Il *secondary meaning* nella lettura della Corte Suprema degli Stati Uniti. Il caso Booking.com

Secondary meaning according to the Supreme Court of the United States. The Booking.com case

Con il commento di Giuseppe Paolo Alleca

Supreme Court of the United States of America, No. 19-46, 30 June 2020

Mr Justice Ginsburg

U.S. Patent & Trademark Office et al. v. Booking.com B.V

Marchi – Marchio generico – Indicazione di una casse di beni o servizi – Idoneità alla registrazione – Valutazione della genericità in funzione della percezione del consumatore – Fattispecie: idoneità del marchio "Booking.com" alla registrazione.

This case concerns eligibility for federal trademark registration. Respondent Booking.com, an enterprise that maintains a travel-reservation website by the same name, sought to register the mark "Booking.com." Concluding that "Booking.com" is a generic name for online hotel-reservation services, the U. S. Patent and Trade-

mark Office (PTO) refused registration. A generic name — the name of a class of products or services — is ineligible for federal trademark registration. The word "booking," the parties do not dispute, is generic for hotel-reservation services. "Booking.com" must also be generic, the PTO maintains, under an encompassing rule the PTO currently urges us to adopt: The combination of a generic word and ".com" is generic. In accord with the first- and second-instance judgments in this case, we reject the PTO's sweeping rule. A term styled "generic.com" is a generic name for a class of goods or services only if the term has that meaning to consumers. Consumers, according to lower court determinations uncontested here by the PTO, do not perceive the term "Booking.com" to signify online hotel-reservation services as a class. In circumstances like those this case presents, a "generic.com" term is not generic and can be eligible for federal trademark registration.