

French Supreme Court follows ECJ judgment on jurisdiction clauses in Refcomp

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On September 11th, 2013, the French Supreme Court for private and criminal matters (*Cour de Cassation*) rendered its final decision in Refcomp SPA v. Axa Corporate solutions assurances (*in French*).

This case on the possible transmission of a jurisdiction clause in a succession of contracts transferring ownership gave rise to a preliminary ruling of the ECJ which was reported on this blog.

In its decision the ECJ ruled that a jurisdiction clause could not be relied against a sub-buyer unless it is established that he has actually consented to the clause under the conditions of article 23 Brussels I. According to the ECJ, the application of the French rule whereby a sub-buyer can bring a contractual action against the manufacturer and thus be bound by a jurisdiction clause, would have infringed the uniform application of the Brussels I regulation.

Unsurprisingly, the French Supreme Court acknowledged and complied with this decision by confirming the French courts' jurisdiction against *Refcomp SPA*. The court expressly mentions the ECJ ruling and then applies it in the present situation thus denying any effect to the jurisdiction clause against a sub-buyer (*Doumer SNC insured by Axa*) who has not agreed to it.

Refcomp will thus have to defend himself before French courts despite having concluded a jurisdiction clause in favour of an Italian court when he sold his product to his Italian client (Climaveneta).