

Judgment of the Court (Sixth Chamber) of 20 September 2007 (reference for a preliminary ruling from the Hoge Raad der Nederlanden — The Netherlands) — Benetton Group SpA v G-Star International BV

(Case C-371/06) ⁽¹⁾

(Trade marks — Directive 89/104/EEC — Article 3(1)(e), third indent, and Article 3(3) — Sign — Shape which gives substantial value to goods — Use — Advertising campaigns — Attractiveness of a shape acquired prior to the date of application for registration on account of recognition of it as a distinctive sign)

(2007/C 269/28)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Benetton Group SpA

Defendant: G-Star International BV

Re:

Reference for a preliminary ruling — Hoge Raad der Nederlanden — Interpretation of Article 3(1)(e), third indent, 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) — Jeans whose distinctive sign is the features of working or motorcycling clothes with knee pads — Sign consisting of a shape which gives substantial value to the goods

Operative part of the judgment

The third indent of Article 3(1)(e) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks is to be interpreted as meaning that the shape of a product which gives substantial value to that product cannot constitute a trade mark under Article 3(3) of that directive where, prior to the application for registration, it acquired attractiveness as a result of its recognition as a distinctive sign following advertising campaigns presenting the specific characteristics of the product in question.

⁽¹⁾ OJ C 371, 2.12.2006.

Judgment of the Court (Eighth Chamber) of 13 September 2007 — Commission of the European Communities v Hellenic Republic

(Case C-381/06) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 2002/14/EC — Informing and consulting employees — Failure to transpose within the period prescribed)

(2007/C 269/29)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: M. Patakia and J. Enegren, acting as Agents)

Defendant: Hellenic Republic (represented by: N. Dafniou, Agent)

Re:

Failure of a Member State to fulfil obligations — Failure to adopt, within the period prescribed, all the provisions necessary to comply with Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community — Joint declaration of the European Parliament, the Council and the Commission on employee representation (OJ 2002 L 80, p. 29)

Operative part of the judgment

The Court:

1. Declares that, by failing to adopt, within the period prescribed, all the laws, regulations and administrative provisions necessary to comply with Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community, the Hellenic Republic has failed to fulfil its obligations under that directive;
2. orders the Hellenic Republic to pay the costs.

⁽¹⁾ OJ C 261, 28.10.2006.