

Intellectual Property Update



June 2008

E-Bay outbid on French Fakes

A French Court has held eBay liable for the sale of counterfeit goods in a surprising move which is likely to encourage intellectual property holders throughout Europe and the rest of the world.

On 4 June 2008 the Tribunal de Grande Instance de Troyes ruled that eBay was liable for the sale of counterfeit Hermes bags through its website www.ebay.fr. In a first, the French Court has held that eBay is directly responsible for the sale on its website of counterfeit goods and has ordered it, together with the seller involved, to pay the luxury group Hermes damages of €20,000. eBay has also been ordered to publish the decision on its French website www.ebay.fr.

The court found that eBay's conduct in selling Hermes bags and branded accessories on its website www.ebay.fr, and by failing to act within their powers to prevent the reprehensible use of the site meant it had committed acts of counterfeiting and imitation of the brand name Hermes.

eBay has always maintained that it adequately protects the interests of intellectual property owners through its VeRO procedure. The VeRO procedure allows right holders to report infringing listings to eBay who then remove the infringing items. However, the onus is very much on the rights holder to police the site. This decision suggests that eBay should be doing more to protect the intellectual property rights of companies and individuals.

Although this case involved relatively small amounts of counterfeit goods, the courts decision has sparked interest throughout the intellectual property community and, if followed, could have wide reaching implications for all intellectual property owners. The designer companies Louis Vuitton and Dior Couture have also taken legal action against eBay in France seeking more substantial damages and L'Oreal is currently engaged in High Court proceedings against eBay for trade mark infringement.

Clearly this is an issue which will continue to develop and is something the intellectual property community will watch closely in the future.

If you require any further information in relation to any of the above or have any intellectual property queries please do not hesitate to contact a member of the intellectual property team on 0116 2473500.

This article is designed to provide a basic summary of the subject matters covered. It should not be relied upon as comprehensive legal advice.



Matthew Talbot specialises in Intellectual Property litigation including disputes involving infringement of trade marks, copyright, design rights, patents and domain names. He has made numerous UK and European trade mark applications on behalf of organisations wishing to protect their company names, trading names and branded products. He has successfully acted on behalf of claimants against Northern Foods, Kraft Foods plc, Nestle and Adams Childrenswear and in defending clients in cases brought by Adidas, Puma, Lacoste and Microsoft.



Hannah Steggles trained with Howes Percival LLP and qualified into commercial litigation in September 2005. Hannah specialises in Intellectual Property and has gained considerable experience in both contentious and non-contentious Intellectual Property matters.

If you have any queries in relation to Intellectual Property matters please call Matt Talbot or Hannah Steggles on 0116 247 3500 or email

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