

BizLawCentral: IP: NZ - Action against online auction house

Paul Meier of company Brand Developers has had enough: he's sold 45,000 "Ab King Pro" exercise devices - But Customs have seized more than 4700 fakes made in China. He says the market for the fakes is in part due to their sale on auction website Trade Me.

Trade Me say they have done nothing wrong: a person puts an item for sale and sells it to a willing purchaser for an agreed price. It's not for them, they say, to act as policeman as to the good sold using their site.

Even so, in an effort to prevent the site being used by counterfeiters, the site has developed systems and controls to help to identify traders in counterfeit goods and made provision for purchasers to report counterfeits.

The issue, for Brand Developers is that their product, sold through TV adverts presented as programmes, sell for NZD299 whilst the Chinese copies sell for NZD50. Not only do they look similar but they use the same name. The Chinese copies weigh much less - around 4Kg less.

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NZ Auckland

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The product's advertising says "you'll see extreme results really fast." You can watch the "Good Morning Advertorial"

here: <http://tvnz.co.nz/view/page/1574793/1583319>

Three minute DVD and ten week "slim down plan" plus "Shapely Secrets System" valued at NZD150 - but only if you had called within ten minutes of the ad being broadcast.

Looking at



Wellington City, Wellington
Closes in 32 secs

the trademe.co.nz website as this story was prepared, we found that there are "Ab Machine" devices prominently displayed. The product description says

"TOP FIT - AB EXERCISER. THE BRAND NEW 2008 MODEL AB EXERCISER. The new 2008 model has a cam now, not a roller This new design is stronger and guaranteed to last much longer than the older model. Get of to a great start with you 2008 goal - to get fit & get healthy BRAND NEW

BRAND: TOP FIT MODEL: AB EXERCISER (2008) PRODUCT CODE: A1147-02
BUY NOW @ JUST \$249 CURRENT RETAIL VALUE: \$369"

The product does indeed look very like the "Ab King Pro" but it does appear, from its description, to differ in that one of the major features, the way in which part of the device is supported as it lies down, uses a different mechanism.

The three items listed all showed bids for around NZD70 - 90 on closing, against a reserve of NZD1 per item. Given the claimed "buy now" and "retail" values, it has to be said that this is an interesting business practice.

But whether it amounts to a failing on the part of trademe is something that the courts are going to have to sort out.