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**DECISION OF THE EEA JOINT COMMITTEE**  
**No 146/2009**

**of 4 December 2009**

**amending Annex XVII (Intellectual property) to the EEA Agreement**

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as ‘the Agreement’, and in particular Article 98 thereof,

Whereas:

- (1) Annex XVII to the Agreement was amended by Decision of the EEA Joint Committee No 56/2007 of 8 June 2007<sup>1</sup>.
- (2) Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (Codified version)<sup>2</sup> is to be incorporated into the Agreement.
- (3) Directive 2008/95/EC repeals Council Directive 89/104/EEC<sup>3</sup> which is incorporated into the Agreement and which is subsequently to be repealed under the Agreement,

HAS DECIDED AS FOLLOWS:

*Article 1*

Annex XVII to the Agreement shall be amended as follows:

1. The text of point 4 (Council Directive 89/104/EEC) shall be deleted.
2. The following point shall be inserted after point 9g (Directive 2006/115/EC of the European Parliament and of the Council):  
  
‘9h. **32008 L 0095**: Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (Codified version) (OJ L 299, 8.11.2008, p. 25).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

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<sup>1</sup> OJ L 266, 11.10.2007, p. 17.

<sup>2</sup> OJ L 299, 8.11.2008, p. 25.

<sup>3</sup> OJ L 40, 11.2.1989, p. 1.

- (a) in Article 3(2), the term "trade mark law" shall be understood to be the trade mark law applicable in a Contracting Party;
- (b) in Articles 4(2)(a)(i), (2)(b) and (3), 9 and 14, the provisions concerning the Community Trade Mark shall not apply to the EFTA States unless the Community Trade Mark extends to them.'

#### *Article 2*

The texts of Directive 2008/95/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

#### *Article 3*

This Decision shall enter into force on 5 December 2009, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee\*.

#### *Article 4*

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 4 December 2009.

*For the EEA Joint Committee  
The President*

*O. H. Sletnes*

*The Secretaries  
to the EEA Joint Committee*

*B. Ellertsdóttir      L-O. Hollner*

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\* No constitutional requirements indicated.