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## Denmark: In-fight between CHRISTIANIA BIKES and CHRISTIANIA CYKLER

Lasse Skaarup Christensen, Louise Thorning Ahle (Gorrissen Federspiel) · Friday, July 7th, 2017



In Copenhagen around one third of the workforce bike to work. That amounts to more than one million kilometers being pedaled every day. Next to the Dutch the Danes are the population in Europe that bike the most. For this reason it is only natural that conflicts should arise in Denmark between owners of trademarks for bikes. This time it is the owner of CHRISTIANIA BIKES that has brought an injunction against use of the Danish translation CHRISTIANIA CYKLER.

The original producer of CHRISTIANIA BIKES (see picture above) started back in 1978 producing distinctive freight bicycles under the less distinctive name CHRISTIANIA BIKES. They applied for a trademark registration of the wordmark in 2004. The word element BIKES is obviously non-distinctive for *vehicles for use on land* in Class 12. Christiania is today a well-defined area covering 34 hectares (84 acres) with approximately 850 inhabitants who have been running a self-governing “free town” since 1971 on the site of a military barracks as an alternative to mainstream society working to decriminalize trade in cannabis and banning the use of cars in Christiania. Even though the Danish Government has worked to “normalize” Christiania since 2004, Christiania still has a special hippie-like feel to it and is a popular tourist attraction

The Danish practise relating to trademarks which contain a geographical origin, tends to be rather strict. Even historical terms for geographical areas are rejected. But somehow the application for the word mark CHRISTIANIA BIKES passed through to

registration for different kinds of bikes in Class 12 in 2004. However, when the mark was re-applied for in 2015, it was rejected for *vehicles for use on land* in Class 12.

In the decision by the Maritime and Commercial High Court dated 27 June, 2017 the Court takes the view that the 2004 registration for CHRISTIANIA BIKES is valid (and not a mistake) and its scope of protection also covers the Danish equivalent CHRISTIANIA CYKLER (!).

The Maritime and Commercial High Court also argues that due to the fact that the bikes sold under the trademark CHRISTIANIA CYKLER are very similar to the bikes sold under the trademark CHRISTIANIA BIKES, the trademarks - CHRISTIANIA BIKES and CHRISTIANIA CYKLER - are also confusingly similar when CYKLER (bikes) is used in the singular CYKEL (bike) and in definite form CYKLEN (the bike). One can only ask how it is possible to take into consideration the visual impression of the bikes sold under the conflicting trademarks when the trademarks are being compared on the basis of the Danish Trademark Act (and not the Marketing Practices Act). But nevertheless this was what was done.

The owner of CHRISTIANIA BIKES sent a cease and desist letter to the user of CHRISTIANIA CYKLER in 2012. They received no reaction to this letter, and in spite of that they did not take court action until 2017. It was therefore concluded that CHRISTIANIA BIKES had acquiesced in the use of CHRISTIANIA CYKLER, and they could therefore only prevent use of the identical mark but not of the Danish translation. The concept of acquiescence is covered by Section 9 of the Danish Trademark Act, the equivalent of Article 54 EUTMR.

Happy summer vacations!

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