European Union

“Deutsches Patent- und Markenamt (#darferdas?)”

Decision of the European Court of Justice (Fifth Chamber)
12 September 2019 – Case No. C-541/18

AS v Deutsches Patent- und Markenamt

Directive 2008/95/EC, Art. 3(1)(b)

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Keywords Distinctive character · Criteria for assessment · Sign comprising a hashtag · Likely types of use as relevant facts for assessment

Article 3(1)(b) 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 must be interpreted as meaning that in examining the distinctive character of a sign in respect of which registration as a trade mark is sought, all the relevant facts and circumstances must be taken into account, including all the likely types of use of the mark applied for. The latter correspond, in the absence of other indications, to the types of use which, in the light of the customs in the economic sector concerned, can be practically significant.

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