CASE STUDY

INTELLECTUAL PROPERTY AND ELECTRONIC DEVICES

BACKGROUND

Javier's birthday is coming up and his parents are planning his present. They know he's passionate about technology and a big fan of the Apple brand. They still remember the time he stood in line in front of the MAC STORE to be one of the first to get the iPhone X.

Upon research on the Internet, Javier's parents found out that one of the latest fashion accessories was the Apple Watch. Among other things, this watch can measure your heart rate, exercise level, give you a location via GPS, play songs and answer calls.

It also features Apple's exclusive design, which has been registered with the European Union Intellectual Property Office since March 2019.

This was definitely the perfect present for Javier. So Carmen and Hernando, his parents, went to the nearest Fnac to buy it.

When they arrived at the store, they were told that the watch was sold out. They searched other shops and got the same answer.

Worried about not having the present yet, they decided to go online on Amazon and order the watch through this platform.

There were hundreds of results: different offers, colours and, even better, very affordable prices. Javier's parents thought they were getting a good deal and didn't pay much attention to the information or the seller's qualification. Carmen remembers telling her husband that she found it strange that there was such a difference in price between what they had seen in the store and the products offered on Amazon. She also realised there was no contact address in case there was an issue with the watch.

In spite of this, they both agreed to order the digital watch to surprise their son. They entered their credit card number, the shipping address and happily went for dinner.

Some days later, the watch arrived at Javier's house. The birthday celebration started and his parents gave him the long-awaited Apple Watch.

Knowing both the technology and the Apple brand, Javier immediately realised that this watch was not original. In particular, he noticed that several security seals were missing, that the design, while it seemed identical at first glance, was not really so, and that the screen and interface did not match. Javier didn't want to hurt his parents' feelings, so he thanked them for the gift and decided to use it.

The watch started malfunctioning from the beginning: it did not charge properly, could not download applications and was constantly shutting down. Javier had no choice but to tell his parents.

The family tried to contact the seller, but no one answered at the phone number on the shipping order. Worse than that, the father received a notification from his bank, which had detected suspicious transactions with his credit card details.

ACTIONS TAKEN

Through the Amazon website, Javier's parents reported the counterfeit product and the seller. Amazon immediately informed Apple, a company registered in its "Brand Service" program, of the existence of this counterfeit and the details of the seller.

Thanks to the information provided by Amazon, Apple's Intellectual Property unit was able to identify the seller and locate the illegal merchandise that it had been commercialising.

Apple filed a lawsuit against the seller and even managed to have the infringing products seized.

OUTCOME

Because the watch design and the Apple brand are validly registered with the European Union Intellectual Property Office (EUIPO), Apple was able to initiate design and trade mark infringement proceedings against the seller of the counterfeit products. By doing so, they hope to prevent, on the one hand, the brand image from being damaged by poor quality imitations and, on the other hand, situations like Javier's from being repeated.

In view of what happened, Javier decided not to make a big deal out of it and to order the watch directly from the Apple store. Regarding the suspicious transactions, since the amounts involved were small, Javier's father was able to reach an agreement with his bank and not lose all his money.

LESSONS LEARNED

It is important to check online sellers' credentials, even if they sell on legal platforms such as Amazon or Alibaba. It is very useful to review the comments made by users, if possible, on different websites or forums.

Buying counterfeit electronic devices can mean buying low-quality and faulty products, which can present a health risk in some cases, such as batteries that overheat and explode or dryers that are set at a higher level than allowed.

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