

German district court verdict: Wooden flat pallets may no longer be sold with the branding 'world' in an oval shape

On 12th March 2009, the German district court of Erfurt prohibited Falkenhahn AG from offering or selling wooden flat pallets that have the same appearance as the EPAL euro pallet but carry the branding 'world' in an oval shape. (reference number Az. 3 O 987/08).

Since February 2008, the German company Falkenhahn has offered wooden flat pallets with the 'world' branding in an oval shape. The branding conspicuously resembles the 'EUR' and 'EPAL' trademark symbols in oval shapes, which have been used on EPAL Euro pallets for many years. The similarity created the potential to mistake world pallets for euro pallets and the wrong impression that world pallets were exchangeable in the European Pallet Pool.

For these reasons, EPAL requested an injunction against Falkenhahn AG at the district court of Erfurt in the summer of 2008.

The district court of Erfurt published its verdict on the 12th March 2009 confirming EPAL's position. According to this verdict, the trademark 'EUR' and 'EPAL' in the oval shape have an outstandingly high profile. In view of this, and the high resemblance of the pallets, the identity of the oval as graphic element of the mark alone is sufficient to constitute a danger of confusion. Therefore the district court of Erfurt decided that the mark 'World' in an oval shape constitutes an unauthorized approach to the trademarks 'EUR' and 'EPAL', which violates the trademark rights of EPAL in the sense of unlawful damnification.

The district court of Erfurt did not allow the application to oblige the company Falkenhahn to delete existing pallet marking which have 'world' in an oval shape, which EPAL submitted at the same time because that falls within the remit of the Office of Harmonization for the Internal Market. **However, pallets with the mark 'World' in the oval may no longer be offered or put into circulation by Falkenhahn AG.**

The verdict of the district court of Erfurt is not yet legally binding, so world pallets will presumably still be offered for the time being. When the verdict becomes final, not only the sale, but also any other 'putting into circulation' of the world pallets such as the use of the

pallets in pallet pools or hired for one-way trips will be considered as a trademark infringement.

It confirms to interim injunction issued by the district court of Meiningen on the 26th March 2008 (reference number Az. HK O 32/08). The district court of Meiningen prohibited Falkenhahn AG to repeat different advertising messages that misleadingly suggest the exchangeability of the world pallet within the European Pallet Pool. Falkenhahn AG acknowledged this interim injunction already in 2008 by signing a final declaration.

ENDS

Notes to Editors

- EPAL is the largest pallet pool in the world with 500 million pallets in use and 70 million added annually.
- In the UK EPAL grew by 22% in 2008.
- New research shows that using EPAL pallets can be 25% cheaper than renting pallets.
- EPAL has the toughest quality control in the world, all partners received unannounced visits from independent inspectors at least monthly.
- New size 1000 x 1200 pallet compatible with UK standard distribution.
- EPAL has solutions for all pallet users – importers, exporters and home trade industries.
- For more information about EPAL, call Paul Davidson on 01223 479594, email davidsonpaulj@gmail.com or visit www.brepal.org.uk

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