

Criminal Actions

JEAN CASSEGRAIN (S.A.S.) vs. ISMAIL KUCUKARSLAN

(*) 1st Penal Court of Istanbul on Intellectual and Industrial Property Rights, Case no.2003/1165 – Decision no.2005/792 (May 11, 2005)

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

In its decision (*), the Criminal Court, ruled, on the basis of an experts’ opinion and on the basis of the evidences gathered that the goods seized in the defendant’s business premises infringe the registered trademarks of the plaintiffs and ordered the definite seizure of the confiscated counterfeit goods found in the defendant’s business premises and applied the favorable amendment on the Decree-Law dated June 26, 2004, which has been entered into force after the date of the crime, on the basis of the way the crime has been committed and seriousness of the crime and condemned the defendant to:

- ❑ 27.000.- TRY heavy fine
- ❑ The closure for 1 year of the business premise
- ❑ Ban the exercise of professional activity for 1 year

The court has mitigated the above penalties considering the confession of the defendant and condemned the defendant to:

- ❑ 22.500.- TRY heavy fine
- ❑ The closure for 10 months of the business premise
- ❑ Ban the exercise of professional activity for 10 months

The Court (*) also ordered the definite seizure of the confiscated counterfeit goods found in the business premises of the infringer.

The Court (*) suspended and remitted to the future the serving of the penalties as, on the basis of the behavior during the proceedings of the defendant, it has been convinced that the defendant is not likely to commit a similar offence in the future.