

European Union

“Classic Coach Company”

Decision of the European Court of Justice (Tenth Chamber)

2 June 2022 – Case No. C 112/21

X BV v. Classic Coach Company vof, Y. and Z.

Directive 2008/95/EC, Arts. 5, 6(2)

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Keywords Earlier right · Third-party usage · Limitations of trade mark right · Prohibition of usage · Particular locality · Proprietor of a later trade mark with an even earlier right

1. Article 6(2) 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, for the purposes of establishing the existence of an ‘earlier right’ within the meaning of that provision, there is no requirement that the proprietor of that right must be able to prohibit the use of the later mark by the proprietor of that mark.
2. Article 6(2) of Directive 2008/95 must be interpreted as meaning that an ‘earlier right’ within the meaning of that provision may be granted to a third party in a situation in which the proprietor of the later trade mark has an even earlier right recognised by the laws of the Member State in question over the sign registered as a trade mark to the extent that, under those laws, the proprietor of the trade mark and of the even earlier right may no longer, on the basis of its even earlier right, prohibit the use by the third party of its more recent right.

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