

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.

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

<sup>(2)</sup> 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

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**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,<sup>(1)</sup> even when the claim advanced in the application for compensation under Article 7 of Regulation (EC) No 261/2004<sup>(2)</sup> 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?

<sup>(1)</sup> 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).

<sup>(2)</sup> 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).

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**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

**Parties to the main proceedings**

*Applicants:* Mohamed Barkan, Souad Asbai, Assia Barkan, Zakaria Barkan, Nousaiba Barkan

*Defendant:* Air Nostrum L.A.M. S.A.

**Questions referred**

1. Is Article 5(1)(a) of Council Regulation (EC) No 44/2001 <sup>(1)</sup> of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters to be interpreted as meaning that the concept of ‘matters relating to a contract’ also covers a claim for compensation made under Article 7 of Regulation (EC) No 261/2004 <sup>(2)</sup> 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 which is brought against an operating air carrier which is not a party to the contract with the passenger concerned?
2. Insofar as Article 5(1) of Regulation (EC) No 44/2001 is applicable:

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

<sup>(1)</sup> 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).

<sup>(2)</sup> OJ 2004 L 46, p. 1.

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**Request for a preliminary ruling from the Amtsgericht Stuttgart (Germany) lodged on 22 August 2016 — Brigitte Schlömp v Landratsamt Schwäbisch Hall**

(Case C-467/16)

(2016/C 428/08)

*Language of the case: German*

**Referring court**

Amtsgericht Stuttgart

**Parties to the main proceedings**

*Applicant:* Brigitte Schlömp

*Defendant:* Landratsamt Schwäbisch Hall

**Question referred**

Is an arbitration authority under Swiss law also covered by the term ‘court’ within the scope of Articles 27 and 30 of the Lugano Convention <sup>(1)</sup> of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (‘the 2007 Lugano Convention’)?

<sup>(1)</sup> 2009/430/EC: Council Decision of 27 November 2008 concerning the conclusion of the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters — Declarations, OJ 2009 L 147, p. 1.

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