

Huge Danish case won on pictures of the counterfeit goods

Pictures of the seized goods were sufficient in proving that the goods were counterfeit. Even though the seized goods never reached the stores, rightsholders were entitled to compensation for the trademark infringements.

On 16 November 2017, the Maritime and Commercial Court in Denmark affirmed that 4,500 goods were counterfeited goods and that rightsholders were entitled to reasonable remuneration. In the case, NJORD represented internationally renowned rightsholders like The North Face, Ralph Lauren, L'Oréal, Lancôme, Puig, Estee Lauder, and others.

Pictures were sufficient in proving counterfeiting

Interesting to note in this case is that pictures were sufficient to prove that the products were copies. In connection with police investigations of the accused's storage facilities, photographs were taken of all seized goods, which included perfumes and clothing brands, allegedly from internationally known brands.

Cooperating with the rightsholders, NJORD used these pictures to assess the authenticity of the clothes and the perfumes and proved in court that the goods were falsifications.

Damages even though the goods never made it to the shops

One disputed issue in court was which of the defendants owned which goods. The court found that there is a presumption that the person who has rented the premises is the owner of the seized goods in the room. Thus, the liability for commercial renters of premises has been substantially expanded.

Then, the court ruled that both the renters of the premises should pay a reasonable remuneration for the infringement of the trademark rights. In addition, the defendants should pay compensation for the potential additional damage the rightsholders suffered by the infringement, even though the goods were never made available to the market.

In cases such as this relating to trademark rights and copyrights, it is the plaintiffs who bear the burden of proving that the goods are counterfeit. Therefore, it is crucial that the lawyer who is handling the case has extensive experience with copyrights and thorough knowledge of the trademark law. In this case, the decisive evidence of counterfeiting was the testimony by the witness from Ralph Lauren explaining the differences between genuine and counterfeit products.