

## Court decision in Onel-case

Short summary of the ruling:

The most important issue is that the Court has decided, after the forthcoming consent of both parties, to pose questions to the Court of Justice in Luxembourg. The proposed questions are in short:

1. Will the use within the borders of one Member State be sufficient to demonstrate genuine use of a Community trademark?
2. If the answer is no, does this mean that use within one Member State will never be sufficient to prove the genuine use of a trademark? If this is the case, which requirements should be taken into consideration when assessing the genuine use with regard to the territorial extension of the use of a trademark?
3. If the answer to question 1 is no, should the assessment of genuine use be deduced from borders of a territory and only relate to market shares and other factors on the several markets within the European Union?

Furthermore, the Court gives a preliminary insight of his thoughts in this matter:

The Court states that on the basis of the decisions of the Court of Justice in Ansul, La Mer Technology and Sunrider it takes the view, for the time being, that "genuine use" is an autonomous concept. In this respect, the Court states that the territorial requirements of the use are one of the elements that should be taken into consideration when assessing the use of a trademark, the required territorial scope of use of a Community trademark does not have to coincide with all the Members States of the European Union, and that use in only one Member State does not immediately mean that the trademark has not been used in the whole European Union.

If you have any questions, please feel free to contact Onel trademarks.