

PRC CASE REPORT

Subject: *Trademark Infringement - “Hennessy v Hanlissy”*

Parties:
Plaintiff - *World-renowned French cognac producer Societe Jas Hennessy & Co., which has registered its trademarks in Class 33 in China since 1980.*

Defendants- *Zhubai Xiangmutong Trading Co. (“ZXT”), the wine distributor and Xiamen Jinhuaya Food Co., the bottle agency.*

Fact:

A series of wine goods bearing the trademark “Hanlissy”, using the bottle shape, label and packaging substantially similar to Hennessy’s goods and claiming to be French cognac brandy were found to be sold by the Defendants at Carrefour stores in Shanghai, PRC.

Hennessy has commenced the present civil action/lawsuit against the Defendants for trademark infringement and sought losses and damages for RMB500,000.

On the other hand, ZXT has applied for registration of the trademark “Hanlissy” in Class 33 in June 2003 and subsequently got the first approval of grant by the PRC Trademark Office. However, Hennessy has filed a petition to revoke ZXT’s registration and the trademark tribunal proceedings is undergoing.

Court Decision:

In November 2005, the Shanghai Intermediate People’s Court has heard the case and ordered the Defendants to (1) pay compensation of RMB300,000; (2) cease the infringement activities by stop selling of counterfeit wine goods; and (3) publicize a apology notice in a local newspaper.

Reasoning:

The Judge ruled that the English letters of “Hennessy” and “Hanlissy” are similar in visual appearance and pronunciation. For such well-known French wine brand, the similarities might probably cause deception and confusion to the public and consumers in the market.

Comment:

This is another victory by foreign well-known trademark owner against 2 local Chinese companies for counterfeiting products. The case can show that the PRC court has taken progressive attitude to tackle the piracy problem and strengthen the protection on Intellectual Property Right in China.

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