

## TURKEY

## Turkish IP court rules on Red Bull's colour marks in an infringement claim

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**R**ed Bull, the leading manufacturer and pioneer for energy drinks, encounters many trademarks, designs and trade dresses attempting to gain unfair advantage of Red Bull's tremendous reputation worldwide.

Turkey is one market where Red Bull is the leader, so there has been a significant number of sales and market awareness. Therefore, the Turkish market is monitored carefully for infringing products, and brand protection strategy is applied properly by Red Bull.

In mid-2020, Red Bull determined that the products ('Power Jaguar products') are manufactured, marketed, and sold via both offline and online channels.



With the lawsuit initiated before the Civil IP Court of İzmir ('IP court') on September 30 2020, Red Bull claimed trademark infringement and unfair competition against their products on the market, as well as their registered device and colour trademarks in Turkey, all incorporating a blue/silver colour combination.



One of the defendants, mainly dealing with the marketing of Power Jaguar products, acknowledged marketing these products for four

months in 2019 via its website, but denied trademark infringement and unfair competition allegations, claiming that they never actually sold Power Jaguar products.

The other defendant – the manufacturer of Power Jaguar products – relied on the dissimilarity of the word and graphic elements of the parties' products and further questioned the distinctiveness of Red Bull's blue/silver colour combination marks.

After hearing the parties' arguments and defenses, the IP court allowed Red Bull's request for an interlocutory injunction and decided for the seizure of Power Jaguar products as well as the promotional materials related thereto.

Red Bull enforced the interlocutory injunction wherever necessary and removed the infringing products from the market. The IP court rendered its decision in favour of Red Bull on September 29 2021 – within a year's time, which is quick in comparison to the usual length of infringement actions.

The IP court evaluated that the use of colours on Power Jaguar products are similar to Red Bull's trademarks, mainly to the reproduced Turkish trademark registration no. 2014 03556, and this is likely to cause confusion in the eyes of the average consumer.

The IP court acknowledged that the overall get-up of the Power Jaguar products creates trademark infringement and unfair competition and decided for the prevention of such on the relevant goods, plates, signboards and promotional materials, in addition to the seizure and destruction thereof.



Reg. no. 2014 03556



The protection granted to non-conventional trademarks in Turkey is not yet settled but this decision is remarkable as it shows the extent of protection that should be granted to colour combination marks, through Red Bull's blue/silver colour mark.

The IP court's decision has not become binding yet; appeal processes are available.