

Infringement And Defenses – Famous Marks

“VETO GAP/GAP DENİM”

The GAP Inc vs. GAP Güneydoğu Tekstil ve Ticaret A. Ş.

**(*) Istanbul Court of Intellectual and Industrial Rights, Case no. 2002/671-
Decision no. 2003/588 (October 23, 2003)**

**2nd Commercial Court of Istanbul, Case no. 1998/179- Decision no. 2000/248
(June 16, 2000)**

**11th Civil Chamber of the Supreme Court, Case no. 2001/5479- Decision no.
2001/7121 (September 24, 2001)**

**11th Civil Chamber of the Supreme Court, Case no. 2004/11395- Decision no.
2002/920 (February 5, 2002)**

An action (*) was instituted for trademark infringement claiming the cancellation of the defendants' trademark registrations VETO GAP and GAP DENİM and the deletion of the word GAP from the trade names of the defendants on grounds of similarity to the plaintiff's well-known trademark GAP notoriety of which has been acknowledged by the 2nd Commercial Court of Beyoğlu under case number 1998/197 and decision number 2000/248.

The defendants have not replied to the requests of the plaintiff.

The unfavorable expert's report asserted that the word GAP stands for the name of a project (Güneydogu Anadolu Project – Southeastern Anatolia Project) and refers to a geographical area and that therefore it cannot be prevented to be used.

Disregarding the expert's report due to the existence of the finalized decision of the 2nd Commercial Court of Beyoğlu under case number 1998/197 and decision number 2000/248, the Court ruled in view of the said decision and Article 6bis of the Paris Convention to partially accept Plaintiff's claims by canceling the registrations for the trademark VETO GAP and GAP DENİM on grounds that use of the word GAP as a trademark would infringe the plaintiff's trademark rights. The Court refused plaintiff's claim regarding the deletion of the word GAP from the defendant's trade name on grounds that such request has been refused in the above-mentioned finalized decision of the 2nd Commercial Court of Beyoğlu.

**THE GAP INC. vs. GAP GUNEYDOGU TEKSTİL SANAYI VE TICARET A.S. & VETO
GIYIM SANAYI VE DIS TICARET LTD. STI.**

(*) 1st Court of Istanbul on Intellectual and Industrial Rights

Case no.2002/332 – Decision no.2004/612 (October 5, 2004)