

GREECE

## Trademark, copyright and unfair competition law protect trade dress

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The particular layout or decoration of a commodity is defined as its “trade dress.” In practice, trade dress constitutes a separate, distinct IP right that provides its owner with a very broad scope of protection against infringement. Trade dress, depending on the circumstances, can be protected as a trademark, under the provisions of unfair competition law, and finally, depending on its distinctiveness, it can also be protected by copyright law.

According to the definition provided by Law 146/1914 on unfair competition which has been followed by legal theory as well as settled case-law in Greece, trade dress usually includes the external elements and the specific decoration of the configuration, in particular the colour or the combined colours, the packaging and/or the product’s wraps, and any distinctive feature of the commodity whatsoever, which has been established in the course of trade as a feature of the commodity, and is capable of distinguishing it from other similar goods of a different origin. In other words, it is the shape of the product or the product’s packaging, and it is protected only if it is not identified with the goods from which it is intended to be different. As such, trade dress is usually protected by the provisions of unfair competition.

The recently amended broader definition of what can be filed as a trademark, made it easier for trade dress to be registered as a trademark. However, one should be very cautious about the inherent differences between trademarks and trade dress. Pursuant to the most updated relevant legal view, a trade dress right can only be claimed on indications for which a trademark can also be registered.

Moreover, a more difficult approach, and bearing in mind that trade dress can also

apply on various aspects/forms of layouts, not limited solely to products, a unique and innovative trade dress could possibly also be protected by the provisions of copyright law, provided that the relevant conditions have been fulfilled.