

## Case C-120/04

**Medion AG**

**v**

**Thomson multimedia Sales Germany & Austria GmbH**

(Reference for a preliminary ruling  
from the Oberlandesgericht Düsseldorf)

(Trade marks — Directive 89/104/EEC — Article 5(1)(b) — Likelihood  
of confusion — Use of the trade mark by a third party — Composite sign including  
the name of another party followed by the trade mark)

Opinion of Advocate General Jacobs delivered on 9 June 2005 . . . . . I - 8553  
Judgment of the Court (Second Chamber), 6 October 2005 . . . . . I - 8565

### Summary of the Judgment

*Approximation of laws — Trade marks — Directive 89/104 — Right of the proprietor of a  
registered trade mark to contest its unlawful use — Sign used for identical or similar goods —  
Likelihood of confusion — Criteria for assessment — Juxtaposing the company name of another  
party and a registered mark*

*(Council Directive 89/104, Art. 5(1)(b))*

Article 5(1)(b) of First Directive 89/104 relating to trade marks is to be interpreted as meaning that where the goods or services are identical there may be a likelihood of confusion on the part of the public where the contested sign is composed by juxtaposing the company name of another party and a registered mark which has normal distinctiveness and which, without alone determin-

ing the overall impression conveyed by the composite sign, still has an independent distinctive role therein.

(see para. 37, operative part)