

Piracy, Counterfeiting and Copycat Packaging

Michael Edenborough QC

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scope of the problem

- piracy
- counterfeits
- copycats
- copyists

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piracy of works of art



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counterfeiting of FMCGs



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copycat



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direct copying: MoroccanOil Israel Ltd v Aldi Stores Ltd [2014] ETMR 55



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indirect copying: *Gama Healthcare Ltd v PAL International Ltd* [2016] EWHC 75 (IPEC)



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evocative



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allusive



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cheeky?



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less cheeky?



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just crowded?



Lidl

Aldi

Lindt

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trade marks / passing-off

- distinctive mark / goodwill in the get-up
- confusion or misuse / deception

Big Brands – BIS consultation 2014

- intention to deceive
- private cause of action under CPUTR
- objection to copying *per se*

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