

CASE STUDY

L'Oreal S.A -v- Bellure NV



Issue

L'Oreal brought proceedings in the High Court of Justice, Chancery Division, against a number of defendants essentially claiming that they had been importing, distributing and selling copies of some of its luxury perfumes, namely Trésor and Miracle by Lancôme and Anaïs Anaïs and Noa by Cacharel. The majority of the Defendants' perfumes are part of the Creation Lamis range of perfumes, and are manufactured in Dubai. These are not imitations in the sense of being counterfeits. Rather, they are "smell-alikes" marketed in packaging which L'Oréal claimed takes unfair advantage of its own product names, packaging and brand image.

Trial

The case was tried in London in 2006 before Mr Justice Lewison. Mr Henry Carr QC and Ms Jaqueline Reid (instructed by Baker & McKenzie LLP) were lawyers for the Claimants and Mr Roger Wyand QC and Mr Tom Moody-Stuart (instructed by Addleshaw Goddard) were lawyers for the defendants. Thayne Forbes of Intangible Business was expert witness on brands for L'Oreal.

Outcome

The judge ruled in L'Oreal's favour.

Paul Rawlinson, a partner at Baker & McKenzie, acting for L'Oreal, commented: "This is a significant judgment for brand owners and the first successful trial under section 10 (3) of the Trade Marks Act. The judge held that 'free riding' off a brand's reputation is not an acceptable practice. Infringement, even without the existence of any likelihood of confusion, is a novel concept in the UK and one that the market will have to get used to."



Service
Expert witness

Territory
Europe

Sector
Fragrance