

World Trademark Review *Daily*

**Online sales of counterfeit goods held to be subject to VAT
Sweden - MAQS Law Firm**

**Counterfeiting
Internet issues**

November 17 2010

The Administrative Court and the Administrative Court of Appeal have held that a couple who had sold counterfeit goods on the internet were liable to pay value added tax (VAT) on all sales.

The defendants first started to sell counterfeit goods on the internet in 2003 as a side business. The counterfeit goods were later seized and confiscated by the [Swedish police](#) pursuant to a joint complaint by several trademark owners, and the defendants were banned from selling goods on [Tradera](#), Sweden's largest online auction site (owned by [eBay](#)).

The [Swedish Tax Agency](#) ordered the defendants to pay VAT on all income derived from the sale of the counterfeit goods. The defendants appealed to the Administrative Court, arguing that, because it is illegal to sell counterfeit goods in Sweden, no VAT should be added to the sales. The defendants alleged that the Swedish state should not profit from illegal transactions.

The Administrative Court held that, under Swedish case law, income derived from criminal activity must be taxable if it is part of a legal activity. Apart from their illegal activities, the defendants also generated a profit from the trade of legal goods. The court thus established that VAT was payable on all income derived from the sales.

The defendants appealed to the Administrative Court of Appeal, without success.

This decision represents a breakthrough in Sweden: it provides a new tool to prevent the trade of counterfeit goods, as it will make it easier for the authorities to crack down on profits from infringing activities. Imposing VAT liability on the sale of counterfeit goods will hopefully have a deterrent effect on infringers, and should thus be beneficial to trademark owners.

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