

Case C-223/98

Proceedings brought

by

Adidas AG

(Reference for a preliminary ruling
from the Kammarrätten i Stockholm)

(Free movement of goods — Regulation (EC) No 3295/94 — Prohibition of release for free circulation, export, re-export or entry for a suspensive procedure of counterfeit and pirated goods — Provision of national law requiring the names of consignees of consignments detained by the customs authorities pursuant to the regulation to be kept confidential — Compatibility of the provision with Regulation (EC) No 3295/94)

Opinion of Advocate General Cosmas delivered on 10 June 1999 I-7083

Judgment of the Court (Fifth Chamber), 14 October 1999 I-7099

Summary of the Judgment

*Common commercial policy — Measures to prevent the release for free circulation of counterfeit or pirated goods — National legislation precluding disclosure of the identity of the declarant or consignee of such goods — Not permissible
(Council Regulation No 3295/94, Art. 6(1))*

On a proper construction, Regulation No 3295/94 laying down measures to prohibit the release for free circulation, export, re-export or entry for a suspensive procedure of counterfeit and pirated goods precludes a rule of national law under which the identity of declarants or consignees of imported goods which the trademark owner has found to be counterfeit may not be disclosed to him.

Effective application of the Regulation is directly dependent on the information sup-

plied to the holder of the intellectual property right. Thus, if the identity of the declarant and/or consignee of the goods cannot be disclosed to him, it is in practice impossible for him to refer the case to the competent national authority so that, in a decision based on the merits, it can give final judgment against such practices. The reference in the second subparagraph of Article 6(1) of the Regulation to national provisions on the protection of personal data, commercial and industrial secrecy and professional and administrative confidentiality cannot therefore be understood as precluding disclosure to the holder of the right of the information which he needs in order to safeguard his interests.