

Infringement & Defenses- Likelihood Of Confusion

“KENT” Trademark

BRITISH AMERICAN TOBACCO (BRANDS) INC vs. TEKCAN ULUSLARARASI TICARET and NECLA TEKCAN

Court of Istanbul on Intellectual and Industrial Rights, Case no.2003/1240 Decision no. 2006/164 (May 30, 2006)

An action(*) was instituted against the defendant Tekcan Uluslararası Ticaret –Necla Tekcan for stopping the trademark infringement against the plaintiff’s trademark KENT and for destruction of the counterfeit cigarettes seized at the Customs.

The plaintiff’s attorney claimed that his client is a worldwide well-known firm operating in the manufacture and the marketing of cigarette and tobacco products and that counterfeit cigarettes and packaging bearing the trademark KENT, which have been seized at the Customs Authority of Gemlik/Bursa, are counterfeit. The plaintiff asked the determination of the trademark infringement and destruction of the counterfeit goods and the publication of the court’s decision.

The defendant did not attend the hearings despite the notification of the action.

The court appointed a penal of expert for the evaluation of whether the seized goods were counterfeit or not. The expert issued a report wherein mentioned that the seized KENT cigarettes were counterfeit and were differing from the cigarettes produced and sold in Turkey and that accordingly the seized cigarettes were counterfeit.

The court having uphold the expert’s report ruled to:

- determination of the trademark infringement,
- destruction of the counterfeit KENT cigarettes and their packaging,
- publication of the decision in newspaper.