

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

**“CHAMPION, CEBI CHAMPION/ CHAMPION and device” Trademarks**

**CHAMPION PRODUCTS INC vs. THE TURKISH PATENT INSTITUTE**

**(\*) 7<sup>th</sup> Commercial Court of Ankara**

**Decision No 1998/777-1999/257 (June 10, 1999) (Notified in September 10, 1999)**

**(\*\*) 11<sup>th</sup> Civil Chamber of the Supreme Court**

**1998/8495-1999/10179 (December 13, 1999) (Notified on February 16, 2000)**

An action (\*) was instituted against the Turkish Patent Institute upon the partial rejection of the application for trademark “CHAMPION and device” on grounds of similarity with the trademark registrations No.139.668 “Champion” and 114.929 “Çebi Champion” in the name of different registrants.

The plaintiff asserted that the registration No.139.668 “Champion” is different as to the goods covered whereby the registration No.114.929 “Çebi Champion” is different as to the trademarks, and that the word “Champion” is the characterizing element of its trade name and is a well-known trademark and requested the withdrawal of the defendant’s decision of partial refusal and the registration of its trademark application in respect of all goods applied for.

The defendant claimed that the decision of refusal was well grounded according to Decree Law No.556, that the plaintiff’s trademark is not well-known and that the word “CHAMPION” has been applied as a trademark, not as a trade name.

Adopting the conclusions of the expert’s report, in its decision (\*) the court ruled that the registration No.139.668 “CHAMPION” covered baby products made of plastic, that the “baby panties” in the listing of goods of same were to be included in class 5, not in class 25 as for the plaintiff’s application and that the registration No. 114.929 “Çebi Champion” is visually and phonetically different from the plaintiff’s trademark and has been in any case assigned to the plaintiff but the Court refused to accept

the claim of notoriety since the plaintiff's trademark was not included in the defendant's list of well-known trademarks. On such grounds the Court considered favorably the plaintiff's claims and ordered for the withdrawal of the administrative decision of partial refusal.

Upon the defendant's appeal (\*\*), the Supreme Court has upheld the decision on, one of the accounts, in that the goods covered by the plaintiff's trademark application and the registration No.139.668 were different but, on the other account, decided that the further assignment of the registration No. 114.929 "Çebi Champion" can not constitute a valid ground for decision and that the distinctive element of both trademarks being the identical word "Champion" the decision of the T.P.I. in this respect is well grounded and overturned on such grounds the decision of first instance ordering the withdrawal of the administrative decision of partial refusal.