

Questions referred

1. For the purposes of Article 19(1) and (3) ⁽¹⁾, what does 'established' mean, in circumstances where:-
 - a) the applicant, in the proceedings in the court first seised ('the first proceedings'), takes virtually no steps in the first proceedings beyond the first court appointment, and in particular does not issue a Petition (*Assignment*) within the time limit for the expiry of the Request (*Requête*), with the result that the first proceedings expire undetermined by effluxion of time and in accordance with the local (French) law of the first proceedings, namely 30 months after the first directions appointment;
 - b) the first proceedings expire as above very shortly (3 days) after the proceedings in the court second seised ('the second proceedings') are issued in England, with the result that there is no judgment in France nor any danger of irreconcilable judgments between the first proceedings and the second proceedings; and
 - c) by virtue of the United Kingdom's time zone the applicant in the first proceedings would, following the lapse of the first proceedings, always be able to issue divorce proceedings in France before the applicant could issue divorce proceedings in England?
2. In particular, does 'established' import that the applicant in the first proceedings must take steps to progress the first proceedings with due diligence and expedition to a resolution of the dispute (whether by the Court or by agreement), or is the applicant in the first proceedings, having once secured jurisdiction under Articles 3 and 19(1), free to take no substantive steps at all towards resolution of the first proceedings as above and free thereby simply to secure a stop of the second proceedings and a stalemate in the dispute as a whole?

⁽¹⁾ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 OJ L 338, p. 1

Request for a preliminary ruling from the Juzgado de lo Mercantil No 3 de Madrid (Spain) lodged on 5 November 2014 — Rossa dels Vents Assessoria, S.L. v U Hostels Albergues Juveniles, S.L.

(Case C-491/14)

(2015/C 026/14)

Language of the case: Spanish

Referring court

Juzgado de lo Mercantil No 3 de Madrid

Parties to the main proceedings

Applicant: Rossa dels Vents Assessoria, S.L.

Defendant: U Hostels Albergues Juveniles, S.L.

Question referred

Must Article 5(1) of Directive 2008/95/EC ⁽¹⁾ of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks be interpreted as meaning that the exclusive right of the proprietor of a trade mark to prevent all third parties from using, in the course of trade, signs identical with or similar to its trade mark extends to a third-party proprietor of a later trade mark, without the need for that latter mark to have been declared invalid beforehand?

⁽¹⁾ OJ 2008 L 299, p. 25.