

Investors sue Vivendi in France

67 shareholders of Vivendi have initiated civil proceedings in France against the French company.

Readers will recall that investors had initially sued Vivendi in the U.S. However, the U.S. Supreme Court decided in *Morrison* that U.S. securities law had no extra-territorial reach and thus did not apply to shares traded outside of the U.S. As a consequence, the federal court of Manhattan dismissed the claims of investors who had bought their shares in France in February 2011 (see *In re Vivendi Universal, S.A. Securities Litigation*).

The lawyer for the investors specifically referred to *Morrison* to explain why this new suit had been brought. Although his clients are not exclusively French and include for instance American funds, it seems that they had all purchased their shares on French markets.

An interesting issue will be whether weight will be given to the New York judgment which had found Vivendi liable for misleading investors in January 2001, before the *Morrison* decision. I suspect that a consequence of the dismissal of the claims of investors who had purchased shares in France is that the judgment does not stand anymore between them and Vivendi. The New York judgment probably cannot be *res judicata*. But foreign judgments can produce non-normative effects under the French law of judgments. For instance, they can be used as evidence of the occurrence of certain facts. The New York judgment could possibly be used for that limited purpose.