European Union

“AR v. Cooper International Spirits LLC”

**Decision of the European Court of Justice (Fifth Chamber)
26 March 2020 – Case No. C-622/18 (ECLI:EU:C:2020:241)**

*AR v. Cooper International Spirits LLC, St Dalfour SAS,
Établissement Gabriel Boudier SA*

**Directive 2008/95/EC, Arts. 5(1)(b), 10(1) first
subparagraph, 12(1)**

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Keywords Revocation of a trade mark for lack of genuine use · Right of the trade mark proprietor to plead infringement resulting from use by a third party during the period preceding the date on which the revocation took effect · Enforcement · Retroactive effect · Claims to compensation

Article 5(1)(b), the first subparagraph of Article 10(1) and the first subparagraph of Article 12(1) 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, read in conjunction with recital 6 thereof, must be interpreted as leaving Member States the option of allowing the proprietor of a trade mark whose rights in that mark have been revoked on expiry of the five-year period from its registration because he or she failed to make genuine use of the mark in the Member State concerned in connection with the goods or services for which it was registered to retain the right to claim compensation for the injury sustained as a result of the use by a third party, before the date on which the revocation took effect, of a similar sign in connection with identical or similar goods or services that is liable to be confused with his or her trade mark.

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