

Accusations of trade mark infringement: a graphic example

- Trade mark dispute between two manufacturers of computer parts
- Did a letter from one side's lawyers amount to a groundless threat of infringement proceedings in the UK?
- High Court gives guidance on how to assess a letter which threatens proceedings, where there is an international dimension

What's it about?

This is a case between two companies that both make parts for computers. The Nvidia Corporation (**Nvidia**) is well known for its computer graphics cards, and uses the terms GTX and GTS in connection with many of its products. Hardware Labs Performance Inc (**Hardware**) makes computer water-cooling products, and owns European Union Trade Marks for the terms GTX, GTS and GTR. Nvidia and Hardware each disputed the other's right to use the terms GTX, GTS and GTR, which culminated in Nvidia seeking to have Hardware's EUTMs declared invalid. Nvidia also commenced the current proceedings, in which it claims that a letter sent by Hardware's German lawyers to Nvidia's premises in California amounted to a groundless threat of infringement proceedings under UK trade mark law (specifically, Section 21 of the Trade Marks Act 1994).

Why does it matter?

The letter in question was written in English and sent by Hardware's German lawyers to Nvidia's address in California. Amongst other things, the letter required Nvidia to cease using the disputed marks in the European Union. The High Court held that the letter generally did not suggest a threat of proceedings anywhere other than Germany and that it did not contain a threat to commence proceedings in the UK. It refused to grant the relief sought by Nvidia, being an injunction and damages.

The High Court reiterated the general approach to groundless threats claims, which is to ask: what would an informed reasonable person understand from reading the letter? In doing so, it is appropriate to assume that the "reasonable person" in question has the benefit of correct legal advice.

Now what?

Although Nvidia's groundless threat claim was unsuccessful, this is a reminder that lawyers must draft any threat of trade mark proceedings very carefully. In particular, where the parties are based in different jurisdictions, and the alleged infringing activities take place globally, there is a risk that general references to taking legal action could be interpreted as including the UK.

[*Nvidia Corporation and others v Hardware Labs Performance Systems Inc \[2016\] EWHC 3135 \(Ch\)*](#)

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