Decision Nos. 781/2007, 782/2007, 783/2007, 784/2007 formally issued on 29 January 2007
Case Nos. 166/2005, 167/2005, 168/2005, 169/2005

1. Cancellation Petitions
2. National procedures

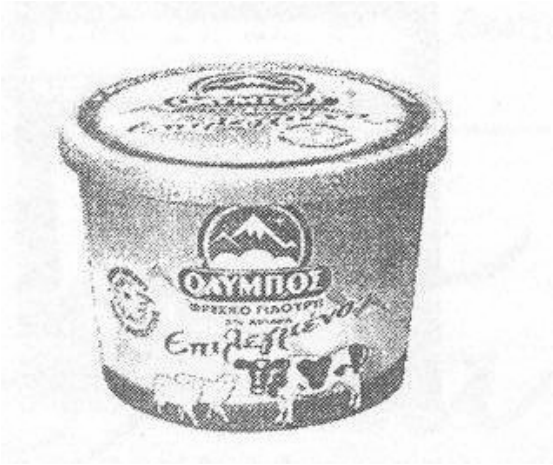
PRECIS: The Administrative Trademark Committee dismissed all 4 cancellation petitions filed against 4 trademarks containing the word "OLYMPOS". The cancellation petitions were based on the assertion that the word OLYMPOS (Greek for mount Olympus) was a misleading geographical indication, which was allegedly creating confusion to consumers.

The Trademark Committee with a majority vote (the President of the Committee dissenting) held that the word OLYMPOS, was not a misleading geographical indication. This finding of the Committee was, *inter alia,* based on the fact that the word "OLYMPOS" was not the only element of the 4 marks, which actually consisted of additional verbal and device elements. Therefore the marks under review did not qualify as misleading geographical indications, but, instead, were found to be of great distinguishing power.

OLYMPOS is not a misleading geographical indication for dairy products.

The Greek company VIGLA AEVE Dairy Products, (the "Petitioner") founded in 1990, filed 4 cancellation petitions and challenged the validity of the following trademarks that were registered in the name of the company "Dairy Industry of Larissa SA." (the "Respondent"):

No. 159697 covering milk in class 29



No. 169107 covering yoghurt and dairy products, in class 29

No. 163896 covering milk and dairy products in class 29 and ice-cream, yoghurt-based desserts and chocolate milk in class 30

ΓΑΛΑΚΤΟΒΙΟΜΗΧΑΝΙΑ ΛΑΡΙΣΗΣ Α.Ε. "ΟΛΥΜΠΟΣ"

No. 150741, covering milk, dairy products and delicatessen in class 29, ice-cream, pastries and desserts in class 30, and fruit juices in class 32

All of the above trademarks, which contained the word "OLYMPOS", ("ΟΛΥΜΠΟΣ" in Greek) were complex marks, comprising of the word "OLYMPOS" as well as additional graphic and word elements, as indicated above. VIGLA AEVE Dairy Products, a company located in the greater area of mount Olympus, alleged that the word "OLYMPOS" was the dominant element of all 4 trademarks and that it served as a misleading geographical

indication, as the dairy products covered by the above trademarks were not, in fact, produced in Olympus and that in any event the above trademarks lacked distinguishing ability.

The Trademark Committee, in its elaborate decision, took into account the fact that the Respondent company, which was founded in 1965 and was registered in the local Chamber of Commerce with the distinguishing title "OLYMPOS", has been using its distinguishing title "OLYMPOS" for 40 continuous years, uninterruptedly, in all of its transactions as a company. The Committee also noted the plethora of "OLYMPOS" marks owned by the Respondent company (including an "OLYMPUS" Community and an International Trademark). Based on the above, it, ab initio determined that the name "OLYMPOS" had, in fact, acquired distinguishing power over the 40 years of its use by the Respondent, as a distinguishing feature of origin from that company and was not used, as the Petitioner had asserted, as a misleading geographical indication. This was because, as per the Committee's interpretation and application of the relevant provisions of Trademark Law, if there is a misleading use of a geographical indication, the said indication must be used on its own and not as a side element with other words.

This finding of the Committee that the word "OLYMPOS" had become established as a distinguishing feature of origin from the Respondent was further supported by the fact that the local Chamber of Commerce in the city of Larissa, had deleted from its registry the Petitioner's distinguishing title "VIGLA OLYMPOU" due to the fact that it was deemed to be confusingly similar to the Respondent's preceding distinguishing title "OLYMPOS". Moreover, the Committee relied on a Petition for Injunction decision issued by the relevant local Court which effectively enjoined VIGLA AEVE from using the name "OLYMPOS" as its distinguishing title, or on its products, advertisements, and its printed material in general.

In addition to the above, the Committee made an interesting assessment of the current status of geographical indications in Greece, as it emphasized the fact that, in the Greek market, it is quite common to use geographical indications as trademarks, and thus the Greek consuming public is quite familiar with this practice and does not mistake trademarks such as "IPIROS" for feta cheese, "PINDOS" for poultry, "KORPI" for mineral water, "CRETA FARM" for delicatessen, ATTICA HONEY for honey, etc. as necessarily being geographical indications per se.

Moreover, the Committee opted to take into account a relevant consumer survey conducted, whereby only 3.8% of the surveyed public believed that the "OLYMPOS" milk actually originated from mount Olympus while 47% believed that the "OLYMPOS" milk originated from the greater district of Thessalia and Macedonia, which are neighboring districts in central and northern Greece. Another consumer survey, also taken into account by the Committee, reflected the fact that the majority of the consumers that selected the "OLYMPOS" milk were not influenced by its geographical origin in their selection, but, instead based their selection on the quality of the particular product, irrespective of where it originated from in Greece.

Last, but not least, the Trademark Committee examined the allegations set forth by the Petitioner whereby the advertisements of the "OLYMPOS" mark allegedly constituted misleading trademark use by the Respondent. The Committee determined that, advertisements, on their own, do not qualify as trademark use per se, and as such, advertisements cannot be deemed to qualify as misleading trademark use. Trademark use, based on the relevant precedent and legal theory, is in fact the affixing of the particular mark on the products and their packaging. It would be a disproportionate means of recourse to delete a trademark from the registry as a form of sanction for its alleged "misleading advertising", for which other provisions of law (that of

Unfair Competition Law) apply and other tribunals have subject-matter jurisdiction on.

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