

Operative part of the judgment

The Court:

1. Declares that, by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC, the United Kingdom of Great Britain and Northern Ireland has failed to fulfil its obligations under that directive;
2. Orders the United Kingdom of Great Britain and Northern Ireland to pay the costs.

(¹) OJ C 170, 21.7.2007.

Judgment of the Court (Third Chamber) of 4 December 2008 — Commission of the European Communities v Kingdom of the Netherlands

(Case C-249/07) (¹)

(Failure of a Member State to fulfil obligations — Articles 28 EC and 30 EC — Directive 92/43/EC — Measure having equivalent effect — Prior authorisation for the planting of oysters and mussels of native species from other Member States — Justification — Protection of the life of animals — Maintenance of biodiversity and conservation of fish species in the interest of fisheries)

(2009/C 19/06)

Language of the case: Dutch

Parties

Applicant: Commission of the European Communities (represented by: M. Konstantinidis and S. Noe, acting as Agents)

Defendant: Kingdom of the Netherlands (represented by: C.M. Wissels and C. ten Dam, Agents)

Re:

Failure to fulfil obligations — Infringement of Articles 28 EC and 30 EC — System of prior authorisation for the planting of oysters and mussels from other Member States in Netherlands coastal waters

Operative part of the judgment

The Court:

1. Declares that, by instituting a system of prior authorisation for the planting, in Netherlands coastal waters, of oysters and mussels coming lawfully from other Member States and being of species native to the Netherlands, the Kingdom of the Netherlands has failed to fulfil its obligations under Articles 28 EC and 30 EC;

2. Orders the Kingdom of the Netherlands to pay the costs.

(¹) OJ C 183, 4.8.2007.

Judgment of the Court (First Chamber) of 27 November 2008 (reference for a preliminary ruling from the Court of Appeal (England and Wales) (Civil Division) — United Kingdom) — Intel Corporation Inc. v Cpm United Kingdom Limited

(Case C-252/07) (¹)

(Directive 89/104/EEC — Trade marks — Article 4(4)(a) — Trade marks with a reputation — Protection against the use of a later identical or similar mark — Use which takes or would take unfair advantage of, or is or would be detrimental to, the distinctive character or the repute of the earlier trade mark)

(2009/C 19/07)

Language of the case: English

Referring court

Court of Appeal (England and Wales) (Civil Division)

Parties to the main proceedings

Applicant: Intel Corporation Inc.

Defendant: Cpm United Kingdom Limited

Re:

Reference for a preliminary ruling — Court of Appeal (Civil Division) — Interpretation of Articles 4(4)(a) and 5(2) of First 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) — Earlier mark having a reputation — Criteria to be taken into account in order to establish whether there is a link within the meaning of Case C-408/01 *Adidas-Salomon AG and Adidas-Benelux BV*

Operative part of the judgment

1. Article 4(4)(a) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks must be interpreted as meaning that whether there is a link, within the meaning of Case C-408/01 *Adidas-Salomon and Adidas Benelux*, between the earlier mark with a reputation and the later mark must be assessed globally, taking into account all factors relevant to the circumstances of the case.