

Dissimilarity of trademarks

1. “PROFIL” and “PROFILATE”

The Applicant, a French company by the name “Rhone Poulenc-Agro” filed a trademark application with the Trademark Committee for the trademark “PROFIL” aimed to distinguish “preparations for destroying vermin; fungicides, herbicides” in class 5.

The Trademark Committee dismissed the aforementioned application, on the grounds that it is similar to the pre-existing trademark “PROFILATE” owned by the German Company “Alpha Therapeutic GmbH” and aimed to distinguish “pharmaceutical products and in general products in class 5”.

The French Applicant filed recourse with the Administrative Court of First Instance of Athens, which held, *inter alia*, that the respective trademarks are not similar since the ending “-ATE” of the German Company’s trademark “PROFILATE” is sufficient for differentiating it from the French Company’s trademark “PROFIL”.

The Court, in reversing the Trademark Committee’s decision further held that the goods trademark “PROFIL” is aimed to distinguish are absolutely specialized and thus the target group encompassed is very specialized as well. This was deemed sufficient for the purposes of eliminating the risk of confusion amongst the consuming public.

2. “HUMAN” and “....”

The Applicant, a German Company by the name “HUMAN GESELLSCHAFT FÜR BIOCHEMICA UND DIAGNOSTICA MBH” filed a trademark application for the trademark “HUMAN” distinguishing products in class 10 (lab equipment) as well as products in class 5 (diagnostic reactors).

The Trademark Committee partially rejected the Application with regard to class 5, as it considered it too similar with the pre-existing trademarks “INSULIN SOLUBLE HUMAN E.F.” and “INSULIN N.P.H. HUMAN” which were filed by the Company “Ethniki Farmakoviomichania A.E.” for goods in class 5.

The Administrative Court of First Instance did not agree. Upon comparing and contrasting the respective trademarks, it held that, on the one hand the trademark “HUMAN” consists of only a single word and on the other, the trademarks “INSULIN SOLUBLE HUMAN E.F.” and “INSULIN N.P.H. HUMAN” consist of various words and are thus easily distinguishable from the trademark “HUMAN”.

In its rationale, the Court further emphasized the fact that the diagnostic reactors for which the trademarks in question are used are highly specialized products. Such products are used in labs and are aimed for pharmaceutical research. Therefore the selection and purchase of the particular products does not directly involve the average consuming public, but trained professionals, who are very much aware of the differences between the respective brand names.