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# Kluwer Trademark Blog

## USA: SunEarth, Inc. v. Sun Earth Solar Power Co., Ltd, United States Court of Appeals, Ninth Circuit, Nos. 13-17622, 16 November 2016

Thomas Long (Wolters Kluwer Legal & Regulatory US) · Thursday, December 8th, 2016

An injunction preventing China-based Sun Earth Solar Power Co. and its U.S. affiliate NBSolar, Inc. (collectively, “SESP”) from using the trademark “Sun-Earth,” while permitting SESP to state within the United States the fact of their affiliation with the Sun-Earth name and mark that they used outside of the United States, and to allow SESP to import its products into the United States for sale under a non-infringing name, such as NBSolar, has been affirmed by the U.S. Court of Appeals in San Francisco. The district court had the discretion to permit non-misleading uses of a trade name. The exception did not violate procedural rules requiring that an order granting an injunction “state its terms specifically” and “describe in reasonable detail ... the act or acts restrained,” in the appellate court’s view. An injunction allowing limited use of a trademark need not “catalog the entire universe of possible uses.” It was enough to give the trademark holder adequate notice of the enjoined party’s permissible uses. The Ninth Circuit declined to decide whether the district court erred in determining that the case was unexceptional and did not warrant an award of attorney fees; the case was remanded for further consideration of that issue (SunEarth, Inc. v. Sun Earth Solar Power Co., Ltd., November 16, 2016, per curiam).

A [full summary](#) of this case has been published on [Kluwer IP Law](#).

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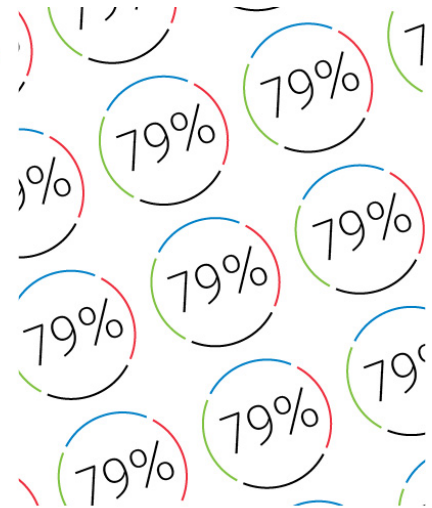
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