

Nordic IP Moot Court Competition, Case 2017

ShopChop Oy Ab (hereinafter “ShopChop”) is a limited liability company registered in Finland. It operates a chain of discount grocery stores in Finland, Sweden, Denmark and Norway called Maximus (which supposedly stands for ‘Maximum value for minimal prices’). ShopChop has registered in all Nordic countries the word mark MAXIMUS for ‘Retail services relating to food’ in class 35. ShopChop has also registered the following figurative mark for the same services in class 35:



According to a market survey, 37% of 15–65 year olds recognised the word mark and identified it as ‘a grocery store’. In the same age group 63% identified the figurative mark.

EnviGo Oy Ab (hereinafter “EnviGo”), which also is a Finnish limited liability company, operates an ‘environmentalist’ online store called Miniscul, which sells organic food products online. Miniscul markets its products in and delivers to Finland, Sweden, Denmark and Norway. In line with its philosophy its slogan is ‘Miniscule footprint, maximal value’. It is well-known that Miniscul is fundamentally a political manifestation against companies, such as Maximus, that do not take environmental concerns seriously.

EnviGo uses the following logo on its products and on the website:



EnviGo has also started selling T-shirts with the figurative Maximus trademark clearly visible alongside the printed text *'Did you know that Maximus is evil?'*. They had also printed posters with the text *'Mother Earth thanks you for not shopping at Maximus'*.

ShopChop feels it is being targeted on political grounds and wants to sue EnviGo for infringing the word mark, the figurative mark and copyright to the figurative mark. EnviGo says it will not yield to pressure from evil capitalists. EnviGo claims that 'everybody' knows that Maximus and Miniscul are as far from each other as things can be and that no one would ever be misled to think that Miniscul has anything to do with Maximus. Furthermore, EnviGo claims that people shopping at Miniscul would never enter a Maximus store.

Both parties do, however, agree that initiating legal proceedings in all Nordic countries would not be cost-effective nor a particularly quick way of resolving the issues. Therefore, ShopChop and EnviGo have agreed to refer the dispute to arbitration. The place of arbitration is Helsinki and the language of the proceedings is English. The parties have agreed that the Tribunal shall finally settle whether EnviGo infringes ShopChop's trademark rights in the word mark and/or figurative mark. Furthermore, the Tribunal shall also assess possible copyright issues involved in EnviGo's use of the figurative mark. The parties have also agreed that the Tribunal's jurisdiction is limited to a declaration of infringement. Remedies are to be dealt with separately after the arbitration proceedings, if the Tribunal finds that there is an infringement.

The parties have further agreed that the applicable substantive law is, what the parties like to call 'Lex Nordica', i.e the common core of intellectual property laws of Finland, Sweden, Denmark and Norway. Any relevant EU legislation and case law from the CJEU and General Court also, naturally, applies.

In the proceedings, ShopChop is the claimant and EnviGo the defendant. The request for arbitration has been filed, and the tribunal appointed. It is now for you to draft a Statement of Claim to be submitted to the Registrar.