

Registrability – Likelihood Of Confusion (Similarity Of Trademarks)

“AEG/EAG” Trademarks

LICENTIA-PATENT WERWALTUNGS GMBH vs. YEDAS TARIM VE OTOMOTIV SAN. VE TIC. A.S.

(*) 2nd Commercial Court of Beyoğlu / Istanbul

Decision No. 1999/480 - 2000/303 (July 19, 2000) (Notified on August 2, 2000)

An action (*) was instituted for the cancellation of the defendant’s “EAG” trademark registration No.189.935 in Turkey.

The plaintiff requested the cancellation of the defendant’s trademark claiming that his “AEG” trademark is registered all around the world and also in Turkey since 1990 under No.125.521, that his trademark has been recognized as a well known trademark in the sense of article 6bis of Paris Convention and published as such in the Special Trademark Bulletin issued by the Turkish Patent Institute, that the defendant’s “EAG” trademark is visually and phonetically confusingly similar with his well-known “AEG” trademark and covers goods included in the same classes.

The defendant objected by asserting on one hand that the action has been instituted before a non-competent court considering the domicile of the defendant, on the other hand that “anti-friction bearings” covered by the “EAG” trademark are not similar to the durable goods sold under the plaintiff’s “AEG” trademark and requested the rejection of the action on procedural as well as on substantial basis.

In its decision (*) the court ruled that the objection concerning the competence of the court is not well-grounded since in the actions instituted by the trademark owner against third parties it is the court of the plaintiff’s domicile or, if the trademark owner has no domicile in Turkey, the court of his attorney’s domicile that is competent. Moreover, in consideration of the evidences and the experts’

report dated 18.05.2000 the court concluded that the “AEG” trademark has been published as a well-known trademark that according to the relevant articles of the Turkish Trademark Law and Paris Convention it is possible to request the cancellation of trademarks confusingly similar with well-known trademarks even in respect of different goods/services, that when comparing both trademarks it is evident that the “EAG” trademark is formed by the same three letters with only a change of position between two letters, that both trademarks are written in capital letters and therefore to be considered as confusingly similar and on such grounds ordered the cancellation of the defendant’s trademark registration No. 189.935 “EAG”.