

Greece - Dr Helen G Papaconstantinou - John V Filias & Associates

The Three-Member Administrative Court of Appeal of Athens, Division 14, has held that there was a likelihood of confusion between the marks SPORT ARENA and ARENA (Decision 1356/2010).

Greek company Sfakianakis AEBE applied for the registration of the mark SPORT ARENA for goods in Class 28 of the Nice Classification. The application was accepted by the Administrative Trademark Committee.

Swiss company Arena Distribution SA, the owner by assignment of the earlier Greek trademark ARENA for goods in Classes 25 and 28, opposed the registration before the Trademark Committee, claiming that there was a high degree of similarity between SPORT ARENA and ARENA, as well as between the contested mark and its company name. The committee accepted the opposition, finding that the marks, as well as the goods covered by them, were sufficiently similar to cause confusion among consumers.

Sfakianakis filed a recourse against the decision before the Athens Administrative Court of First Instance. The court accepted the recourse and reversed the decision of the Trademark Committee. The court found that, despite the fact that the goods at issue were similar and that the marks shared the word 'Arena', the additional word 'sport' in the contested mark was sufficient to differentiate it from the earlier mark. The court also stressed that the SPORT ARENA mark did not infringe Arena Distribution's name because the presence of the word 'distribution' created a different aural and visual impression.

Arena Distribution appealed, alleging that the court had erred in finding that the two marks were dissimilar and pointing out that the word 'sport' was of common use. In support of its allegation, it stated that the word 'sport' appeared in 105 national trademarks and 33 foreign trademarks in the Greek Register, all covering goods in Class 28, among others.

In making its decision, the Court of Appeal took the following elements into consideration:

- the word 'arena' was the dominating feature of both marks; and
- the word 'sport' in the contested mark was not capable of differentiating it from the earlier mark since it was widely used by the Greek public in its English, rather than Greek, version.

Consequently, the court concluded that the coexistence of the two marks could cause confusion among consumers as far as goods in Class 28 were concerned, because these goods have similar uses (sports activities) and target the same group of consumers. Finally, the Court of Appeal, contrary to the Court of First Instance, found that SPORT ARENA was similar to Arena Distribution's company name, because the additional word 'distribution' did not add distinctive character. The Court of Appeal thus reversed the decision of the First Instance Court and refused the registration of the SPORT ARENA mark.

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