

## **Case C-321/03**

**Dyson Ltd**

**v**

**Registrar of Trade Marks**

(Reference for a preliminary ruling  
from the High Court of Justice of England and Wales, Chancery Division)

(Trade marks — Approximation of laws — Directive 89/104/EEC — Article 2 —  
Concept of a sign of which a trade mark may consist — Transparent bin or  
collection chamber forming part of the external surface of a vacuum cleaner)

Opinion of Advocate General Léger delivered on 14 September 2006 . . . . . I - 689  
Judgment of the Court (Third Chamber), 25 January 2007 . . . . . I - 712

### **Summary of the Judgment**

*Approximation of laws — Trade marks — Directive 89/104 — Signs capable of constituting a  
mark*

*(Council Directive 89/104, Art. 2)*

Article 2 of First Directive 89/104 relating to trade marks is to be interpreted as meaning that the subject-matter of an application for trade mark registration which relates to all the conceivable shapes of a transparent bin or collection chamber forming part of the external surface of a vacuum cleaner, is not a 'sign' within the meaning of that provision and therefore is not capable of constituting a trade mark within the meaning thereof.

on a multitude of different appearances and is thus not specific. Given the exclusivity inherent in trade mark right, the holder of a trade mark relating to such a non-specific subject-matter would obtain an unfair competitive advantage, contrary to the purpose pursued by Article 2 of the directive, since it would be entitled to prevent its competitors from marketing vacuum cleaners having any kind of transparent collecting bin on their external surface, irrespective of its shape.

The subject-matter of such an application, which in reality resides in a mere property of the product concerned, is capable of taking

(see paras 37-40, operative part)