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ACFT examines the pillars of trademark law
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A recent decision of the Administrative Committee for Trademarks (ACFT) on an opposition filed by a Greek tobacco company covered some controversial issues. The tobacco company filed the opposition, based on its well-known Greek trademarks for tobacco products, against a Greek trademark application for coffee products which included the same dominant distinctive element.

The opponent claimed that its prior trademarks had been recognised by the Greek courts for many years and were well known in the Greek market. Thus, the likelihood of confusion and dilution of such trademarks could not be avoided, given that the contested sign's main distinctive element was identical to the dominant distinctive element of the opponent's prior trademarks. In addition, the likelihood of confusion would be exacerbated, since the connection between the products designated by each side (ie, cigarettes and coffee) was almost immediate in the minds of Greek consumers.

Although the ACFT admitted that the conflicting signs were visually, aurally and conceptually similar, since their dominant and distinctive elements were identical, it rejected the opposition. It held, among other things, that there was no risk of dilution of the opponent's prior trademarks, even if the products designated by the opposed sign were of poor quality, for the mere reason that the former designated products were harmful to human health (eg, tobacco products).

On appeal to the First Instance Administrative Court of Athens, the opponent claimed that the assessment of whether a product is harmful to human health is outside the ACFT's competence and has no correlation to whether that product was of poor or excellent quality. Further, the opponent argued that a product of uncontested excellent quality (eg, French champagne, single malt whiskey) could also be harmful to human health (depending on the quantity and frequency of its consumption), whereas it could not be excluded that a product which is beneficial to human health in principle (eg, medical drugs) may be of poor quality if quality production standards have not been followed (eg, counterfeit medicines).

This unusual argument of the ACFT goes back to the core of trademark legislation, the purpose of which is not only to enable consumers to distinguish between competitive products and services by protecting them from being misled, but also to afford protection to trademark owners and the commercial, economic and creative efforts and investments carried out under their trademarks, as these uniquely distinguish respective goods and services and can even elevate them to being world-reputed marks.

The decision of the First Instance Administrative Court on this issue is awaited with interest.

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