

LEGAL AND PRIVACY

EU court preliminarily rules in favor of Louboutin as Amazon faces infringement charges

December 28, 2022



Amazon's advertisement of knock-off Louboutin shoes with red soles has made the company liable for infringement on behalf of third parties. Image credit: Christian Louboutin

By LUXURY DAILY NEWS SERVICE

French footwear and accessories label Christian Louboutin's two active infringement cases against Amazon have reached preliminary rulings in Europe.

Subscribe to **Luxury Daily**
Plus: Just released
State of Luxury 2019 **Save \$246 ▶**

On Dec. 22, after a three-year process, the Court of Justice of the European Union (CJEU) has ruled that Amazon is possibly guilty of breaching trademark rights by selling and marketing false Louboutin shoes on its site via third-party sellers. Litigation was first held, and Louboutin's argument that Amazon should be held liable for the actions of companies that it hosts heard, in district courts in Belgium and Luxembourg.

"[Louboutin] initiated these proceedings to obtain recognition of Amazon's responsibility for the offering for sale of counterfeit products on its platforms by third parties," said **Maison Louboutin**, in a statement.

"[Louboutin] also brought this case to encourage Amazon to play a more direct role in the fight against counterfeiting on its platforms."

Blame game

Though preliminary, rulings do put Amazon in a position of culpability due to its compliance in the sale of fake brand products on its platform.

The decision is based on **Article 9(2)** of EU Trade Mark Regulation, which explores the ethics of marketing infringed items and whether or not host companies are liable. Louboutin has long fought against Amazon's part in this, claiming that the company advertises knock-off versions of its classic red-soled shoes without consent.

The trademarked red-soled heels usually go for a bit more than \$600 on Louboutin marketplaces. When they are sold on Amazon without any distinctions between the real and counterfeit items, it can be difficult for buyers to determine if they are legitimate or not.



The brand's pioneering Nudes collection. Image credit: Christian Louboutin

The CJEU reported that since Amazon shoppers perceive the fake products to be marketed by the platform itself, rather than the seller, this makes Amazon liable for the infringement. Additionally, the fact that Amazon aids the sellers through shipping and handling adds to its culpability.

"Amazon can be held accountable for the breaches as if the platform was itself the seller," said Thierry Van Innis, co-founder and partner of Van Innis & Delarue and lawyer to Louboutin, in a statement.

"Amazon will be forced to change their model and stop misleading the public by mixing up their own and third-party offers," Mr. Van Innis said. "We're not talking money at this stage.

"We want the breaches to stop."

The Belgium and Luxembourg district courts are now to determine if the ruling will stand.