

Parties to the main proceedings

Applicant: Phonographic Performance (Ireland) Ltd

Defendants: Ireland, Attorney General

Re:

Reference for a preliminary ruling — High Court of Ireland — Interpretation of Articles 8(2) and 10(1)(a) of Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ 2006 L 376, p. 28) — Broadcasting and communication to the public of phonograms — Right to a single equitable remuneration for artists and producers — Concept of ‘user’ and of ‘communication to the public’ — Installation in hotel rooms of televisions and/or radios to which the hotel company distributes a broadcast signal

Operative part of the judgment

1. A hotel operator which provides in guest bedrooms televisions and/or radios to which it distributes a broadcast signal is a ‘user’ making a ‘communication to the public’ of a phonogram which may be played in a broadcast for the purposes of Article 8(2) of Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property;
2. A hotel operator which provides in guest bedrooms televisions and/or radios to which it distributes a broadcast signal is obliged to pay equitable remuneration under Article 8(2) of Directive 2006/115 for the broadcast of a phonogram, in addition to that paid by the broadcaster;
3. A hotel operator which provides in guest bedrooms, not televisions and/or radios to which it distributes a broadcast signal, but other apparatus and phonograms in physical or digital form which may be played on or heard from such apparatus, is a ‘user’ making a ‘communication to the public’ of a phonogram within the meaning of Article 8(2) of Directive 2006/115/EC. It is therefore obliged to pay ‘equitable remuneration’ under that provision for the transmission of those phonograms;
4. Article 10(1)(a) of Directive 2006/115, which provides for a limitation to the right to equitable remuneration provided for by Article 8(2) of that directive in the case of ‘private use’, does not allow Member States to exempt a hotel operator which makes a ‘communication to the public’ of a phonogram, within the meaning of Article 8(2) of that directive, from the obligation to pay such remuneration.

(¹) OJ C 161, 19.6.2010.

Judgment of the Court (First Chamber) of 22 March 2012 (reference for a preliminary ruling from the Tribunal Supremo — Spain) — Génesis Seguros Generales Sociedad Anónima de Seguros y Reaseguros (GENESIS) v Boys Toys SA, Administración del Estado

(Case C-190/10) (¹)

(Community trade mark — Definition and acquisition — Earlier trade mark — Procedure for filing — Filing by electronic means — Method enabling precise identification of the day, hour and minute when the application was filed)

(2012/C 133/06)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicant: Génesis Seguros Generales Sociedad Anónima de Seguros y Reaseguros (GENESIS)

Defendants: Boys Toys SA, Administración del Estado

Re:

Reference for a preliminary ruling — Tribunal Supremo — Interpretation of Article 27 of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1) — Definition and acquisition of the Community trade mark — Priority — Procedure for filing — Method (e-mail) enabling precise identification of the day, hour and minute when the application was filed

Operative part of the judgment

Article 27 of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark, as amended by Council Regulation (EC) No 1992/2003 of 27 October 2003 must be interpreted as precluding account being taken not only of the day but also of the hour and minute of filing of an application for a Community trade mark with the Office for Harmonisation in the Internal Market (trade marks and designs) (OHIM) for the purposes of establishing that trade mark's priority over a national trade mark filed on the same day, where, according to the national legislation governing the registration of national trade marks, the hour and minute of filing are relevant in that regard.

(¹) OJ C 195, 17.7.2010.