Single Criminal Judge -Jdeidet

Al Metn - Decision No 358/2014

Louis Vuitton Malletier Company v. Khoury Cell LLC, Narij Khand- jian, Mohammed Abou Aleiwi, Pascale Hajjo Manikian, Trouhaji Manikian

President Al Saghbini - Decision no 358 issued on 26/11/2014 - Jdeidet Al Metn

Counterfeit - Registration Effects - Deviation of Clients - Reputation's damage - International Reputation - Customer Protection - Unfair Competition.

Background Facts

The Plaintiff, Louis Vuitton Malletier Company is a French company of international fame specialized in the creation, production and manufacturing of luxury leather products and accessories. The products of the Plaintiff are distributed under a trademark that is duly registered.

Defendants are selling counterfeit goods bearing the trademark of the Plaintiff with the intent to mislead the customers. The counterfeit goods were seized at the Defendants' stores.

Proceedings

Louis Vuitton Malletier Company filed a direct lawsuit against the Defendants and requested to convict them of the offence of counterfeiting and infringement of duly registered trademarks with intent to deceive in addition to the offence of deception of customers and the offence of counterfeiting literary and artistic property.

It asked as well the Court to appoint a specialized expert to specify the quantity of the counterfeit products seized and determine their purchasing value, the losses and the missed profits in order to estimate the compensation.

Submissions

Said facts were corroborated:

* by the statements of each of the parties;
* by the attached documents;
* by the reports drawn by the Intellectual Property Rights Protection Office at the Ministry of

Economy and Trade;

* by the commercial certificates presented;
* by the facts of the direct complaint.

Issues of Law

Counterfeiting and infringement on trademarks, deception, infringement with intent to deceive, sale and display of counterfeit products with the intent of deceiving the purchaser, entering in fraudulent competition, deviating customers and counterfeiting of literary and artistic property compose the elements of offences that should be punished under the provisions of articles 702, 703 and 714 of the Penal Code, 105 and 106 of Law No 2385/24, article 114 of Law No 659/2005 and article 85 of Law No 75/99.

However, such charges cannot be maintained and sentenced unless sufficient evidences are brought against the Defendants.

Disposition

First: to acquit the Defendants from the offence of counterfeiting in manufacture or in similarity to the trademarks of the Plaintiff with the aim of deceiving the purchaser, for insufficiency of evidence;

Second: to withdraw the charges brought against the Defendant Mohammed Abou Aleiwi from the offences of sale and display of the counterfeit products with intent to deceive the purchaser and of fraudulent competition as the elements of said offences are not fulfilled against him;

Third: to withdraw the charges brought against Khoury Cell Company as for the sale and display of the counterfeit products with intent to deceive the purchaser and the fraudulent competition since the elements of said offences are not fulfilled against said Company; and in all cases acquitting said Company from said offences for insufficiency of evidence or for the existence of doubt;

Fourth: to convict the Defendants Narij Khandjian, Pascale Manoukian and Trouhaji Manou- kian as per the provisions of articles 702 of the Penal Code, articles 105 and 106 of Law No 2385/24, article 114 of Law No. 659/2005 and article 85 of Law No 75/99 and impose upon each of them a fine;

Fifth: to impose upon Defendants Narij Khandjian, Pascale Manoukian and Trouhaji Manoukian to payto said Plaintiff Company a compensation;

Sixth: to confiscate the products caught;

Seventh: to reject all the augmenting and contradicting requests;

Eight: to impose all costs on the Defendants Khandjian and Manoukian.

Decision issued in jdeidet El-Metn on 26/11/2014

Source: SADER Rany, SADER Courts’ Series:

Intellectual Property in Lebanon, SADER Legal Piblishing,2017, P 131.