

Onel mystery grows as complainant speaks out on controversial ruling

European Union - Latest news

February 04 2010

Examination/opposition
Registration
Confusion
National

The complainant firm in the hotly debated *Onel Case* has told *WTR* that its appeal against the controversial ruling will be filed next week, but refused to comment on whether it had engineered the case to test Community trademark (CTM) law.

Onel Trademarks, a subsidiary of Knijff Trademark Attorneys and owner of the ONEL CTM, had opposed Hagelkruis Beheer's application to register the term OMEL at the Benelux Intellectual Property Office (BOIP). The BOIP rejected Onel's arguments that use of its CTM in one EU member state constituted genuine use, and the firm's attempt to block the OMEL registration therefore failed. The IPKat blog then sparked wider interest in the case when it [reported](#) that Hagelkruis Beheer had only one stakeholder and no staff yet had filed proceedings at the BOIP that were "too good" to be the work of a non-trademark specialist.

However, speaking to *WTR* last night, [Daan Teeuwissen](#), director of the Knijff Group, would not respond to the speculation that Knijff or Onel had founded Hagelkruis Beheer as a front company to file the application for OMEL in order to test the law. "We cannot comment because the procedure is still pending," he said. "We think that the case as such is relevant and even if that were the background of Hagelkruis Beheer, it would not be relevant. But we cannot go into detail."

WTR could not find any substantive information about Hagelkruis Beheer; and its phone line was not answered when called yesterday.

Meanwhile, Teeuwissen confirmed that Onel will contest the ruling: "We're preparing an appeal with our lawyer and it will be filed within the next week. The defendant will then have four weeks to file a response." Knijff is standing by the position, echoed around Europe by high-profile practitioners and user associations alike, that the BOIP ruling is in contrast to the founding principle of the CTM and, moreover, precedential rulings of the Court of Justice of the European Union. "The BOIP decision is contrary to the concept behind the CTM in developing business in a single market," Teeuwissen commented. "It would be a great administrative burden if trademark owners had to think about requirements across borders when using a CTM."

In a statement issued shortly after the case came to light last week, European trademark owner association [MARQUES](#) said: "MARQUES is of the opinion that the BOIP opposition decision in question contradicts the uniform interpretation of the concept of genuine use in the EU. We are of the opinion that the question whether use is sufficient to constitute genuine use relies on all the circumstances relevant to establishing that the use is real... MARQUES strongly believes in the principle of the unitary character of the CTM and will continue to support this concept."