



The CJEC is questioned on the extent of prohibition measures of a national Court against a Community trademark

Categories : [Infringement](#)

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In the context of a French proceeding involving DHL against CHRONOPOST, the Court of First Instance and then the Court of Appeal both upheld trademark counterfeiting, prohibited the pursuing of the infringing acts and submitted this prohibition to a penalty.

The matter went before the French High Court. It was pointed out that the Court of Appeal decision contained a prohibition to pursue the infringing acts which only applied to the French territory whereas it had to apply throughout the whole Community. The argument of the party relied on the unitary principle of Community trademarks and on the Court of Appeal acting as a Community jurisdiction while ruling the proceeding.

The High Court questioned the European Court of Justice on June 23, 2009, for clarification especially (but not only) on the followings:

1. Must Community provisions on Community trademarks be interpreted as meaning that the prohibition issued by a Community trademark Court has effect throughout the entire area of the Community?
2. If not, is that Court entitled to specifically extend that prohibition to the territories of other Member States in which the acts of infringement are committed or threatened to be committed?

These are questions of great importance for trademark enforcement. In particular, should there be no automatic effect on a prohibition applying to the whole Community (question 1), the point will then be to know whether the plaintiff must specifically request the Court to have its decision and measures relating thereto applying to the whole Community.