

2. Article 3(1)(e)(ii) of Directive 2008/95, under which registration may be refused of signs consisting exclusively of the shape of goods which is necessary to obtain a technical result, must be interpreted as referring only to the manner in which the goods at issue function and it does not apply to the manner in which the goods are manufactured.
3. In order to obtain registration of a trade mark which has acquired a distinctive character following the use which has been made of it within the meaning of Article 3(3) of Directive 2008/95, regardless of whether that use is as part of another registered trade mark or in conjunction with such a mark, the trade mark applicant must prove that the relevant class of persons perceive the goods or services designated exclusively by the mark applied for, as opposed to any other mark which might also be present, as originating from a particular company.

⁽¹⁾ OJ C 235, 21.7.2014.

Judgment of the Court (Ninth Chamber) of 17 September 2015 (request for a preliminary ruling from the Rechtbank Amsterdam — Netherlands) — Corina van der Lans v Koninklijke Luchtvaart Maatschappij NV

(Case C-257/14) ⁽¹⁾

(Reference for a preliminary ruling — Air transport — Passengers' rights in the event of delay or cancellation of a flight — Regulation (EC) No 261/2004 — Article 5(3) — Denied boarding and cancellation — Long flight delay — Compensation and assistance to passengers — Extraordinary circumstances)

(2015/C 371/13)

Language of the case: Dutch

Referring court

Rechtbank Amsterdam

Parties to the main proceedings

Applicant: Corina van der Lans

Defendant: Koninklijke Luchtvaart Maatschappij NV

Operative part of the judgment

Article 5(3) of 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 must be interpreted as meaning that a technical problem, such as that at issue in the main proceedings, which occurred unexpectedly, which is not attributable to poor maintenance and which was also not detected during routine maintenance checks, does not fall within the definition of 'extraordinary circumstances' within the meaning of that provision.

⁽¹⁾ OJ C 303, 8.9.2014.