

Reference for a preliminary ruling from Court of Appeal (Civil Division) (United Kingdom) made on 29 May 2007 — Intel Corporation Inc. v CPM United Kingdom Limited

(Case C-252/07)

(2007/C 183/33)

Language of the case: English

Referring court

Court of Appeal (Civil Division)

Parties to the main proceedings

Applicant: Intel Corporation Inc.

Defendant: CPM United Kingdom Limited

Questions referred

1. For the purposes of Art 4(4)(a) of the First Council Directive 89/104 of 21st December 1988 ⁽¹⁾, where:
 - (a) the earlier mark has a huge reputation for certain specific types of goods or services,
 - (b) those goods or services are dissimilar or dissimilar to a substantial degree to the goods or services of the later mark,
 - (c) the earlier mark is unique in respect of any goods or services,
 - (d) the earlier mark would be brought to mind by the average consumer when he or she encounters the later mark used for the services of the later mark,

are those facts sufficient in themselves to establish (i) 'a link' within the meaning of paragraphs [29] & [30] of *Adidas-Salomon AG v. Fitnessworld Trading Ltd*, Case C-408/01, [2003] ECR I-12537 and/or (ii) unfair advantage and/or detriment within the meaning of that Article?
2. If no, what factors is the national court to take into account in deciding whether such is sufficient? Specifically, in the global appreciation to determine whether there is a 'link', what significance is to be attached to the goods or services in the specification of the later mark?
3. In the context of Art 4(4)(a), what is required in order to satisfy the condition of detriment to distinctive character? Specifically, does (i) the earlier mark have to be unique, (ii) is a first conflicting use sufficient to establish detriment to distinctive character and (iii) does the element of detriment

to distinctive character of the earlier mark require an effect on the economic behaviour of the consumer?

⁽¹⁾ OJ L 40, 11.2.1989, p. 1.

Reference for a preliminary ruling from High Court of Justice (Chancery Division) (United Kingdom) made on 29 May 2007 — Canterbury Hockey Club, Canterbury Ladies Hockey Club v Commissioners of HM Revenue and Customs

(Case C-253/07)

(2007/C 183/34)

Language of the case: English

Referring court

High Court of Justice (Chancery Division)

Parties to the main proceedings

Applicants: Canterbury Hockey Club, Canterbury Ladies Hockey Club

Defendant: Commissioners of HM Revenue and Customs

Questions referred

1. For the purposes of the exemption contained in Article 13 A (1)(m) of the Sixth Directive ⁽¹⁾, does the term 'persons' in the context of 'persons taking part in sport' include corporate persons and unincorporated associations, or is it limited to individuals, in the sense of natural persons or human beings?
2. If the term 'persons' in the context of 'persons taking part in sport' does include corporate persons and unincorporated associations, as well as individuals, does the expression 'certain services closely linked to sport' permit a Member State to limit the exemption only to individuals taking part in sport?

⁽¹⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ L 145, p. 1).