

IAR CASE SUMMARY TEMPLATE

Jurisdiction:	Turkey
Subject Heading:	<i>I.D.1. Similarity of Marks)</i>
Case Name and Citation:	LINENS – TAÇ LINEN & CLEAN LINEN Docket No: 2010/200 Decision No: 2010/423 Decision Date: 11.10.2010
Plaintiff:	Zorluteks Tekstil Tic. Ve San. A.S.
Defendant:	1-) SC Johnson & Son Inc. 2-) Turkish Patent Institute
Marks Associated with Goods/Services:	The plaintiff's trademarks are registered in Classes 23, 24, 25 and 26. The defendant SC Johnson Son Inc. trademark application covers the goods under Classes 04 and 05.
Type of Action:	Cancellation action against the refusal decision of the Higher Council regarding the opposition filed by the plaintiff against the publication of the first defendant's trademark application on the basis of likelihood of confusion.
Prior Decisions:	The Turkish Patent Trademark Department has rejected the opposition of the Plaintiff filed against the first Defendant's trademark application on the basis of likelihood of confusion and the notoriety of the prior trademarks thereof. Afterwards the Plaintiff has filed an objection against the refusal decision of TPI before the Higher Council (second Defendant) and the Higher Counsel has followed the decision of the Trademark Department on the grounds that even if the trademarks TAC LINEN – LINENS / CLEAN LINEN seem similar, the similarity between the trademarks would not raise any confusion before the consumers by the virtue of the covered goods and the scope of businesses of the owners, which are quite different.
Overview of Decision and Ruling:	The Court has followed up the decision of the Higher Council and motivated in his decision that; the trademarks are not confusingly similar by putting forward that; <ul style="list-style-type: none">- even if the trademarks seem similar, the covered goods as well as the relevant markets of the same are quite different.

- The LINEN indication of the Plaintiff's trademarks has descriptiveness in respect of the classes 24 and 25; therefore the same have weak character. On the other hand the subject trademark application of the first Defendant is well distinguishing in respect of the goods covered thereof. Accordingly the notoriety of such prior trademarks has no effect evaluating the similarity between the trademarks.

Importance of Case: This decision is important because it establishes that the likelihood of confusion should be evaluated especially in respect of the similarity between the covered goods rather than the similarity between the trademarks despite the notoriety of the prior trademarks considering the weak character of LINEN indication in respect of the classes 24 and 25.

Images/Description:

CLEAN LINEN



Contributor Firm: Deris Trademarks Agency