

Case law**Case Details**

National ID: 2-06-13546

Member State: Estonia

Common Name: link

Decision type: Court decision, first degree

Decision date: 23/03/2008

Court: Harju County Court (Tallinn)

Subject:

Plaintiff: AS Latvijas Balzams

Defendant: Osaühing Fontan RV

Keywords: false information, misleading commercial practices, product characteristics, trade mark

Directive Articles

Unfair Commercial Practices Directive, [Chapter 2, Article 5, 2](#). Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 6, 1](#). Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 6, 1., \(c\)](#) Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 6, 1., \(f\)](#) Unfair Commercial Practices Directive, [Chapter 2, Section 1, Article 6, 2](#).

Headnote

Displaying in the representation of a trade mark medals and awards that were not actually awarded to the trademark's owner, misleads consumers.

Facts

The plaintiff had applied for the registration of the trade mark for a certain sparkling wine. The trade mark depicted several medals that were purportedly won by the plaintiff in competitions.

The defendant argued that the plaintiff had not in fact won one of the medals, so that the trade mark would mislead consumers. For this reason, according to the defendant, the trade mark could not be registered.

The court now had to decide whether the trade mark could be registered in light of the medal issue.

Legal issue

The court first reflected on the rights of the consumers in the Estonian Consumer Protection Act, and stated that the information given to consumers must be correct. Therefore, displaying false medals in the representation of a trade mark is a misleading commercial practice, as it causes (or is likely to cause) the consumer to take a transactional decision that he would not have taken otherwise.

The court also considered that giving false information in the representation of a trade mark is misleading advertising and thus prohibited under the Estonian Advertising Act.

Decision

Does the depiction of a medal in the representation of a trade mark constitute a misleading commercial practice when the medal was not actually won by the owner of the trade mark?

URL: <http://www.kohus.ee/kohtulahendid/index.aspx>

Full text: [Full text](#)

Related Cases

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Legal Literature

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Result

The plaintiff's registration request was denied.