

## A question of consent – counterfeit and parallel imported ID cards



In *NXP BV v. ID Management Systems* [2019] EWHC 1902 (IPEC), Mr Recorder Douglas Campbell QC found that the Defendant had inadvertently infringed trade marks owned by the Claimant by selling two batches of ID cards, one of which was counterfeit and one of which was a parallel import. In doing so, the judge found that the Claimant had not consented to the counterfeit ID cards being placed on the market or to the parallel import ID cards being placed on the market in the EEA. In this regard, the judge held that a white paper produced by the Claimant advising customers to buy from registered partners did not amount to unequivocal consent to the sale of goods purchased from those registered partners which were counterfeit or parallel import ID cards.

The court awarded injunctive relief against the Defendant, combined with a protocol to enable the Defendant to seek confirmation from the Claimant regarding the legitimacy of ID cards that it buys from third parties in future. It also gave directions for disclosure to enable election for a trial of quantum.

The Claimant was represented by [Jamie Muir Wood](#) of Hogarth Chambers, instructed by WP Thompson, and the Defendant was represented by [Nick Zweck](#), also of Hogarth Chambers, instructed by Kyriakides & Braier Solicitors.

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