

Similarity Of Marks

“MOBİL/MOBİL VİZYON, MOBİL FUTBOL” Trademarks

Exxonmobil Oil Corporation vs. Avea İletisim Hizmetleri

Ankara Court on Intellectual and Industrial Rights, Case No.2006/391, Decision No.2007/23(February 27, 2007)

Exxonmobil Oil Corporation instituted an action against Avea İletisim Hizmetleri A.S. for the cancellation of the defendant's trademark registrations for MOBİL FUTBOL¹ and MOBİL VİZYON¹ on ground of their similarity with the plaintiff's trademark MOBİL², well-known in the sense of Article 6 bis of the Paris Convention and Article 7/1 (i) of the Decree Law no.556, on the protection of Trade/Service Marks even for differing goods/services claiming that said trademarks have been filed in bad-faith in order to take unfair advantage from the reputation of plaintiff's trademark.

The defendant asserted that the denomination MOBİL refers to “mobility” in its semantic meaning, that MOBİL has become a generic name in the related business area and that the denominations “VİZYON” and “FUTBOL” constitute the distinctive part of the trademarks requesting thereby the rejection of the case.

Regarding the plaintiff's trademark the Court considered that it consists of a single element, the word MOBİL, which is sufficiently distinctive in respect of the registered goods/service classes.

As for the defendant's trademarks, considering that the nature, characteristic of the service was not disclosed in itself by the word MOBİL alone, but in conjunction with ancillary and descriptive elements, the Court held that the word MOBİL was an essential element of the defendant's marks and in the sense of Article 8/1 (b) of the Decree Law no.556 it was in the nature of confusing the public as being another version of the plaintiff's trademark.

¹ Registration No.2002 23194

² Registration No.103965

The Court ruled for the cancellation of the defendant's trademarks on grounds that the registration of a similar mark even in respect of differing goods/services class would damage the distinctive character of the plaintiff's trademark³.

³ Ankara Court on Intellectual and Industrial Rights,
Case No.2006/391, Decision No.2007/23(February 27, 2007)