



ARE Trademark Law Alert: Amster, Rothstein & Ebenstein Trademark Law Alert

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Beginning in June 2008, a series of decisions regarding the duty to identify counterfeit sellers on eBay's auction site began to issue in Courts throughout the World. First, on June 30, 2008, the Commercial Court of Paris in France handed down a decision in favor of LVMH and against e-Bay. Next, on July 14, 2008, the United States District Court for the Southern District of New York handed down a decision against Tiffany and in favor of eBay. Both of these decisions are currently the subject of pending appeals.

Since those two decisions issued, a series of actions brought by other rights owners against eBay facing similar issues are winding their way through the court systems around the world. So far, rights' owners have prevailed, not only in the LVMH cases, but also in France (in a case by Hermès) and in Germany (in a case brought by Rolex). eBay has prevailed in not only the Tiffany case, but also in Belgium (in a case brought by L'Oreal).

Our firm has been following these issues closely, and has issued a number of Guest Columns and articles discussing the Tiffany case, which are available at our firm's website. See, e.g., Holly Pekowsky and Anthony F. Lo Cicero, *Tiffany V. eBay: Trademark Owners Beware*, IP Law 360, Portfolio Media, New York (July 16, 2008) (available at www.arelaw.com); [Charles R. Macedo](#), [Holly Pekowsky](#) and [Anthony F. Lo Cicero](#), *Tiffany (NJ) Inc. v. eBay Inc.: Guidelines for Online Retailers to Police the Sale by Third Parties of Counterfeit Goods*, Common Law Journal (July 24, 2008) (available at www.arelaw.com).

Our most recent analysis, [Charles R. Macedo](#), *EBay: A Tale of Two Defenses*, IP Law 360, Portfolio Media, New York (August 22, 2008) (available at www.arelaw.com), provides an entertaining analysis of the Tiffany and LVMH decisions, and useful advise on best practices a retailer of goods that are auctioned on eBay or other comparable websites should follow to address counterfeiting issues.

Please feel free to contact us to learn more about these decisions and what your organization should do to address these counterfeiting issues.