

## European Union

### “Tommy Hilfiger Licensing and Others”

Decision of the European Court of Justice (Second Chamber)

7 July 2016 – Case No. C-494/15

*Tommy Hilfiger Licensing LLC, Urban Trends Trading BV, Rado Uhren AG, Facton Kft., Lacoste SA, and Burberry Ltd v. Delta Center a.s.*

Directive 2004/48/EC, Art. 11

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**Keywords** Enforcement · Intermediary whose services are being used by a third party to infringe an intellectual property right · Injunctions · Market-trader · Counterfeit goods

1. The third sentence of Article 11 of Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights must be interpreted as meaning that the tenant of market halls who sublets the various sales points situated in those halls to market-traders, some of whom use their pitches in order to sell counterfeit branded products, falls within the concept of ‘an intermediary whose services are being used by a third party to infringe an intellectual property right’ within the meaning of that provision.
2. The third sentence of Article 11 of Directive 2004/48 must be interpreted as meaning that the conditions for an injunction within the meaning of that provision against an intermediary who provides a service relating to the letting of sales points in market halls are identical to those for injunctions which may be addressed to intermediaries in an online marketplace, set out by the Court in the judgment of 12 July 2011 in *L’Oréal and Others* (C-324/09, EU:C:2011:474).