

Similarity Of Marks

“FREDDOCCINO/FRAPPACINO”Trademarks

Metropolitan Coffee Company Ltd vs. Turkish Patent Institute & Starbucks Coffee Company

Case no.2005/260-Decision No.2006/274

An action was instituted by Metropolitan Coffee Company Ltd., against the Turkish Patent Institute and Starbucks Coffee Company for the withdrawal of the Institute’s decision rejecting the trademark application for FREDDOCCINO1 upon the opposition of Starbucks based on their trademark registration for FRAPPACCINO2.

Metropolitan Coffee claimed that the essential and the distinctive parts of the trademarks are the wordings “FRAPPU” and “FREDDO” as the appendix “CINO” refers to cappuccino, that the trademarks shall not be considered as confusingly similar in their visual, phonetic and semantic aspects. The Turkish Patent Institute claimed that its decision was justified and accordingly requested the rejection of the action. Starbucks Coffee claimed that the trademarks are confusingly similar, that the main emphasis of is in the first and the last syllables of the trademarks and that FRAPPACINO is a wellknown trademark.

The Court held that the FREDDOCCINO is visually and phonetically similar to FRAPPACCINO, that the listing of goods of FREDDOCCINO is similar and connected to the specification of FRAPPACCINO in such way to deceive the public and that the listing of goods of FREDDOCCINO are daily consumed products where the attention level of consumers would be lower than average. Accordingly the Court ruled to the rejection of the action.