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LOUIS VUITTON SOUNDS WARNING TO MARKET OPERATORS

The Facts

This case involved the question of whether a real property owner was responsible, as a joint tortfeasor, for the tortious conduct of persons to whom it had granted licenses to occupy.

The respondents were the property owner of land upon which a market operated and its manager respectively. The applicant (LV), through its agents, conducted purchases of merchandise unlawfully bearing the LV's trademarks or marks deceptively similar to the LV trade marks. The purchases were brought to the attention of the respondents (conveniently Toea).

LV alleged that a combination of Toea's failure to take adequate steps to prevent the ongoing infringements and the manner in which the markets were conducted as a 'partnership' between Toea and its stall holders, amounted to a participation by Toea in the common design to infringe LV's trade marks.

The Decision

The application was dismissed.

The Reasons

His Honour did not consider that Toea's control of the Carrara Markets, of itself, or with other evidence justified an inference that 'either Toea or Mr Rosenlund shared a common purpose with any of the infringing stallholders'.

Louis Vuitton Malletier SA v Toea Pty Ltd [2006] FCA 1443 (Dowsett J, 7 November 2006)
(the matter is considered more fully at www.deliades.com.au)

D Eliades 22 December 2006.

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