

Infringement And Defenses – Famous Marks

GLASSERIT

BASF LACKE + FARBEN AG VS. BETSAN CAM SERAMİK SANAYİ VE TİCARET A.Ş.

(*) 1st Commercial Court of Beyoğlu (Istanbul)
Decision No. 1999/15-2000/80, (February 29, 2000.)

() 11th Civil Chamber of the Supreme Court**
Decision No. 2000/5331-2000/6265, (July 3, 2000)
(Notified August 11, 2000)

(*) 11th Civil Chamber of the Supreme Court**
Decision No. 2000/7509-2000/7938, (October 17, 2000)
(Notified November 13, 2000)

(**) 1st Commercial Court of Beyoğlu (Istanbul)**
Decision No. 2000/686-2000/655 (December 21, 2000)
(Notified January 18, 2001)

The plaintiff appealed the decision (*) rendered by The 1st Commercial Court of Beyoğlu which rejected his claims for the cancellation of defendant's trademark registration for "GLASSERIT.

Upon the plaintiff's appeal, the Supreme Court (**) overturned the initial decision on grounds that the plaintiff's trademark is a well-known trademark, and that the defendant would unfairly benefit from the reputation of the plaintiff's trademarks and that such use of any sign which is identical with or similar to the registered trademark, even in relation to goods or services which are not similar to those for which the trademark is registered, where the use of that sign without due cause takes unfair advantage of the reputation of the mark or is detrimental to the distinctive character thereof is to be prohibited according to Article 9/1- c of the Decree Law no. 556.

The defendant appealed further for the reconsideration of the decision. In its decision (***) the Supreme Court refused to reconsider its decision and decided to uphold it.

The 1st Commercial Court of Beyoglu in its decision (****) has conformed to the Supreme Court's decision (**) and ruled for the cancellation of the defendant's trademark registration as of the relative grounds for refusal pursuant to Article 8/4 of the Decree Law in addition to Article 9/1-c.