

Case Details

Case Details

National ID	MD 2009:36
Medlemsstat	Sverige
Common Name	link
Decision type	Court decision in appeal
Decision date	19/11/2009
Domstol	Marknadsdomstolen (Stockholm)
Ämne	
Kärande	Eniro AB and Din Del AB
Svarande	Emphas Ekonomi AB
Nyckelord	black list, confusing marketing, identity of the trader, impersonation, invoices as marketing material, misleading actions

Directive Articles

Unfair Commercial Practices Directive, [Chapter 2, Article 5, 4., \(a\)](#) Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 6, 2., \(a\)](#) Unfair Commercial Practices Directive, [Annex I, 21.](#)

Headnote

(1) It is an unfair commercial practice to send out invoices that mimic another party's branding (through the use of such party's name, marks and invoice design), and create the impression that services were rendered by this other party.

(2) Such practice also constitutes a breach of the per se prohibition of Annex I-21 of the UCP Directive.

Facts

The defendant had been sending out invoices on which it had included words similar to references for services provided by the plaintiffs, without any previous order having been made. The invoices were additionally designed in order to look similar to the plaintiffs' invoices. The invoices had been distributed widely and all referred to the same order number / invoice number, indicating invoice cheating.

The plaintiffs argued that the defendant must be prohibited to use the relevant marks (or any similar marks) respectively invoices, indicating that a service had been ordered when this was not actually the case.

Legal issue

Is it an unfair commercial practice to send out invoices that mimic another party's branding, and create the impression that services were rendered by this other party?

Beslut

The court found that the marks used had to be considered as likely to cause confusion, as the plaintiffs' company name, mark and invoice design were very similar to the invoices of the plaintiffs. Consequently, there was an

obvious risk that consumers could perceive the invoice as being linked to the plaintiffs. The defendant's marketing was therefore considered to be misleading, and also constituted a breach of the per se prohibition of Annex I-21 of the UCP Directive.

URL: <http://www.marknadsdomstolen.se/avgoranden/avgoranden2009/Dom2009-36.pdf>

Full Text: [Full Text](#)

Related Cases

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Legal Literature

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Result

The plaintiffs' requests were granted.
