

### Case 1030: CISG 93

France: Court of Cassation, First Civil Division 2

April 2008

Appeal No. 04-17726

Société Logicom v. Société CTT-Marketing Ltd

Original in French

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Abstract in English: Unilex database: [www.unilex.info](http://www.unilex.info)

English translation: Pace database: <http://cisgw3.law.pace.edu/cases/080402fl.html>

Commentaries: Inès Gallmeister, *Recueil Dalloz* 2008, p. 1141; Jean-Grégoire Mahinga, *Semaine juridique, générale édition*, 2008, Jurisprudence, No. 271; Jean-Frédéric Mauro, *Gazette du Palais* 2008, p. 1897 et seq.; Jean-Baptiste Racine, *Revue des Contrats* 2009, p. 683 et seq.; Pauline Remy-Corlay, *Revue trimestrielle de droit civil* 2008, p. 264 et seq.

Abstract by Claude Witz, National Correspondent, and Mathieu Richard

A French company had bought some telephone products from a company based in Hong Kong. The products were faulty and, in accordance with what had been agreed between the parties, were returned to the manufacturer. The seller failed to carry out the agreed repairs and the buyer therefore issued a writ against it for indemnity for loss.

The Aix-en-Provence Appeal Court awarded the buyer only part of the damages and interest that it had sought, basing its ruling on the law applicable in Hong Kong. The buyer lodged an appeal, on the grounds that the Appeal Court had not applied CISG.

The Court of Cassation rejected that argument on the basis of CISG, article 93, which allowed any Contracting State to apply the Convention to one or more of its territorial units in which different systems of law were applicable, in relation to the matters dealt with in the Convention, by means of a declaration to the Secretary-General of the United Nations expressly stating the territorial units to which it extended. The Court of Cassation found support, among the documents submitted, in a note from the French Minister for Foreign and European Affairs, who had asked the Chinese authorities about the issue of the applicability of CISG to Hong Kong. The note showed that CISG did not feature in the declaration made to the Secretary-General of the United Nations on 20 June 1997 by the People's Republic of China, where it set out which of the conventions to which it was party at that date should apply to the territory of Hong Kong. Since CISG had not applied to Hong Kong before its return to China by the United Kingdom and since China had made a declaration to the depositary of CISG of the kind required under CISG, article 93, the Court of Cassation deemed that the Appeal Court had been legally justified in declining to apply CISG.