



Injunction ordered to suspend use by former authorized dealer of automobile manufacturer's signage following termination for cause of authorized dealer and repairer agreements in the context of a selective distribution system

News Release: 3 December, 2012, FISMCA Decision No. 11583/2011 (Injunctions Procedure)

In a decision handed down on November 28, 2011, the First Instance Single-Member Court of Athens (Injunctions Procedure) ruled that the defendant, a former authorized car dealer and repairer terminated by the plaintiff, also the owner of all relevant signage, trademarks and logos, shall have to suspend usage of plaintiff's signage in its premises located in various parts of Greece.

Ballas, Pelecanos & Associates LPC Associate Nicholas Gregoriades argued for plaintiff.

In this case, plaintiff, a distributor of brand cars in Greece had appointed defendant as authorized dealer and repairer/spare parts seller for cars distributed by the plaintiff, as part of plaintiff's selective distribution system identified by particular signage including the manufacturers' trademarks and logos. Plaintiff initially served defendant with a notice of termination for convenience (requiring two years' prior notice). However, because of defendant's continuous inability to fulfil its financial obligations to plaintiff, plaintiff eventually served notice of termination for cause under the agreements with immediate effect.

Despite the termination by plaintiff, defendant continued to make commercial use of plaintiff's signage, trademarks and logos as if still a member of plaintiff's network of authorized dealers and repairers.

Plaintiff obtained a Temporary Restraint Order, obliging defendant to cover the signage and then proceeded to request an injunction to remove the signage. The defendant never actually disputed the validity of the termination notices. In light of the above, the Court ruled that there was an infringement of plaintiff's intellectual property rights based on defendant's behavior and issued an injunction finding for plaintiff ordering removal of the infringing signage.

It should be noted that defendant argued for a continuation of the use of plaintiff's signage in view of a prior court decision (Athens Magistrates' Court decision No.

4449/2011) in a dispute between defendant and a bank, whereby the court had allowed defendant to sell 27 vehicles of various types which had remained in defendant's premises upon termination of the cooperation between defendant and the bank. The Court dismissed the above argument stating that the sale of defendant's remaining stock of vehicles did not necessitate the existence of plaintiff's signage in the premises. Further, the Court was concerned that to allow such use would lead to an unacceptable "revival" of the terminated dealership while the danger of the public forming a mistaken belief about defendant's status as dealer of plaintiff's network was also lurking.