

Similarity Of Marks

ALPINE/ ALPIN Trademarks

Alpine Electronics Inc. vs. Yılmaz Altiner

(*) 1st Istanbul Court on Intellectual and Industrial Rights,

Case no. 2005/405 – Decision no. 2007/97 (May 29, 2007).

ALPINE ELECTRONICS INC. has instituted an action (*) against YILMAZ ALTINER for the cancellation of the defendant's trademark registration ALPIN¹ for the goods in international class 9 based on the plaintiff's registered and well known trademark ALPINE².

The defendant has objected that the action was not timely instituted in accordance with the Article 42 of the Decree Law No. 556 on Trade/Service Marks which provides that the cancellation action regarding well-known trademarks as specified in Article 7/1 (i) has to be instituted within five years from the date of registration.

The court held that, since the ownership on the trademark does not exist on the date of filing of the trademark application, the date of the Turkish Patent Institute's decision for allowing the defendant's trademark to proceed to registration should be taken into consideration for the determination of the beginning of the 5 years period.

The court has ruled that the defendant's objection with respect to the fact that the action was not timely instituted shall not be heard on grounds that the action was timely instituted within five years period as of the finalization of the registration date. The court has also ruled that the omission of "E" letter from the plaintiff's trademark "ALPINE" by the defendant does not avoid the confusion and that it would be inevitable for the consumers to confuse the trademarks.

As a result, the Court has accepted the action and ruled to the:

- cancellation of the defendant's trademark ALPIN,
- publication of the verdict in one of the three most circulated newspapers in Turkey.

¹ Registration No. 2000 22457

² Registration Nos. 93660, 128407, 160838