Legal Effect and Use of the [Nice] Classification', is worded as follows:

'(1) Subject to the requirements prescribed by this Agreement, the effect of the [Nice] Classification shall be that attributed to it by each country of the Special Union. In particular, the [Nice] Classification shall not bind the countries of the Special Union in respect of either the evaluation of the extent of the protection afforded to any given mark or the recognition of service marks.

(2) Each of the countries of the Special Union reserves the right to use the [Nice] Classification either as a principal or as a subsidiary system.

(3) The competent Offices of the countries of the Special Union shall include in the official documents and publications relating to registrations of marks the numbers of the classes of the classification to which the goods or services for which the mark is registered belong.

(4) The fact that a term is included in the alphabetical list [of goods and services] in no way affects any rights which might subsist in such a term.'

7 The list of classes in the Nice Classification has included, since its eighth edition entered into force on 1 January 2002, 34 classes of goods and 11 classes of services. Each class is designated by one or more general indications, commonly called 'class headings', which indicate in a general manner the fields to which the goods and services in that class in principle belong.

8 According to the Guidance for the User of the Nice Classification, in order to ascertain the correct classification of each product or service, the alphabetical list of goods and services and the explanatory notes relating to the various classes, should be consulted.

9 In its ninth edition, in force since 1 January 2007 and reproduced in the same form in its tenth edition, in force since 1 January 2012, the Nice Classification includes the following heading for Class 35, which concerns services:

'Advertising; business management; business administration; office functions.'

10 The explanatory note to that class is worded as follows:

'Class 35 includes mainly services provided by persons or organisations principally with the object of:

(1) help in the working or management of a commercial undertaking, or

(2) help in the management of the business affairs or commercial functions of an industrial or commercial enterprise,

as well as services rendered by advertising establishments primarily undertaking communications to the public, declarations or announcements by all means of diffusion and concerning all kinds of goods or services.

This Class includes, in particular:

– the bringing together, for the benefit of others, of a variety of goods (excluding the transport thereof), enabling customers to conveniently view and purchase those goods; such services may be effected by retail stores, wholesale outlets, through mail-order catalogues or by means of electronic media, for example, through websites or television shopping programmes;

– services consisting of the registration, transcription, composition, compilation or systematisation of written communications and registrations, as well as the compilation of mathematical or statistical data;

– services of advertising agencies, and services such as the distribution of prospectuses, directly or through the post, or the distribution of samples. This Class may refer to advertising in connection with other services, such as those concerning bank loans or advertising by radio.

This Class does not include, in particular:

– services such as evaluations and reports of engineers which do not directly refer to the working or management of affairs in a commercial or industrial enterprise (consult the Alphabetical List of Services).'

11 The Alphabetical List of the Nice Classification identifies, inter alia, 'sales (promotion) for others' as belonging to Class 35.

12 The Nice Classification includes the following headings, with respect to Classes 36, 39, 41 and 45 respectively, which also concern services: 'Insurance; financial affairs; monetary affairs; real estate affairs'; *'Transport; packaging and storage of goods; travel arrangement'; 'Education; providing of training; entertainment; sporting and cultural activities', and 'Legal services; security services for the protection of*

property and individuals; personal and social services rendered by others to meet the needs of individuals'.

EU law

13 Recital 13 in the preamble to Directive 2008/95 states:

'All Member States are bound by the [Paris Convention]. It is necessary that the provisions of this Directive should be entirely consistent with those of the said Convention. The obligations of the Member States resulting from that Convention should not be affected by this Directive. …'

14 Article 2 of that directive provides:

'A trade mark may consist of any signs capable of being represented graphically, particularly words, including personal names, designs, letters, numerals, the shape of goods or of their packaging, provided that such signs are capable of distinguishing the goods or services of one undertaking from those of other undertakings.'

15 Article 3(1) of that directive provides:

'(1) The following shall not be registered or if registered shall be liable to be declared invalid:

(a) signs which cannot constitute a trade-mark;

(b) trade-marks which are devoid of any distinctive character;

(c) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, or the time of production of the goods or of rendering of the service, or other characteristics of the goods or services;

(d) trade-marks consisting exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade;

…'

16 The wording of Articles 2 and 3 of Directive 2008/95 corresponds to that of Articles 2 and 3 of Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1), which was repealed and replaced by Directive 2008/95 with effect from 28 November 2008.

German law

17 Paragraph 3(1) of the Law on the protection of trade marks and other distinctive signs (Gesetz über den Schutz von Marken und sonstigen Kennzeichen (Markengesetz)) of 25 October 1994 (BGBl. 1994 I, p. 3082) ('the MarkenG') corresponds, in essence, to Article 2 of Directive 2008/95.

18 Paragraph 32(3) of the MarkenG provides:

'Registration must comply with the other conditions for registration defined in a regulation under Paragraph 65(1)(2).'

19 Paragraph 65(1)(2) of the MarkenG provides:

'The Federal Ministry of Justice is empowered to define, by regulation not requiring the assent of the Bundesrat … other conditions for the registration of trade marks …'

20 Under Paragraph 20(1) of the regulation implementing the MarkenG ('the MarkenV'):

'*The goods and services shall be identified so as to enable each product or service to be classified in a class of the nomenclature established under Paragraph 19(1).'*

21 Paragraph 19(1) of the MarkenV states that *'[t]he classification of goods and services shall take place in accordance with the nomenclature of goods and services included in Annex 1 to this regulation'*. Annex 1 includes Class 35, the wording of which corresponds to that of Class 35 of the Nice Classification.

22 Paragraph 36(4) of the MarkenG provides:

'If other irregularities are not rectified within a period set by [the DPMA], the latter shall reject the application.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

23 On 10 September 2011 Netto Marken-Discount filed with the DPMA, for the purpose of its registration as a trade mark with respect to goods and services within Classes 18, 25, 35 and 36 of the Nice Agreement, the following word and figurative sign:

24 With regard to Class 35, the application for registration stated:

'Class 35: Services in the retail and wholesale trade, particularly the bringing together, for the benefit of others, of a variety of services enabling customers conveniently to purchase those services, particularly services provided by retail stores, wholesale outlets, through mail order catalogues or by means of electronic media, for example websites or television shopping programmes, in relation to the following services: in Class 35: Advertising; business management; business administration; office functions; in Class 36: Issue of vouchers or tokens of value; in Class 39: Travel arrangement; in Class 41: Entertainment; in Class 45: Personal and social services intended to meet the needs of individuals.'

25 By decision of 10 September 2012, the DPMA, on the basis of Paragraph 36(4) of the MarkenG, rejected the application for registration in so far as it was submitted for services in Class 35, on the ground that the condition set out in Paragraph 20(1) of the MarkenV was not satisfied, since the services in that class mentioned in that application could not, in its opinion, be clearly distinguished from other services in either their substance or scope.

26 Netto Marken-Discount brought an action for annulment of that decision before the referring court.

27 The referring court observes that the Court has not yet ruled on the question whether protection by a trade mark may be obtained with respect to retail trade in services. If that is possible, the referring court raises questions concerning the degree of precision with

which the services concerned by that retail trade must be described and the possibility of the protection conferred by a trade mark designating such a retail trade in services being extended also to supplies of services provided by the retailer itself.

28 In those circumstances, the Bundespatentgericht decided to stay the proceedings before it and to refer the following questions to the Court for a preliminary ruling:

'(1) Is Article 2 of [Directive 2008/95] to be interpreted as meaning that a service within the meaning of this provision also encompasses retail trade in services?

(2) If the answer to the first question is in the affirmative:

Is Article 2 of the directive to be interpreted as meaning that the content of the services offered by the retailer must be specified in as much detail as the goods that a retailer markets?

(a) Does it suffice for the purposes of specification of the services if

(i) just the field of services in general or general heading,

(ii) just the class(es) or

(iii) each specific individual service

is indicated?

(b) Do these indications then take part in determining the date of filing or is it possible, where general headings or classes are stated, to make substitutions or additions?

(3) If the answer to the first question is in the affirmative:

Is Article 2 of [Directive 2008/95] to be interpreted as meaning that the scope of trade mark protection afforded to retail services extends even to services provided by the retailer itself?'

Consideration of the questions referred for a preliminary ruling

The first question

29 By its first question, the referring court asks, in essence, whether services provided by a retailer which consist in bringing together services so that the consumer can conveniently compare and purchase them may come within the concept of 'services' referred to in Article 2 of Directive 2008/95.

30 Netto Marken-Discount, the French Government, the United Kingdom Government and the European Commission suggest that that question should be answered in the affirmative, whereas the Polish Government considers that it is unnecessary to categorise retail trade in services as a service.

31 It should be noted at the outset that, to be capable of constituting a trade mark, the subject-matter of the application for registration must, in accordance with Article 2 of Directive 2008/95, satisfy three conditions. First, it must be a sign. Secondly, that sign must be capable of graphic representation. Thirdly, the sign must be capable of distinguishing the 'goods' or 'services' of one undertaking from those of other undertakings (see, concerning Article 2 of Directive 89/104, judgments in ***Libertel*** **C-104/01 EU:C:2003:244**, paragraph 23; ***Heidelberger Bauchemie*** **C-49/02 EU:C:2004:384**, paragraph 22, and ***Dyson*** **C-321/03 EU:C:2007:51**, paragraph 28).

32 In that regard, concerning the concept of 'services', it should be pointed out that that concept has not been defined by the EU legislature and that, in order to avoid the existence of varying requirements for registration of trade marks according to national legislation, it is necessary to supply a uniform interpretation of that concept (see, to that effect, judgment in ***Praktiker Bau- und Heimwerkermärkte*** **C-418/02 EU:C:2005:425**, paragraphs 28 to 33).

33 For the purpose of such an interpretation, the Court has already held, in a case concerning an application for registration of a trade mark brought by a retail trader, that services provided in connection with retail trade of goods can constitute services. The retail trade of goods includes, in addition to the sale itself of those goods, other activities of the retail trader, such as selecting an assortment of goods offered for sale and a variety of services aimed at inducing the consumer to purchase those goods from the trader in question rather than from a competitor (see, to that effect, ***Praktiker Bau- und Heimwerkermärkte*** **EU:C:2005:425**, paragraphs 34, 39 and 52).

34 It is unnecessary to examine whether services can, like goods, be the subject of 'retail trade' in the proper sense of the term, since it is clear, as was pointed out by the governments which submitted observations to the Court and by the Commission, that there are situations in which a trader selects and offers an assortment of third party services so that the consumer can choose amongst those services from a single point of contact.

35 The services rendered by such a trader can consist, in particular, both of activities designed to allow a consumer conveniently to compare and purchase those services and of advertising services.

36 The provision of such bringing together and advertising services can, where appropriate, fall under Class 35 of the Nice Classification, the heading of and explanatory note to which are set out in paragraphs 9 and 10 of this judgment. That possibility is supported by the Alphabetical List of the Nice Classification, which includes 'sales (promotion) for third parties' amongst the services in that class.

37 Those services are covered, in that event, by the concept of 'services' within the meaning of Article 2 of Directive 2008/95. As is set out in recital 13 in its preamble, the provisions of that directive must be entirely consistent with those of the Paris Convention and must not affect the obligations of the Member States under that convention. Since the Nice Agreement was adopted pursuant to that convention, Article 2 of that directive may not be interpreted in a way which excludes from the concept of 'services' referred to by that article supplies of services which are covered by one of the classes of services included in the Nice Classification (see, by analogy, judgment in ***Chartered Institute of Patent Attorneys*** **C-307/10 EU:C:2012:361**, paragraph 52).

38 In this case, it is apparent from the extract from the application quoted in paragraph 24 of this judgment that the registration as a trade mark of the word and figurative sign reproduced in paragraph 23 of this judgment is sought 'particularly' with respect to services which consist in bringing together services offered by third parties. Although Netto Marken-Discount did state at the hearing before the Court that the services brought together by it are all offered by third parties, the word 'particularly' could suggest to the competent authorities that that company does not rule out bringing together services which include, in addition to those offered by other traders, services which it itself provides.

39 However, even though the assortment of services offered by Netto Marken‑Discount could include services provided by itself, that in no way casts doubt on the fact that the supply described in its application for registration, by means of the words '*the bringing together, for the benefit of others, of a variety of services enabling customers conveniently to purchase those services*', is capable of being categorised, for the reasons set out in paragraphs 34 to 37 of this judgment, as a service. At the risk of depriving the applicant in the main proceedings of the possibility of having that sign registered as a trade mark with respect to that bringing together service, its application for registration with respect to Class 35 of the Nice Classification cannot be rejected on the sole ground that the assortment of services which it intends to provide to the consumer could also include services offered by itself.

40 In the light of all the foregoing, the answer to the first question is that the provision of services by an economic operator which consist in bringing together services so that the consumer can conveniently compare and purchase them may come within the concept of 'services' referred to in Article 2 of Directive 2008/95.

The second question

41 By its second question, the referring court asks, in essence, whether Directive 2008/95 must be interpreted as imposing the requirement that an application for registration of a trade mark with respect to a service which consists in bringing together services must identify specifically and precisely both the services rendered which constitute the bringing together service and the services brought together.

42 It must be recalled at the outset that the registration of a mark in a public register has the aim of making it accessible to the competent authorities and to the public, particularly to economic operators (***Heidelberger Bauchemie* EU:C:2004:384**, paragraph 28, and ***Chartered Institute of Patent Attorneys* EU:C:2012:361**, paragraph 46).

43 On the one hand, the competent authorities must know with sufficient clarity and precision the goods and services covered by a mark in order to be able to fulfil their obligations in relation to the prior examination of applications for registration and the publication and maintenance of an adequate and precise register of trade marks. On the other hand, economic operators must be able to acquaint themselves, with clarity and precision, with registrations or applications for registration made by their actual or potential competitors, and thus to obtain relevant information about the rights of third parties (***Chartered Institute of Patent Attorneys* EU:C:2012:361**, paragraphs 47 and 48).

44 Consequently, Directive 2008/95 requires the goods and services for which the protection of the trade mark is sought to be identified by the applicant with sufficient clarity and precision to enable the competent authorities and economic operators, on that basis alone, to determine the extent of the protection sought (***Chartered Institute of Patent Attorneys* EU:C:2012:361**, paragraph 49).

45 In order to comply with that requirement, it is not necessary for the person applying for registration of a mark with respect to a bringing together service to specify in detail each of the activities making up that service (see, to that effect, ***Praktiker Bau- und Heimwerkermärkte* EU:C:2005:425**, paragraph 49, and ***Chartered Institute of Patent Attorneys* EU:C:2012:361**, paragraph 45). A description such as that in the application for registration submitted by Netto Marken-Discount, according to which the service in question relates, particularly, to '*the bringing together, for the benefit of others, of a variety of services enabling customers conveniently to purchase those services, especially services provided by retail stores, wholesale outlets, through mail order catalogues or by means of electronic media, for example websites or television shopping programmes*', allows the competent authorities and economic operators to understand that the application is made in respect of a service which consists in selecting and offering an assortment of services so that the consumer can choose between them from a single point of contact.

46 It is, on the other hand, necessary that the person filing the application for registration of a trade mark with respect to a service of bringing together services should identify the latter with sufficient clarity and precision (see, by analogy, ***Praktiker Bau- und Heimwerkermärkte* EU:C:2005:425**, paragraph 50, and ***Chartered Institute of Patent Attorneys* EU:C:2012:361**, paragraph 45).

47 In the absence of a sufficiently clear and precise identification of the services which the applicant intends to select and offer to the consumer, it could in particular be difficult, if not impossible, for the competent authorities to carry out a full examination of the application. Where those authorities are not able to deduce from the application which services are referred to by the applicant, they cannot properly examine, in particular, whether the sign which is the subject of the application for registration as a trade mark is descriptive of one or more services which the applicant intends to select and offer.

48 In this case, Netto Marken-Discount referred, in order to identify the services it intends to bring together, to Classes 35, 36, 39, 41 and 45 of the Nice

Classification. However, with regard to the majority of those classes, it did no more than use general indications included in the headings thereof.

49 In that regard, it must be observed that some of the general indications in the class headings of the Nice Classification cover goods or services so variable that they are not capable of satisfying the requirement of clarity and precision. It follows that the only cases in which Directive 2008/95 authorises the use without additional description of the general indications in those headings are those in relation to which those general indications are, in themselves, sufficiently clear and precise to allow the competent authorities and economic operators to determine the scope of the protection sought (see ***Chartered Institute of Patent Attorneys* EU:C:2012:361**, paragraphs 54 and 56).

50 It is for the competent authorities to assess whether indications such as 'entertainment' and 'personal and social services intended to meet the needs of individuals', used in the application for registration submitted by Netto Marken‑Discount, satisfy the necessary requirements of clarity and precision (see, by analogy, ***Chartered Institute of Patent Attorneys* EU:C:2012:361**, paragraph 55).

51 It is necessary, moreover, to note that, where the applicant for registration of a trade mark uses, with respect to a particular class, all the general indications and therefore the entire heading thereof, he must, in any event, specify whether he is referring to all the goods or services included in the alphabetical list of that class or only some of them. If the application concerns only some of those goods or services, the applicant is required to specify which of the goods or services in that class are intended to be covered (***Chartered Institute of Patent Attorneys* EU:C:2012:361**, paragraph 61).

52 In this case, Netto Marken-Discount stated in its application for registration that the bringing together service for which it seeks protection by the trade mark relates, inter alia, to the bringing together of '*advertising; business management; business administration; office functions*'. Subject to verification by the referring court, that application does not ostensibly specify whether, by citing the entire heading of Class 35 of the Nice Classification, the applicant in the main proceedings seeks protection by that trade mark for the bringing together of all the services included in the alphabetical list of that class or solely of some of those services. In the light of the existence of different approaches within the European Union regarding the way in which the use of a Nice Classification class heading must be understood, an application which does not make it possible to establish whether, by using a particular class heading, the applicant intends to cover all or only some of the goods or services thereof could not be considered sufficiently clear and precise (***Chartered Institute of Patent Attorneys* EU:C:2012:361**, paragraphs 58, 59 and 62).

53 In the light of all the foregoing, the answer to the second question is that Directive 2008/95 must be interpreted as meaning that it requires an application for registration of a trade mark with respect to a service which consists of bringing together services to be formulated with sufficient clarity and precision so as to allow the competent authorities and other economic operators to know which services the applicant intends to bring together.

The third question

54 The third question of the referring court, which relates to the scope of protection conferred by a trade mark for a service which consists of bringing together services, is, as Netto Marken-Discount and the Commission stated, clearly a question which bears no relation to the issue in the main proceedings, since that issue is solely the refusal by the DPMA to register as a trade mark the word and figurative mark reproduced in paragraph 23 of this judgment with respect to a service of bringing together services.

55 Consequently, on the basis of the Court's settled case-law according to which a request for a preliminary ruling brought by a national court must be rejected where it is quite obvious that the interpretation of EU law that is sought bears no relation to the actual facts of the main proceedings or its purpose (see, inter alia, judgments in *Cipolla and Others* C‑94/04 and C‑202/04 EU:C:2006:758, paragraph 25, and *Jakubowska* C‑225/09 EU:C:2010:729, paragraph 28), the third question must be declared to be inadmissible.

Costs

56 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

1. Services rendered by an economic operator which consist in bringing together services so that the consumer can conveniently compare and purchase them may come within the concept of 'services' referred to in Article 2 of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks.

2. Directive 2008/95 must be interpreted as imposing a requirement that an application for registration of a trade mark with respect to a service which consists in bringing together services must be formulated with sufficient clarity and precision so as to allow the competent authorities and other economic operators to know which services the applicant intends to bring together.

E. Jarašiūnas

* Language of the case