



## TRADEMARK USE IN BUSINESS AND COUNTERFEITING – BE CAREFUL HOW YOU VIEW THEM!

Categories : [Infringement](#), [Marques](#), [Usage](#)

Date : jeudi 1 août 2013

It is a known fact that trademark counterfeiting is used for business purposes.

When this type of use does not exist, it casts doubt on the validity of infringement action. This was the conclusion of the French Supreme Court on 10 May in the FGCEN/FSESN case (appeal no. 10-18173): the FGCEN, owner of the La Basoche trademark in class 16 in particular, had noticed that the FSESN also disseminated a free, regularly published union newsletter aimed at informing FSESN staff on their right to work.

The counterfeit case was rejected by the Supreme Court, which found that the newsletter in question was “unrelated to business” as it was not aimed at obtaining any “direct or indirect economic advantage”.

### **Conclusion:**

**If in doubt over the notion of use in business, it is better not to use the domain of trademark law as a basis for legal action, but rather to opt for unfair competition, which lessens the chance of contestation.**