

Case Details

Case Details

National ID	1038/2011
Member State	Malta
Common Name	Beer House Limited vs Max Diner Limited
Decision type	Court decision, first degree
Decision date	27/01/2017
Court	Civil Court, First Hall
Subject	
Plaintiff	Beer House Limited
Defendant	Max Diner Limited
Keywords	advertisement, false impression, misleading advertising

Directive Articles

Misleading and Comparative Advertising Directive, [link](#)

Headnote

(1) Advertising on vans and website may amount to misleading advertising, even if the trader previously had the right to use them, if they give the wrong impression that that trader is still an exclusive agent for the product.

Facts

Plaintiff company was the exclusive agent for a branded beer ('Molson Coors'). Defendant had Molson Coors artwork/marks on its vans and stationery. Plaintiff instituted a case for unfair competition, based, inter alia, on Article 32B of the Commercial Code (Cap. 13 of the laws of Malta) on misleading advertising (which implements Article 3 of Directive 2006/114/EC). Defendant argued that this was not true, and that it had previously had a gentleman's agreement to distribute the said products.

The court noted that plaintiff was not expecting to stop parallel trading; it objected to the fact that defendant company was acting as if it was the exclusive agent of the foreign company. The said foreign company had objected to the defendant's advertising of its product, both on its vans and on its website.

Legal issue

The court concluded that for a period of time the defendant were making use of names, marks or distinctive devices in an abusive manner, as well as using advertisements whose presentation deceived or was likely to deceive the persons to whom they were addressed. This led to unfair competition and harm through the spreading of false news.

Decision

(1) Can advertising of products on vans and websites amount to misleading advertising, if trader previously had the right to use such advertising?

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Result

The court accepted plaintiff's claims and awarded it the sum of EUR 1,000 as well as ordering the destruction of the defendant's advertising.
