

## Infringement And Defenses – Famous Marks

### “PRINCE/ PRENS”

#### GENERAL BISCUITS BELGIE vs. KARSA BİSKUVİ VE GIDA SAN. TİC. LTD. ŞTİ.

- (\*) **Istanbul Court of Intellectual and Industrial Rights.**  
**Decision No.: E: 2003/719 – K: 2003/554, 14 October 2003**
- (\*\*) **2<sup>nd</sup> Commercial Court of Beyoğlu/Istanbul**  
**Decision No.: E: 1999/148 – K: 2000/203, 7 June 2000**
- (\*\*\*) **Supreme Court – 11<sup>th</sup> Civil Chamber**  
**Decision No.: E: 2000/9741 – K: 2001/888, 6 February 2001**

An action (\*) was instituted for trademark infringement and unfair competition for stopping the use by the defendant of the mark PRENS on grounds of the plaintiff’s well known trademark PRINCE.

The plaintiff claimed that the use by the defendant of the trademark PRENS is confusingly similar to his well-known trademark PRINCE, which is registered since 1956 before WIPO, constitutes an infringement to his well-known trademark and an act of unfair competition and requested compensation of moral and material damages and destruction of the equipment and machinery used to produce these products. The plaintiff further voluntarily waived his claims regarding to the compensation of material damages.

The First Instance Court initially (\*\*) partially accepting the plaintiff’s claims refused the compensation for moral damages the destruction of the equipment and machinery used to produce the infringing products as well as the promotional material ruled that the plaintiff’s trademark PRINCE is well-known and that the use by the defendant of the mark PRENS infringes the plaintiff’s trademark and constitutes an act of unfair competition which is to stop.

The Supreme Court overturned (\*\*\*) the decision of the first instance court by asserting that as the defendant’s acts have been considered as trademark infringement to the plaintiff’s trademark and unfair competition according to the Article 62 of Decree-Law no.556 and Article 58 of Turkish Commercial Code, an appropriate amount should be allowed as compensation for moral damages.

The first instance court (\*) has adhered to the decision of the Supreme Court and ruled to the payment of 250.000.000.- Turkish Liras by the defendant to the plaintiff together with the rediscount interest applying as of the date of the institution of the court action. As the decision of the first instance court (\*\*) regarding the trademark infringement, unfair competition and determination of the notoriety of the plaintiff's trademark has been already finalized, no further decision has been issued in this regard.