



Advertising with external brand names - Trademark Law

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GRP Rainer Attorneys and Tax Advisors in Cologne, Berlin, Bonn, Düsseldorf, Frankfurt, Hamburg, Munich, Stuttgart and London www.grprainer.com/en explain: With its judgment from March 21, 2014 (file ref. no.: 6 U 170/12), the Higher Regional Court (OLG) Frankfurt decided that an injunctive relief should be granted to the trade-mark against a shopkeeper if the shopkeeper uses external brand names as a component of its own advertising. The Court had to decide this case in which the defendant was advertising with signs on which the brand name of the plaintiff was being used to campaign as part of the defendant's advertising. The Court took the position that the trade-mark owner could be at risk that potential customers might assume that a contractual relationship may exist between the trader and the trade-mark proprietor.

The plaintiff had sold their products only to exclusive partners and saw the use of their trade-mark in such advertising as a violation of their brand name. The plaintiff wanted to avoid damage to their reputation which had been acquired through exclusive distribution. Now, with its decision, the Court had confirmed this view. According to the judge, damage to image should constitute valid grounds of the claim. Against the acceptance of a contractual relationship between the plaintiff companies and the defendant by potential customers should also not particularly have indicated that even more brand names would have appeared on the advertising signs in addition to the trade- mark of the applicant.

An indication in the window of the dealer of a non-existent relationship between the parties should, only under certain circumstances, be construed as a risk of misleading the customer. This is the case only, in particular, if the consumer would also perceive such an indication in the context knowing the brand. In the present case, the defendant could not have made such reference due to inadequate indication of the brand.

The subject matter of trade-mark law may sometimes cause problems and is often difficult to understand for non-experts. In terms of possibilities and consequences, it is of particularly great importance to make an accurate legal assessment.

An attorney experienced in commercial law provides extensive consultation for individual cases in the area of commercial law.

<http://www.grprainer.com/en/Trademark-Protection.html>

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Anlage: Bild

