

EFTA COURT

Request for an Advisory Opinion from the EFTA Court by the Norwegian Board of Appeal for Industrial Property Rights dated 22 March 2016 in the case of an appeal from the municipality of Oslo

(Case E-5/16)

A request has been made to the EFTA Court dated 22 March 2016 from the Norwegian Board of Appeal for Industrial Property Rights (Klagenemnda for industrielle rettigheter), which was received at the Court Registry on 31 March 2016, for an Advisory Opinion in the case of an appeal from the municipality of Oslo on the following questions:

- 1. May trademark registration of copyright works, for which the protection period has expired, under certain circumstances, conflict with the prohibition in Article 3(1)(f) of the Trade Marks Directive on registering trademarks that are contrary to 'public policy or ... accepted principles of morality'?**
- 2. If question 1 is answered in the affirmative, will it have an impact on the assessment that the copyright work is well-known and of great cultural value?**
- 3. If question 1 is answered in the affirmative, may factors or criteria other than those mentioned in question 2 have a bearing on the assessment, and, if so, which ones?**
- 4. Is Article 3(1)(e)(iii) of Directive 2008/95/EC applicable to two-dimensional representations of sculptures?**
- 5. Is Article 3(1)(c) of Directive 2008/95/EC applicable as legal authority for refusing trademarks that are two or three-dimensional representations of the shape or appearance of the goods?**
- 6. If question 5 is answered in the affirmative, is Article 3(1)(b) and (c) of Directive 2008/95/EC to be understood to mean that the national registration authority, in assessing trademarks that consist of two or three-dimensional representations of the shape or appearance of the goods, must apply the assessment criterion of whether the design in question departs significantly from the norm**

or customs of the business sector, or may the grounds for refusal be that such a mark is descriptive of the shape or appearance of the goods?