

Fourth, the similarity of the signs depends on the similarity in figurative, aural and conceptual terms, with reliance being placed on the overall impression in each case, although the distinctive and dominant elements must be taken into account. The opposing mark is a figurative mark, consisting of the word 'terra' and a figurative element that is approximately the same size as the word element 'terra'. The mere fact that the contested trade mark has no figurative element means that clear differences can be seen on an overall comparison of the marks. However, even if the word element 'terra' is assumed to dominate the opposing mark, there is no relevant similarity for the purposes of trade mark law. It must be emphasised that the term 'terra', which is well-known, conceptually, to the public, is indeed incorporated in its entirety into the fanciful word 'Terranus'. However, the 'terra' sign has no independent, distinctive position in the 'Terranus' mark. Furthermore, the public is accustomed to the fact that terms which are derived from a certain root can acquire an entirely different meaning as a result of a variation, thereby losing any conceptual connection with the original term.

**Reference for a preliminary ruling from the Rechtbank van Koophandel te Antwerpen (Belgium) lodged on 1 June 2007 — VTB-VAB NV v Total Belgium NV**

(Case C-261/07)

(2007/C 199/28)

*Language of the case: Dutch*

**Referring court**

Rechtbank van Koophandel te Antwerpen

**Parties to the main proceedings**

*Applicant:* VTB-VAB NV

*Defendant:* Total Belgium NV

**Question referred**

Does Directive 2005/29 <sup>(1)</sup> of the European Parliament and of the Council concerning unfair commercial practices preclude a national provision such as Article 54 of the Belgian Law of 14 July 1991 on commercial practices, consumer information and consumer protection, which, subject to the exhaustive list of exceptions contained within that Law, prohibits any collateral offer by a seller to a consumer, including an offer in which

goods which the consumer has to buy are tied to a free service, the acquisition of which is linked to the purchase of the goods, notwithstanding the circumstances of individual cases, in particular notwithstanding the possible influence of the actual offer on the average consumer, or whether, in the actual circumstances, that offer may be regarded as contravening the professional duty of care and genuine commercial custom?

<sup>(1)</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (OJ 2005 L 149, p. 22).

**Reference for a preliminary ruling from the Tribunale Civile di Roma (Italy) lodged on 4 June 2007 — Caffaro Srl v Azienda Unità Sanitaria Locale RM/C**

(Case C-265/07)

(2007/C 199/29)

*Language of the case: Italian*

**Referring court**

Tribunale Civile di Roma

**Parties to the main proceedings**

*Applicant:* Caffaro Srl

*Defendant:* Azienda Unità Sanitaria Locale RM/C

**Question referred**

In so far as it provides that, in the case of enforcement against public authorities, creditors may not act to effect such enforcement until a period of 120 days has elapsed following service of the recovery order, does Article 14 of Decree Law No 669/1996, as amended by Article 147 of Law No 388/2000, conflict with Directive 2000/35/EC <sup>(1)</sup>, in particular with Article 5 thereof?

<sup>(1)</sup> OJ L 200, 8.8.2000, p. 35.