

Case C-273/00

Proceedings brought by Ralf Sieckmann

(Reference for a preliminary ruling from the Bundespatentgericht)

(Trade marks — Approximation of laws — Directive 89/104/EEC — Article 2 — Signs of which a trade mark may consist — Signs capable of being represented graphically — Olfactory signs)

Opinion of Advocate General Ruiz-Jarabo Colomer delivered on 6 November 2001 I-11739
Judgment of the Court, 12 December 2002 I-11754

Summary of the Judgment

Approximation of laws — Trade marks — Directive 89/104 — Signs capable of constituting a trade mark — Signs not capable of being perceived visually — Inclusion — Condition — Signs capable of being represented graphically — Olfactory signs (Council Directive 89/104, Art. 2)

Article 2 of Directive 89/104 to approximate the laws of the Member States relating to trade marks must be interpreted as meaning that a trade mark may consist of a sign which is not in itself capable of being perceived visually, provided that it can be represented graphically, particularly by means of images, lines or characters, and that the representation is clear, precise, self-contained, easily accessible, intelligible, durable and objective. In respect of an

olfactory sign, the requirements of graphic representability are not satisfied by a chemical formula, by a description in written words, by the deposit of an odour sample or by a combination of those elements.

(see paras 55, 73, operative part 1-2)