

JORDAN CASE SUMMARY

Jurisdiction	: Republic of Turkey / Beyoglu Court of Intellectual and Industrial Rights
Subject Heading:	I.E. BAD FAITH
Case Name and Citation:	Nike International vs. Yardim Tekstil Case No. 2009/10 - Decision No. 2009/67
Plaintiff:	Nike International Ltd.
Defendant:	Yardim Tekstil Sanayi ve Dis ticaret Ltd. Sti.
Marks Associated with Goods/Services:	The plaintiff's trade marks, registered in Class 25, consists of word marks AIR JORDAN, JORDAN, MICHAEL JORDAN and JUMPMAN DEVICE with the silhouette of Michael Jordan.
Nature of Case:	Nike International instituted the action has for the cancellation of BIG JORDAN, JORDAN and BIG JORDAN DEVICE trademarks which have an infringing character on grounds of notoriety.
Prior Decisions:	-
Overview of Decision and Ruling:	Nike International Ltd. has instituted an action against Yardim Tekstil Sanayi ve Dis Ticaret Limited Sirketi requesting the cancellation of defendant's JORDAN ¹ , BIG JORDAN ² and BIG JORDAN DEVICE ³ on grounds of notoriety and bad faith of defendant.

Nike argued that (1) they own JORDAN, AIR JORDAN, MICHAEL JORDAN and JUMPMAN DEVICE trademarks; (2) they are using their trademarks in Turkey as from 1984; (3) AIR JORDAN, MICHAEL JORDAN and JUMPMAN DEVICE trademarks are well-known in the sense of Article 7/1 (I) of the Decree Law no.556 and Article 6 bis of the Paris Convention; (4) the defendant's trademarks are similar to their trademark registrations and the well-known basketball player MICHAEL JORDAN in such way that JORDAN DEVICE trademark includes the silhouette of a jumpman and an American flag

Yardim Tekstil responded that (1) their BIG JORDAN DEVICE trademark has been protected as from 23.07.1997; (2) the institution of the action after a long acquiescence period constitutes abuse of right.

¹ Registration No.2003 00923 filed on 14.01.2003 for classes 18 and 35.

² Registration No.2003 00909 filed on 14.01.2003 for classes 3, 18 and 35

³ Registration No.187328 filed on 23.07.1997 for class 25.

The Court noted that (1) the “R” letter covered in the JORDAN trademark has been designed in a style which reminds a jumping basketball player and that the “J” and “O” letters have been written on a blue ground including the stars; (2) this design reminds the well-known basketball player Michael Jordan; (3) the plaintiff’s JORDAN and AIR JORDAN trademarks have been extensively used in Turkey as from 1984 on shoes; (4) the defendant’s BIG JORDAN is also similar to the plaintiff’s AIR JORDAN and MICHAEL JORDAN trademarks.

The Court stated that the cancellation action with regard to well-known trademarks has to be instituted within 5 years as from the registration date, however in case of the existence of bad faith, no time limit is applied. In the present case it is not possible to convince that Yardim Tekstil created their trademark as accidentally according to the content of the evidences. Since Yardim Tekstil registered these trademarks in bad faith, 5 years of time limit shall not be applied.

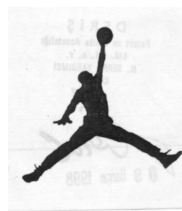
Accordingly the Court decided the cancellation of Yardim Tekstil’s trademark registrations⁴.

Importance of Case: This case has an important nature wherein the Court accepted the extensive use of JORDAN trademark Turkey as from 1984 and their notoriety. Therefore the Court ruled the bad faith of adverse party

**Images/Description:
Contributor Firm:**



Defendant’s trademarks



AIR JORDAN MICHAEL JORDAN

Plaintiff’s trademarks

Contributor Firm: Deris Patents and Trademarks Agency

⁴ Nike International Ltd. vs. Yardim Tekstil Sanayi ve Dis Ticaret Ltd. Sti., Case No. 2009/10, Decision No. 2009/67 (Beyoglu Court of Intellectual and Industrial Property rights, Dec. 24, 2009).