

## **Registrability – Likelihood Of Confusion (Similarity Of Trademarks)**

### **REFLEXE CONTOUR/CONTOUR**

#### **LANCÔME PARFUMS ET BEAUTE CIE vs. THE TURKISH PATENT INSTITUTE**

- (\*) 1<sup>st</sup> Administrative Court of Ankara**  
**Decision no.1995/885-1996/769 (October 9, 1996)**  
**(Notified December 12, 1996)**
  
- (\*\*) 10<sup>th</sup> Chamber of the State Council (Highest Administrative Court)**  
**Decision no. 1997/930-2000/226 (May 4, 2000)**  
**(Notified July 5, 2000)**
  
- (\*\*\*) 1<sup>st</sup> Administrative Court of Ankara**  
**Decision no.2000/1189-2000/1505 (December 21, 2000)**  
**(Notified January 17, 2001)**

An action (\*) was instituted against the Turkish Patent Institute for the withdrawal of the administrative decision refusing the registration of the plaintiff's trademark REFLEXE CONTOUR according to Article 5 parag. (c) of the former Trademarks Act. No. 551 on grounds that the trademark REFLEXE CONTOUR is confusingly similar to the priorly registered trademark CONTOUR.

The 1<sup>st</sup> Administrative Court of Ankara has ruled (\*) that the administrative decision is to be upheld, since the trademarks covering goods of similar nature are similar in their visual and phonetical aspects in such way that they cannot to be distinguished from each other at first sight when they are considered in their entirety. Furthermore, it has been declared that although it has been asserted that there is an agreement between the plaintiff and the right owner of the trademark COUNTOUR concerning the use of the word "contour" in all trademarks of the plaintiff, it has been noticed that this agreement covers only the trademark PLENITUDE CONTOUR REGARD which has been already registered and that

moreover such an agreement cannot overcome a determining/absolute provision of the (former) Trademarks Act.

However, upon the plaintiff's appeal the State Council (\*\*\*) overturned the initial decision (\*) on grounds that the trademark REFLEXE CONTOUR is not confusingly similar to the trademark CONTOUR in its visual, phonetical and semantic aspects so that it can be distinguished from the trademark CONTOUR at first sight.

The 1<sup>st</sup> Administrative Court of Ankara has conformed to the State Council's decision (\*\*\*) and ruled (\*\*\*) for the withdrawal of the decision of the Turkish Patent Institute refusing the plaintiff's trademark application.