

Decision No. 4603/2005 issued on 17 February 2005

Case No. 4603/2003

1. Main Infringement Action
2. National procedures

PRECIS: The Civil Court of First Instance of Thessaloniki has accepted a Main Infringement Action concerning the domain name google.gr. The Action was based on trademark and domain name rights and it establishes new precedent.

GOOGLE.GR

The Civil Court of First Instance of Thessaloniki has accepted a Main Infringement Action based on trademark and domain name rights. The decision is of particular importance as it is one of the first ever in Greek jurisdiction to examine the issue of domain name rights and find that they in some sense equal trademark rights.

The company Google Inc., with headquarters in California, USA, is well known even amongst “mild” internet users, as the provider of possibly the most popular search engine on the internet.

When Google Inc. attempted to register the domain name “google.gr”, in Greece, it discovered that the particular domain name was already registered to another entity, of undisclosed identity. Due to the relevant provisions of Greek legislation, full confidentiality can be granted to those domain name owners that opt for it.

Consequently, Google, Inc. filed a Petition with the Public Prosecutor in order to discover the identity of the “google.gr” domain name. The Petition was granted and it was then revealed that a limited liability company at Thessaloniki, by the name “Theofilos Sagioglou EPE” had registered the domain “google.gr” in its name, as of April 2001.

Google Inc. then immediately filed a Main Infringement Action with the Thessaloniki Court of First Instance requesting that Respondent be enjoined from using the domain name “google.gr” since the risk of confusion to internet users is evident and that the registration of the particular domain name by Respondent was done in bad faith.

In a pioneering decision, the Court agreed with Google Inc.’s claims and granted its Main Action, enjoining Sagioglou EPE from using the particular domain name. In its rationale, the Court held that, although the registration of a domain name is much less complicated than a trademark registration, in light of the current reality of electronic business conduct the role of the domain name has now become similar to that of a trademark or a company name, and therefore a domain name is subject to similar legal protection.

The Court took into account the numerous trademark and domain name registrations that Google Inc. had filed throughout the world and the fact that the “google” search engine is one, if not the most, popular search engine available to internet users. Consequently, the Court held that the internet user who visits the www.google.gr website would expect to access the well-known “google” search engine and not the advertising company of Sagioglou EPE, who was using this web-page as a platform

for promoting its own company's advertising activities. This exploitation of Google Inc.'s fame by Sagioglou was found to be an unfair competition act, creating a false impression to internet users that Sagioglou and Google have some type of business nexus when, in fact, they never did.

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