

Decision Nos. 1246/2007 and 1248/2007, issued on 9 February 2007

Case Nos. 61/2006 and 137/2006

1. Cancellation Petition and Intervention against the acceptance of new mark
2. National Procedures

PRECIS: The Administrative Trademark Committee, has rejected the cancellation petition filed by Mr. Panagiotis Mavrikos, against the trademark MESIMVRINI - «ΜΕΣΗΜΒΡΙΝΗ» in Greek (a well known newspaper of Greece, which has ceased its publication 12 years ago, but has, according to the Committee, retained its trademark rights and has a recognized copyright). The Committee has also rejected the new trademark application MESIMVRINI, filed by the same petitioner who had initiated the Cancellation Petition (Mr. Mavrikos)

Fame of MESIMVRINI newspaper as well as related copyright recognized, despite the fact that the MESIMVRINI newspaper has ceased its publication 12 years ago.

Mr. Panagiotis Mavrikos, an individual residing in Athens, filed on 10 March 2006 a trademark application for the mark MESIMVRINI, No. 184034, which is the name of one of the most traditional newspapers of Athens that has ceased its publication 12 years ago. Concurrently, Mr. Mavrikos, filed on 14 March 2006, a cancellation petition against the owner of the trademark MESIMVRINI, a publishing company by the name “GENIKI EKDOTIKI ELLADOS MESIMVRINI A.E.”.

The Trademark Committee, in examining both the issue of the cancellation petition and the acceptance of the new trademark application, consolidated all

proceedings into one, and decided in favour of the traditional newspaper's side, albeit the said newspaper is no longer in circulation.

When the Committee went into the merits of the cancellation petition it decided to dismiss it, as it was satisfied that the fame of the newspaper name MESIMVRINI, was retained. MESIMVRINI, which started its operation under the management of the famous Greek female journalist Eleni Vlachou, in 1961 until the coup-d'état of 1967, was a mainstream newspaper in the 1960's and one of the most popular newspapers in Greece, at the time. The newspaper MESIMVRINI again went to circulation some 6 years following the restoration of democracy in Greece, in 1980, under new management, until 1994. The newspaper ceased its publication in 1994 primarily due to a law that was passed at the time (Law No. 2328/1995), which prohibited the publication of a mainstream, national newspaper by any entity which is a Public Sector supplier, due to conflict of interest considerations.

The Committee was satisfied, based on the evidence submitted before it, that notwithstanding the publication break of 12 years, the MESIMVRINI newspaper has retained its fame and also its related copyright and therefore it dismissed the relevant cancellation petition as well as the new trademark application of the party that filed the cancellation petition.

The above decision is quite important as it recognized that the fame of the trademark at issue, superseded the 5 years of non-use which render a trademark cancelable under Greek law (and, in this case, the 12 years of non-use) and also it acknowledged the copyright associated therewith.

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