

Clinique happy, Federal Court of Justice (Bundesgerichtshof), 25 April 2012

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The uninterrupted transit of goods designated with a trademark that is protected in Germany does not constitute an infringement of the trademark right according to German law. Should the trademark be protected in the country of destination, a foreign IP right will not be protected, owing to the principle of territory of property rights, as "property" under German tort law. Consequently, transit does not constitute a partial tortious act under German tort law. A precautionary claim to cease and desist import may exist pursuant to the law of the country of destination.

A summary of this case will be posted on <http://www.kluweriplaw.com>