

INTERNET SEARCH KEYWORDS

Fastapizzapasta Corporation

-v-

Marco & Salvatore Srl (1st Defendant)

Searchable Corporation (2nd Defendant)

10 November 2011

THE FORUM

INTERNATIONAL COURT OF FICPI

JURISDICTION: EU

APPLICABLE LAW: EU LAW

FÉDÉRATION INTERNATIONALE DES CONSEILS
EN PROPRIÉTÉ INTELLECTUELLE
INTERNATIONAL FEDERATION OF
INTELLECTUAL PROPERTY ATTORNEYS
INTERNATIONALE FEDERATION
VON PATENTANWÄLTEN



J.A.KEMP & CO

THE PARTIES

FASTAPIZZAPASTA CORPORATION (Claimant)

(represented by Alexandra NERI)

-V-

MARCO & SALVATORE SRL (1ST Defendant)

(represented by Neville CORDELL)

SEARCHABLE CORPORATION (2nd Defendant)

(represented by Benjamin DU CHAFFAUT)

THE CLAIMANT AND THEIR RIGHTS

- The Claimant is a well-known network of deliverers of takeaway fresh pizza and pasta
- The Claimant owns the European Community trade mark

FASTAPIZZAPASTA

for takeaway delivery services

THE DEFENDANT AND THE ACTIONS COMPLAINED OF

- The 1st Defendant runs a competitive takeaway delivery service
- The 1st Defendant has bid on and obtained Internet Search keywords [through Searchable Corporation, the 2nd Defendant] for the following:

FASTAPIZZAPASTA	FASTA PIZZA PASTA	FASTERPIZZAPASTA
FASTER PIZZA PASTA	FASTA PIZZA	FASTER PIZZA
FASTA PASTA		FASTER PASTA

THE DEFENDANT AND THE ACTIONS COMPLAINED OF

- When a consumer inputs the Internet keyword FASTAPIZZAPASTA the following sponsored link is returned alongside the natural Internet search results:

[Marco and Salvatore Pizza & Pasta](#)

www.marcosalvatore.com

[Faster pizza pasta by Marco & Salvatore Srl](#)

THE SECOND DEFENDANT

The Claimant will say that:

- Searchable Corp. is not a mere search engine, it actively engages in the business of advertising
- Searchable Corp. plays an active role that goes beyond that of a technical intermediary

RUNNING ORDER

Counsel for the Claimant

Counsel for the 1st Defendant

Counsel for the 2nd Defendant

Intervenors

Judgment

ALEXANDRA NERI



Alexandra NERI

Partner, Head of IP/TMT

Herbert Smith Paris LLP

Alexandra heads the IP/TMT group at Herbert Smith Paris LLP. She is an expert in contentious and non contentious IP issues and is both a mediator and an arbitrator for the World Intellectual Property Organisation.

She advises clients on matters including trademark and patent issues, IP rights in the digital economy, domain name litigation and cyber squatting, international data protection and cross- border data flows, on-line contracts and digital signatures.

Alexandra has also represented clients in litigation against counterfeiters and advised on the values and indemnities involved.

In the context of mergers and acquisitions, Alexandra advises on due diligence in relation to intellectual property.

NEVILLE CORDELL



Neville Cordell
Partner, IP Group, Allen & Overy LLP

Neville specialises in Intellectual Property litigation and advisory work. He has wide experience of acting for clients in patent, trade mark, passing off, domain name, copyright, design and confidential information disputes.

Neville is highly technically qualified having graduated with a B.Eng (first class honours) in Aerospace Systems Engineering and an MSc (with distinction) in Structural Molecular Biology. He was awarded a distinction in his post graduate law degree, coming top in his year. He is also a Master of Law (LLM) with distinction in Intellectual Property Law.

Neville is ranked as a leading individual for IP litigation by Chambers; as one of the world's top patent litigators by IAM Patent Litigation 250; and as one of the world's leading trade mark lawyers by the forthcoming edition of WTR 1000.

Neville is representing eBay in the *L'Oreal –v- eBay* trade mark litigation.

BENJAMIN DU CHAFFAUT



Benjamin Amaudric du Chaffaut

Senior Legal Counsel, Google France



Benjamin is the Head of the Litigation and Law Enforcement department at Google France, handling a large variety of issues, from trademark to copyright infringement cases to defamation lawsuits and Internet regulatory matters. He, among others, handled the Google AdWords case before the ECJ (now CJEU) which gave rise to a leading decision on Trade Marks and Internet law in 2010.

Before joining Google in 2008, Benjamin was attorney at law at de Gaulle Fleurance & Associés (2002-2007) and at Alain Bensoussan (1999-2002) law firms, specializing in IP and IT law.

Benjamin is the author of several articles in law reviews and newspapers on Intellectual Property topics. He also regularly speaks in conferences on intellectual property and internet-related matters. Benjamin is a graduate in Law and in Management from Sorbonne and Assas Universities.

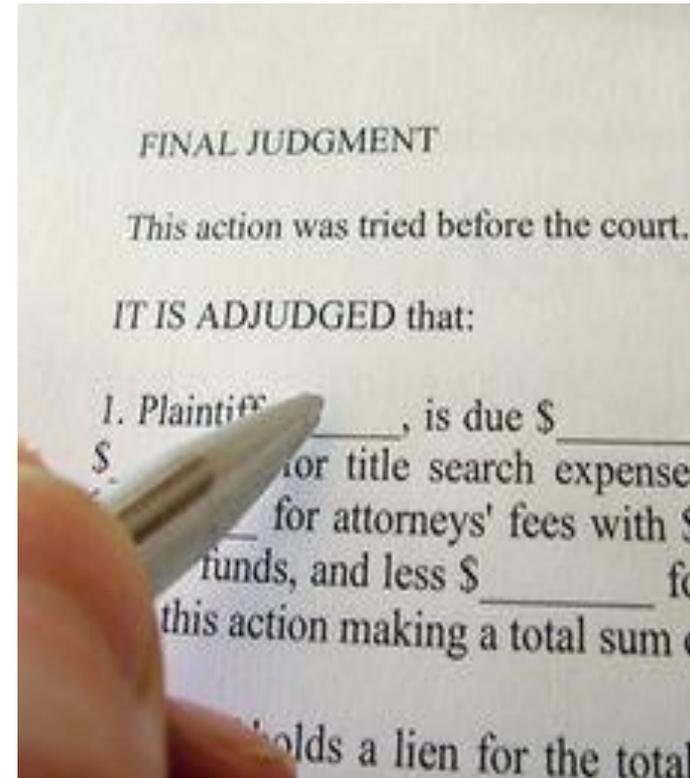
JUDGMENT

Claim 1

Claim 2

Claim 3

Claim 4



THE CLAIMS

Claim 1

Bidding on Internet keywords consisting of the identical and similar trade marks by the 1st Defendant constitutes infringement under Article 5 of Council Directive 89/104/EC and Article 9 of Council Regulation 40/94/EC

Claim 2

Use of the similar trade mark “Faster pizza pasta by Marco & Salvatore Srl” in the sponsored link constitutes trade mark infringement under Article 5 of Council Directive 89/104/EC and Article 9 of Council Regulation 40/94/EC

THE CLAIMS

Claim 3

Breach of Article 14(1) of Directive 2000/31/EC. (the so-called E-Commerce Directive)

Claim 4

Contributory Trade Mark Infringement under Article 5 of Council Directive 89/104/EC and Article 9 of Council Regulation 40/94/EC

Any questions?

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