



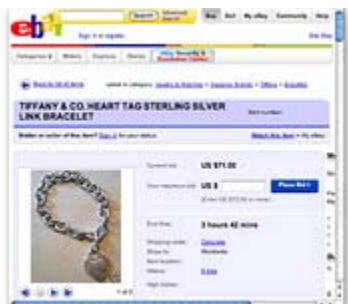
July 15, 2008

EBay Wins in Fight Over Tiffany Counterfeits

Court Backs Method Online Firm Uses To Police Knockoffs

By MYLENE MANGALINDAN and VANESSA O'CONNELL
July 15, 2008; Page B1

EBay Inc. won a significant victory over jeweler **Tiffany & Co.** in a federal-court ruling that sets a clear limit on how far online retailers have to go in policing trademarks on U.S. Web sites.



Ebay

A judge says eBay isn't responsible for determining the authenticity of goods sold on its auction site.

The ruling came down decisively in favor of **eBay** and other e-commerce companies and against Tiffany and other trademark holders, which are trying to hold the Internet companies liable for the sale of counterfeit goods.

The decision runs counter to recent rulings in Europe, where courts have held that Web sites bear more responsibility in monitoring their online properties. EBay, for example, lost a June 30 ruling in which a French court decided that it must pay €40 million (\$63.7 million) in damages to LVMH Moët Hennessy Louis Vuitton SA and other luxury-goods makers.

"This creates two very distinctive e-commerce worlds: the U.S. is the Wild West, and Europe is carefully controlled," says Susan Scafidi, a professor at Fordham Law School who teaches courses in fashion law. "This creates a very wide gap for the responsibility and where the burden is placed."

U.S. District Judge Richard Sullivan in Manhattan concluded that eBay responds appropriately in removing listed items once Tiffany has identified them to eBay as counterfeit. He rejected New York-based Tiffany's contention that eBay should take greater responsibility by refusing to post listings it could "reasonably anticipate" might be counterfeit.

FOR THE RECORD

Read the judge's opinion¹ in the Tiffany v. eBay case, by arrangement with Findlaw (www.findlaw.com²).

Judge Sullivan suggested Congress may want to consider whether it is fair for trademark holders to carry the entire burden of policing their trademarks on the Internet, given the evolving nature of electronic commerce. But he concluded that existing U.S. law favors online sellers.

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Associated Press

eBay won a case against Tiffany & Co. Monday over the sale of counterfeit jewelry on its Web site.

Rob Chesnut, senior vice president and legal counsel at eBay, based in San Jose, Calif.

Tiffany is expected to appeal. "We continue to believe that eBay is legally responsible for the trademark infringement of those selling counterfeit Tiffany jewelry and that eBay cannot avoid liability by placing the entire burden for enforcement on Tiffany and on the other manufacturers' well-known, brand-name products," says Mark L. Aaron, Tiffany's vice president of investor relations.

"This ruling appropriately established that protecting trademarks is the primary burden of rights owners -- not marketplaces like eBay," said

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