

GREECE

**“Open Sesame” for
www.alibaba.info**

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Athens



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A Greek entity registered in its name the domain name *www.alibaba.info*. Alibaba, the globally well-known e-commerce Chinese company filed a complaint against the above-mentioned domain name holder on the basis of UDRP rules before the Asian Domain Name Dispute Resolution Center. This action failed.

Alibaba subsequently filed a main infringement action in Greece against the Greek company on the basis of several CTM registrations containing the sign Alibaba. Alibaba's action was successful. In particular, the Greek court upheld the main action and ordered *inter alia* the defendant to transfer the domain name at issue to the claimant, applying by analogy the rules applicable in .gr domain name disputes.

It is notable that the Greek court (designated as a Community trade mark court pursuant to article 95 CTMR) ruled that the decision rendered in the context of ADR proceedings previously commenced was not binding for infringement proceedings in Greece. More specifically, it was held that this decision by its nature does not count as *res judicata* and in any case the issue of bad faith that played a key role in ADR proceedings was irrelevant in the main infringement proceedings commenced in Greece, where likelihood of confusion was examined on the basis of objective criteria, without reference to the defendant's culpability.

On the facts of the case, the court applied in an exemplary way the Community case law relating to likelihood of confusion. If an interesting topic were to arise, it is that of forum shopping, especially in view of the fact that the Greek court ordered the transfer of the gTLD domain name at issue. In this particular case, the defendant was based in Greece, but what if the Greek court were to assume juris-

diction on the basis of *lex loci delicti*? This is another story, just as Ali Baba was one among the various stories contained in “One Thousand and One Nights”.