Case	Court of Appeal Versailles
	Public hearing on March 18, 2010 No. RG: 09/00672 18 March 2010
	EPSON FRANCE S.A. Appellant
	S.A. BOX OFFICE Respondent
	Decision that was referred to the Court:
	Judgment rendered December 17, 2008 by the Commercial Court of Nanterre

Background	• The company Box Office is in the business of the sale of stationery products and office supplies through its website www.welcomeoffice.com
	• It also operated a website www.onlyoneink.com offering "PELIKAN" ink cartridges, compatible with printer manufacturers such as Epson
	• Accusing the company Box Office of delivering on its website www.onlyoneink.com a comparison between the prices of branded cartridges "EPSON" and "PELIKAN" with incorrect prices (those normally referenced in mail order catalogues), Epson arranged for a bailiff's report on 5, 9 and 16 July 2007
	• It is in these circumstances that the company Epson France brought Box Office before the Nanterre Commercial Court

Claims	Given the appeal filed on 26 January 2009 by the company Epson France relating to a judgment delivered on 17 December 2008 by the Nanterre Commercial Court that:
	• Declared it admissible to act / permission to appeal
	• Dismissed its claims
	• Said there are no grounds for applying Article 700 of the Code of Civil Procedure
	• Ordered costs against the company Epson France
	Considering the last texts dated 25 November 2009, by which the company Epson France, pursuing the reversal of the decision except that it is declared admissible to act, requests the Court to (non-exhaustive):
	• Find that the website www.onlyoneink.com operated by the company Box Office undertook misleading advertising & unlawful comparative advertising that constitutes unfair competition
	• Ban Box Office from disseminating any advertising on any medium whatsoever supposedly containing prices corresponding to those of "EPSON" cartridges that do not conform to the actual prices on the said site
	• The Box Office company to pay the sum of 15,000 euros in damages and interest
	• Box Office to publish, within seven days of notification of the judgment, on the page of its site www.onlyoneink.com, an insert for announcement of the judgement on an area occupying half the home page and for a period of three months
	• Dismiss Box Office's claims
	Box Office requested of the court that (non-exhaustive):
	• Reverse the Nanterre court judgement that Epson may take action
	• Declare its current action inadmissible
	• Find that the website www.onlyoneink.com does not contain misleading information and / or constitute unlawful comparative advertising
	• State that Epson does not justify any damages
	• That Epson France is unfounded in invoking article L121-1 of the consumer Code

	Therefore, confirm the original judgement
Ruling	(Non-exhaustive)
	• That Epson are entitled to bring this action
	• That the Epson prices contained on the Box Office website are not clearly laid out; that references to the source of the prices were barely legible, and that the consumer could not establish / understand the distributor reference
	• Comparative advertising must provide the complete the picture, and Box Office cannot "take refuge" in recorded prices from only two mail order catalogues
	• Epson also demonstrated that their prices, from its own website and other retailers and catalogues were general lower than those shown by Box Office, who are required to verify that the prices are representative of those in the market, and based on correct and honest information
	• That was not done; it therefore follows that Box Office have undertaken misleading and unlawful comparative advertising
	• The decision of the Nanterre Court is therefore overturned
	• Costs (10k euros) and damages (15k euros) awarded to Epson France
Commentary	• The ruling hinged on the applicability of the mail order catalogue price, and the legibility of the references made so that the consumer could fully understand them
	• It may well be the case that Pelikan cartridges are generally cheaper than Epson – the Court found that Box Office failed to demonstrate that correctly