

## Criminal Actions

### “SHIMANO” Trademark

#### (\* ) SHIMANO INC. vs. Mr. OMER ORERLER

#### The Criminal Court of Istanbul for Intellectual and Industrial Rights Decision No. 2001/1717-2002/741 (December 17, 2002)

In the action (\*) against shop keeper/retailer dealing with and selling counterfeit goods carrying the trademark “SHIMANO” upon complaint lodged by the plaintiff to the Public Prosecutor, the police raids effected upon his order resulted in the seizure of counterfeit goods in their premises upon which the Public Prosecutor instituted the criminal action against him.

In its decision (\*), the Criminal Court, ruled, on the basis of an experts’ opinion, the profession of the defendant and the content of the file that the goods seized in the defendant’s business premises infringe the registered trademarks of the plaintiff and ordered the definite seizure of the confiscated counterfeit goods found in the defendant’s business premises and applied the penalties pursuant to the Article 61/A-(c) of the Trademarks Act No. 556. However, considering the respect full attitude of the defendant before the court, his partial confession, the little pecuniary income generated by the act, his confession (of the manner) of the commitment of crime, the reasons of crime and the social status of the defendant has convicted him with the minimum penalty and condemned the defendant cumulatively to.

- ❑ 2 years of imprisonment/reduced to 1 year 8 months according to Art. 59/2 of the Turkish Penal Code.
- ❑ 11.389.248.000 - Turkish Liras of pecuniary fine
- ❑ with regard to imprisonment and pecuniary fine in accordance of Article 59/2 of Turkish Penal Code, the penalty of the convicted is reduced 1/6<sup>th</sup> to one year and 8 months of imprisonment and to 9.491.040.000 – Turkish Liras pecuniary fine,
- ❑ The closure for 1 year of the business premise
- ❑ Ban the exercise of professional activity for 1 year

- The definite seizure of the confiscated counterfeit goods found in the business premises of the infringers,

The court has suspended the penalties and remitted to the future the serving of the penalties according to the Article 6 of the Law no.647.