

By its second plea, Wolf alleges that the judgment under appeal has violated Article 8.1.b) EUTMR, by having wrongly applied the principles of a likelihood of confusion. The plea is divided into three parts. The first two parts of the second plea allege an incorrect interpretation of the rule, well-established in the case-law of the General Court and the Court of Justice, that conceptual differences between two trademarks may, to some extent, counteract the visual and phonetic similarities between them. The third part of the second plea challenges the judgement under appeal to the extent that, in the global assessment of the likelihood of confusion, it failed to account of the actual use of the trademarks made on the market.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark OJ L 78, p. 1

⁽²⁾ Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015 amending Council Regulation (EC) No 207/2009 on the Community trade mark and Commission Regulation (EC) No 2868/95 implementing Council Regulation (EC) No 40/94 on the Community trade mark, and repealing Commission Regulation (EC) No 2869/95 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) OJ L 341, p. 21

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 11 August 2016 — Roland Becker v Hainan Airlines Co. Ltd.

(Case C-447/16)

(2016/C 428/06)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Roland Becker

Defendant: Hainan Airlines Co. Ltd

Question referred

Where passengers are transported on two flights without any significant stopover at the connecting airports, is the place of departure of the first leg of the journey to be regarded as being the place where the services were provided under the second indent of Article 5(1)(b) of Regulation (EC) No 44/2001,⁽¹⁾ even when the claim advanced in the application for compensation under Article 7 of Regulation (EC) No 261/2004⁽²⁾ is based on a disruption to the second leg of the journey and the action is brought against the party to the contract of carriage, which, although it was the operating air carrier for the second flight, was not the operating air carrier for the first flight?

⁽¹⁾ Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

⁽²⁾ Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 11 August 2016 — Mohamed Barkan, Souad Asbai, Assia Barkan, Zakaria Barkan, Nousaiba Barkan v Air Nostrum L.A.M. S.A.

(Case C-448/16)

(2016/C 428/07)

Language of the case: German

Referring court

Bundesgerichtshof