Austrian Reference for a Preliminary Ruling on the Brussels I Regulation

The Austrian Supreme Court of Justice (*Oberster Gerichtshof*) has referred the following questions to the ECJ for a preliminary ruling:

> *1. Is a contract under which the owner of an incorporeal right grants the other contracting party the right to use that right (a licence agreement) a contract regarding 'the provision of services' within the meaning of Article 5(1)(b) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the Brussels I Regulation)?*
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> *2. If Question 1 is answered in the affirmative:*
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> *2.1. Is the service provided at each place in a Member State where use of the right is allowed under the contract and also actually occurs?*
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> *2.2. Or is the service provided where the licensor is domiciled or, as the case may be, at the place of the licensor's central administration?*
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> *2.3. If Question 2.1 or Question 2.2 is answered in the affirmative, does the court which thereby has jurisdiction also have the power to rule on royalties which result from use of the right in another Member State or in a third country?*
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> *3. If Question 1 or Questions 2.1 and 2.2 are answered in the negative: Is jurisdiction as regards payment of royalties under Article 5(1)(a) and (c) of the Brussels I Regulation still to be determined in accordance with the principles which result from the case-law of the Court of Justice on Article 5(1) of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (the Brussels Convention)?*

The reference can be found at the website of the ECJ – *Falco Privatstiftung and Thomas Rabitsch v Gisela Weller-Lindhorst* (Case C-533/07).