

Decision No. 4124/2004 issued on 2 JUNE 2004

Case No. 11716/2001

1. Affirmation/recourse
2. National procedures

PRECIS: The Administrative Court of First Instance of Athens has affirmed a Trademark Committee decision to dismiss an Opposition on FIRAXON for pharmaceutical-veterinary goods in Class 5 of the Nice Classification. The court held that the mark was not confusingly similar to a prior registered TIRAZONE mark for several goods in the same class, such as pharmaceutical preparations for the cure of cancer, veterinary and sanitary products, diet products for medical use, baby food, etc.

FIRAXON acceptance affirmed

The Administrative Court of First Instance of Athens has affirmed a Trademark Committee decision to dismiss an Opposition on FIRAXON for goods in Class 5 of the [Nice Classification](#) (Decision No. 2931/2001).

Sanofi-Synthelabo, a French company, filed Recourse with the Administrative Court of First Instance of Athens against the Trademark Committee's decision (No. 2931/2001) dismissing its Opposition against the of the trademark application FIRAXON for "pharmaceutical-veterinary goods" in Class 5.

The French company had filed an Opposition with the Trademark Committee on the ground that the trademark application FIRAXON filed by the Greek company "IONIA VIOMICCHANIKI, EMPORIKI CHIMIKON KAI FARMAKEYTIKON PROIONTON ANONIMI ETAIRIA" is confusingly similar to its prior registered trademark TIRAZONE for several goods in the same class, such as pharmaceutical preparations for the cure of cancer, veterinary and sanitary products, diet products for medical use, baby food, etc.

The French company asserted that the risk of confusion to consumers is likely in light of the fact that the respective marks both consist of three syllables that have the following five letters in common: I, R, A, O, N, in conjunction with the similarity of goods respectively covered. The Trademark Committee rejected the Opposition and accepted the trademark application as filed. The French company then filed Recourse with the Administrative Court of First Instance of Athens.

In affirming the Committee's decision, the Court allowed the registration of the mark. It reasoned, among other things, that the grammatical, visual and phonetic impression created to consumers by the respective trademarks is sufficiently distinct. In addition, the Court held that the goods respectively covered are sufficiently different, since the goods covered by the French company's trademark are aimed for human and veterinary use and cover a wide range of products. On the other hand, the Greek company's products are aimed for veterinary use exclusively.

Lastly, the Court held that the pharmaceutical goods covered by the respective marks are ordinarily administered by doctors through medical prescriptions or are recommended to patients by certified pharmacists and thus, since the consumers

themselves do not select the particular goods directly, the risk of confusion to the public is eliminated.

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