

Workshop 1: The Enforcement of IP Rights in Different Jurisdictions

International Distribution Institute

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Departing from well drafted contractual clauses as well as the registration of IP rights to protect the "trade dress" of the shop layout, how can such legal instruments be effectively implemented, in order to obtain interim measures and other effective court interventions?

The panel of speakers will review and answer possible questions from the perspective of their own jurisdictions from different perspectives.



Session Chair:

Marco Hero, Schiedermair Rechtsanwälte, Frankfurt am Main; IDI franchising country expert for Germany

Speaker Panel:

- Deborah S. Coldwell, Haynes and Boone, LLP, Dallas
- Nathalie de Quatrebarbes, Quatrebarbes, Paris
- Roberta Obinu, Golden Goose, Treviso
- Bernard Vanbrabant, Prof. Université de Liège and Of Counsel Liedekerke, Bruxelles

Judicial measures and enforcement in Italy

Premises:

1) Trademark (e.g. Apple), registered or unregistered; 2) Design, registered or unregistered 3) art. 2 n. 5 l.a.: designs and works of architecture 4) if there is unfair competition. E.g. parassitism (Kiko case).

Judicial measures:

A) Interim proceeding, followed by the proceeding in the merit

Remedies: Most effective: injuction with penalty (art. 156 l.a. and/or 131 c.p.i.) + order of publication of the interim decision. Both, injunction with penalty and order of publication are stable \rightarrow No need to file the proceeding in the merit.

B) Proceeding in the merit: in addition to the remedies of the interim proceeding, reimbursement of damages (art. 125 c.p.i. and/or 158 l.a.)→ loss of profit of the IP owner or disgorgement of profits of the infringer or royalty criteria.

Judicial actions, probatory measures and remedies for trade dress infringement in France

- The proof of the ligious act
- The judicial proceedings
- The available remedies
- Graphical User Interface (GUI)

The Common Law approach from the U.S. Perspective:

- Bases for protection
 - The Lanham Act
- Remedies and enforcement
- Examples of protected/unprotected trade dress

Liège, 6 December 2016, Kiko v. BVMW and Wycon











• Liège, 6 December 2016, Kiko v. BVMW and Wycon



















• Den Haag, 7 August 2019



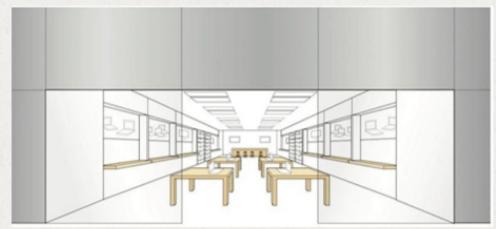
















Thank you for your attention!

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