

## Similarity Of Marks

ŞÜTTE-[www.sutte.com.tr](http://www.sutte.com.tr)

**Sütte Gıda Sanayi Ve Ticaret A.S. vs. G.C. Gıda Sanayi Ve Ticaret A.S & Cevat Genc**

**2nd Istanbul Court of Intellectual and Industrial Rights,  
Case no. 2005/130, Decision no. 2007/9 (February 01, 2007)**

SÜTTE GIDA SANAYI VE TICARET A.S. has instituted an action against G.C. GIDA SANAYI VE TICARET A.S and CEVAT GENC for the cancellation of the trademarks consisting of the denomination SÜTTE and the domain name [www.sutte.com.tr](http://www.sutte.com.tr) . The plaintiff claimed that their trademark SÜTTE has been used for 85 years, the denomination SÜTTE also constitutes the essential component of their trade name, that as the result of uninterrupted and extensive use of the trademark SÜTTE on meat products, it enjoys a protection as well known trademark, on the other hand, in accordance with the Agreement made with the defendants on 15.08.1988, which is still valid, the defendants have been using SÜTTE trademark under the plaintiff's control, and that although the Agreement does not allow the defendants to register the trademark SÜTTE in their names, they have registered several trademarks consisting SÜTTE denomination and the domain name of [www.sutte.com.tr](http://www.sutte.com.tr) in bad faith.

The defendants asserted the acquiescence of the plaintiff due to a very long time period of inaction and silence and that the institution of an action after such period should be accepted as an abuse of the right to institute an action. The court ruled that the filing of the trademark applications consisting the denomination SÜTTE is in violation of the Agreement between the parties and constitutes an act of bad faith, that the defendants could not evidence that the plaintiff is aware of the subject trademarks registered in the defendants' name for a long time, that since the plaintiff has served a Cease and Desist Letter to the defendants through the notary public and then has promptly instituted a court action, it can not be claimed that the plaintiff has acquiesced the defendant's registrations . As a result the court accepted the action and ruled for:

- the cancellation of the defendant's trademark registrations nos. 140460, 152126, 160448, 160451, 160453, 160490, 99 015588, 161291, 161296, 171554,
- the cancellation of the defendant's domain name of [www.sutte.com.tr](http://www.sutte.com.tr).