

European Union

“Mitsubishi Shoji Kaisha and Mitsubishi Caterpillar Forklift Europe”

Decision of the European Court of Justice (Second Chamber)
25 July 2018 – Case No. C-129/17

*Mitsubishi Shoji Kaisha Ltd and Mitsubishi Caterpillar
Forklift Europe BV v. Duma Forklifts NV and G.S.
International BVBA*

Directive 2008/95/EC, Art. 5; Regulation (EC) No
207/2009, Art. 9

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Keywords European Economic Area (EEA) · Removal of identical signs by a third party · Affixation of new signs · Opposition · Consent · Proprietor of a mark

1. Article 5 of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks and Article 9 of Council Regulation (EC) No 207/2009 of 26 February 2009 on the European Union trade mark must be interpreted as meaning that the proprietor of a mark is entitled to oppose a third party, without its consent, removing all the signs identical to that mark and affixing other signs on products placed in the customs warehouse, as in the main proceedings, with a view to importing them or trading them in the European Economic Area (EEA) where they have never yet been marketed.

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