

TEFALY CASE SUMMARY

Jurisdiction: Republic of Turkey / Beyoglu Court of Intellectual and Industrial Property rights

Subject Heading: I.D.1. Similarity of Marks

Case Name and Citation: Tefal vs. Tamlas Oto Lastik Malzemeleri Sanayi Ticaret Ltd. Sti
Case No. 2009/15 - Decision No. 2009/32

Plaintiff: Tefal

Defendant: Tamlas Oto Lastik Malzemeleri Sanayi Ticaret Ltd. Sti

Marks Associated with Goods/Services: The plaintiff's trade marks, registered in Classes 7, 8, 9, 11 and 21, consists of word marks TEFAL.

Nature of Case: Nike International instituted the action has for the cancellation of "Practical Home Equipment by TEFALY" trademark and the domain name www.tefaly.com.tr which have an infringing character on grounds of notoriety.

Prior Decisions: -

Overview of Decision and Ruling: Tefal instituted an action against Tamlas Oto Lastik Malzemeleri Sanayi Ticaret Ltd. Sti (hereafter referred as Tamlas Oto) requesting the cancellation of defendant's Practical Home Equipment by TEFALY¹ trademark and the domain name www.tefaly.com.tr on grounds of notoriety and bad faith of defendant.

Tefal claimed that (1)the denomination TEFALY covered in Tamlas Oto's trademark registration is similar to their well-known TEFAL trademarks, (2) TEFAL is produced in Sarcelles/France and is one of the leading and well-known trademarks around the world with regard to electrical home equipments.

Tamlas Oto did not submit any respond to the action.

The Court asserted that (1) the history of TEFAL dates back to 1954, (2) Tefal has 152 stores in Turkey and they also operate in more than 120 countries around the world with having an 1.7 billion Euros of income and (3) TEFAL trademark was registered in many countries such as England, France, Russia, Austria, e.t.c.

¹ Registration no.2007 59268 in class 21.

Therefore and in the scope of the evidences submitted to the action, the Court accepted the well-known status of TEFAL trademark in the sense of Article 7/1 (I) and Article 6 bis of the Paris Convention.

The Court also stated that (1) the denomination TEFALY which constitutes the essential and distinctive part of defendant's trademark is visually and phonetically similar to TEFAL trademarks, (2) furthermore since the listing of goods of both trademarks fall into the same classes, it will lead to confusion in respect of consumers.

Furthermore considering that TEFAL does not have any meaning in Turkish language and that fact that the defendant has an unlimited opportunity to create an original trademark, it is doubtless that Practical Home Equipment by TEFALY trademark has been registered in bad faith.

The court has ruled the cancellation of "Practical Home Equipment by TEFALY" trademark and the domain name www.tefaly.com.tr.

Importance of Case: This case has an important nature wherein the Court accepted the notoriety of TEFAL trademarks



Images/Description:

Contributor Firm: Defendant's trademark

The logo consists of the word "Tefal" in a bold, black, sans-serif font. The letter 'f' is lowercase, while the others are uppercase.

Plaintiff's trademark

Contributor Firm: Deris Patents and Trademarks Agency