

Similarity Of Marks

“ASELSAN” Trademark

Aselsan Elektronik Sanayi ve Ticaret A.S vs. Turkish Patent Institute,

Ankara Court on Intellectual and Industrial Rights, Case no. 2005/648, Decision no. 2006/427 (July 04, 2006)

ASELSAN ELEKTRONIK SANAYI VE TICARET A.S has instituted an action against the Turkish Patent Institute for the withdrawal of the defendant’s decision on determining the status of the trademark ASELSAN as sectorially well known trademark and refusing the plaintiff’s claim to provide explanation as to the meaning of the “sectorially well-known trademark” and its legal grounds.

The court has evaluated whether or not the trademark ASELSAN is a well-known trademark in the sense of the Decree Law No. 556 on Trade/Service Marks and on the Paris Convention and the definition of the denomination “sectorially well-known trademark”.

As to the opening of the denomination “sectorially well known trademark”, the court has made quotations from the Decree Law No. on Trade/Service Marks, Paris Convention, Trip’s Agreement and WIPO’s principal decisions and has concluded that in the relevant legislation the notoriety has not been identified in different levels and a trademark well known in the related sector should be accepted as well known trademark, without limiting the effects of the reputation to the sector/field in respect of which it is known.

The Court held that it would wrong to set different levels of notoriety i.e. sectorially well-known trademarks or trademark known in Turkey or trademarks known worldwide, which is a non existent notion in the Turkish legislation as well as in the International Agreements and WIPO’s guidelines.

The Court in its decision held that the plaintiff’s trademark ASELSAN has been registered for various classes in several countries, that the plaintiff’s trademark ASELSAN is a well-known trademark in the view of its extensive use, advertisement expenditures and geographical scope and that the denomination ASELSAN is the trade name of the plaintiff and therefore is under protection also in the sense of Article 8 of the Paris Convention.

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

- the withdrawal of the Turkish Patent Institute's decision,
- acknowledge the trademark ASELSAN as well-known¹

¹*Aselsan Elektronik Sanayi ve Ticaret A.S vs. Turkish Patent Institute*, Case no. 2005/648, Decision no. 2006/427, (Ankara Court of Intellectual and Industrial Rights), (July 04, 2006)