



V versus V: assessment of similarity between one-letter trademarks

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- The IP Court found that there was no likelihood of confusion between the parties' 'V' marks, contradicting the expert report's evaluation
- Versace's mark included figurative elements that rendered it distinctive, while the plaintiff's marks included descriptive phrases
- The decision confirms that the likelihood of confusion assessment shall be stricter when it comes to one-letter trademarks

Background

An opposition was filed against Gianni Versace SRL's trademark application for the sign depicted below:



The opposition relied on the trademarks depicted below with additional descriptive phrases and the main element of the opponent's trade name:



The opposition was based on a likelihood of confusion claim under Article 6/1 of the Intellectual Property Code (No 6769) (IP Code), along with other claims.

The Turkish Patent and Trademark Office (PTO) rejected the opposition, and the appeal filed against the Trademarks Department's refusal was also rejected. The opponent filed an action for the cancellation of the PTO's decision. The case was heard before the Ankara IP Court.

IP Court decision

The court, contrary to the expert report obtained during the proceedings, decided to dismiss the court action and issued a well-grounded decision.

The court explained that Versace's mark included figurative elements and used ivy-like leaves in the layout of a plant to form the letter 'V' in a distinctive manner; in contrast, the plaintiff's trademarks included descriptive phrases and the main element of its trade name. Comparing the trademarks, it evaluated that they had different fonts, styles of arrangement and figurative elements and, therefore, there would be no confusion arising solely from the common letter 'V'. Indeed, as was also confirmed by a Regional Court of Appeal's decision (decision of the 20th Chamber of the Regional Court of Appeal of 14 December 2017, Merits No 2017/1095, Decision No 2017/1149), the likelihood of confusion assessment shall be stricter when it comes to one-letter trademarks since a single letter that lacks distinctiveness cannot be monopolised. In the present case, the court found that the trademarks at issue had a very different form, calligraphy and style; therefore, consumers who first see and/or hear the plaintiff's 'V' marks will not confuse the parties' marks when they subsequently see and/or hear Versace's 'V' mark. The court concluded that there was no likelihood of confusion between the trademarks.

Comment

The PTO's trademarks guidelines (dated 18 August 2021) also confirm that even a slight difference is sufficient to differentiate between one-letter trademarks. The PTO provided the below as an example of marks that were found different from one another pursuant to the assessment of similarity under Article 5/1(ç) of the IP Code (identity or indistinguishable similarity):



Similarly, the PTO provided the below as an example of marks that were found different from one another pursuant to the assessment of similarity under Article 6/1 of the IP Code:



Re-Examination and Evaluation Board's Decision No 2017-M-1283, mentioned in the PTO's guide dated 18 August 2021



Ankara 2nd IP Court's decision, Merits No 2015/393, Decision No 2016/296, mentioned in the PTO's guide dated 18 August 2021

The above trademarks, which are arguably even more similar than the trademarks at issue in the present case, were found to be dissimilar.

Versace's 'V' mark is indeed very distinctive, with ivy-like leaves and a characteristic stylisation which differentiates it from other marks consisting of the letter 'V'. Therefore, even if the plaintiff's marks did not include additional elements, they would still be different from Versace's mark in terms of stylisation and visual impression.

Arguably, the IP Court's decision in this case is important in that it includes the court's assessment on the similarity of the marks, which contradicts the expert report's evaluation. The decision underlines that a single letter can be registered as a trademark if it is sufficiently distinctive, but also highlights that a letter cannot be monopolised; therefore, the assessment of similarity shall be stricter for such trademarks.

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