

Greece - Dr Helen Papaconstantinou John Filias & Associates

In *LOGO AE v CISA SpA* (Decision No 249/2014, January 30 2014, notified only recently), the Greek Supreme court has held that the famous LOGO mark was not protected against the use of the sign CISA LOGO LINE for non-competing goods. This is a landmark decision which further clarifies the scope of protection of famous trademarks.

Greek company LOGO SA is the owner of several LOGO marks in Greece, registered in particular for glue in Class 16 of the Nice Classification, but also for other products such as locks in Class 6. The glue products are distributed in cooperation with its affiliated company Autofix SA. In 2006 CISA SpA, a manufacturer of locks, started to distribute locks under the mark CISA LOGO LINE on the Greek market. LOGO SA and AUTOFIX SA filed an infringement action against CISA for using the sign CISA LOGO LINE, claiming that the LOGO marks are famous.

In the first and second-instance court proceedings, LOGO SA and Autofix SA demonstrated the use of the LOGO marks for glue and similar products covered by Class 16, but not with regard to locks in Class 6. Nonetheless, the Court of Appeal of Athens (Decision No 2544/2012) upheld the action, determining that the LOGO mark was famous and, therefore, its scope of protection extended to non-competing goods, irrespective of the fact that locks and glue are not similar. The Court of Appeal thus prohibited the use of the sign CISA LOGO LINE for locks.

The Greek Supreme Court (*Areios Pagos*) annulled the Court of Appeal's decision. The court took into account the low degree of similarity between the earlier famous mark LOGO and the sign CISA LOGO LINE. It further highlighted the lack of similarity between the goods in question (ie, glue and locks), and emphasised that the fame of the LOGO marks was related solely to glue. As the LOGO mark is not famous for locks, the public would not make a connection between the sign and the earlier mark. Therefore, even though there was a low degree of similarity between the trademark LOGO and the sign CISA LOGO LINE, the existence of a link between the sign and the mark could not be accepted.

According to this decision, the wider protection afforded to famous trademarks applies only in cases where consumers also recognise the trademark as famous for the non-similar products; in other words, the scope of protection of famous trademarks is restricted to those goods or services with respect to which consumers recognise the fame of the trademark.

This Supreme Court decision is a landmark decision for Greek trademark law - up to now, famous trademarks were protected against any non-competing uses, irrespective of the similarity of the goods or services at issue. However, this decision seems to be in line with the case law of the Court of Justice of the European Union, according to which the protection of a famous trademark requires the relevant part of the public to make a connection between the earlier trademark and the sign (see *L'Oréal* (Case C-487/07)) - a connection which, according to the Supreme Court, did not exist in this case.

The approach of the Supreme Court should meet the approval of the legal theory. The wider protection of famous trademarks against non-similar goods is justifiable only if their fame is related to the non-similar goods. Therefore, only worldwide-known trademarks are protected against use for any non-similar goods, and protection applies only when the relevant section of the public will unavoidably make a connection between the sign and the mark.

Finally, it is noteworthy that the Supreme Court did not question whether the LOGO mark is indeed famous. This is surprising, as the fame of the LOGO mark is actually in doubt and has been questioned in a series of proceedings that are still pending before the Greek administrative courts.

Henning Voelkel, Dr Helen Papaconstantinou, John Filias and Associates, Athens