

GREECE

Economic crisis can influence judges' decisions

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A recent judgment of the multi-member Specialist IP Court of Athens has ruled – by a 2-1 majority of its members – that there is a likelihood of consumers being confused in a trade mark infringement case, but the economic crisis in Greece resulted in an interesting dissenting opinion. In the case in question, the plaintiff US Company, E Entertainment Television LLC, argued that it broadcast the world-famous news channel “E” in Greece, among other countries, and that it is available through a subscriber platform. It is also the owner of the relevant European and national trademarks E! and E Entertainment Television.

The defendants broadcast in Greece through a digital channel, and internationally through an internet TV channel using live streaming technology under the distinctive element E and E International, and are also the owners of the national trade mark E-Channel.

The majority judgment ruled that there is a strong visual, phonetic and conceptual similarity between E! and E, since they are both single-letter indications in capital letters, and have the same meaning, while the differences between them, arising from identifying elements (the addition of an exclamation mark in the former, the existence of a device and a colour mark in the latter), means that they are not identical, but are still similar.

Moreover, as regards the users of the two television services, the judgment ruled that the television audience is the same, notwithstanding the fact that the defendant's TV channel is a free-reception channel with a Greek language schedule of broad content, compared to the plaintiff's channel, which is accessible through subscriber digital platforms and has a pure entertainment schedule in the Eng-

lish language with Greek subtitles.

However, in a dissenting opinion, one judge argued that the trade marks are visually, phonetically and conceptually different. Moreover, the opinion distinguishes between TV audiences with and without access to subscriber digital platforms, which, at a cost of more than €50 per month, are seen as a luxury in view of the economic crisis affecting Greece.

On this basis, the dissenting opinion argued that there is no likelihood of confusion, because the television services under the mark E! provide an English-language schedule with Greek subtitles whose content is limited to the lifestyle of foreign celebrities, accessible only through subscriber platforms to approximately 670,000 consumers, while the services under the element E are exclusively provided in Greek, are of a wider content and are available to all 7 million Greek viewers.

This dissenting opinion indicates that the economic crisis in Greece can affect judges' decisions.