

GREECE

Tricky issues on dual jurisdiction

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According to the Greek Law on Trade Marks, civil courts have jurisdiction to rule in trade mark infringement cases, whereas administrative courts have jurisdiction on a trade mark's registrability.

A leading company in the field of consumer goods is the owner of various trade marks in Greece consisting of the term "ΧΛΩΡΙΝΗ" and/or its English transliteration "Klorin" for goods in class 3, namely cleansers for household purposes. This mark has a long history of extensive use in the Greek market since the early 1960s by either its current owner or its predecessors.

In fact, it has become so known and established that the relevant public has been using it in order to define a cleanser consisting of a sodium hypochlorite solution. What's next? Another leading company in the same field of business filed a trade mark consisting of that term along with a mark, which is also a well-known trade mark in the competitor's name among the Greek public.

The first company commenced trade mark infringement proceedings before the civil courts and the second commenced invalidity proceedings before the Trademarks Administrative Commission, which by law follow the route of the administrative court's jurisdiction on appeal. In both instances the underlying question is whether Klorin is a well-known trade mark or a trade mark that has become of common use. The Supreme Court, which is the highest level judicial authority in civil proceedings has definitively ruled that the TM owner's competitor has not infringed the TM, since it has been used to define the kind of the product concerned. Alas, the Administrative Court is not of the same view: so far, that is to say before the Administrative Court of Appeal, it was held that Klorin is a well-known mark. As a

matter of procedure, the losing party has the right to file a revocation petition before the Council of State, which is the highest level judicial authority in administrative proceedings.

What will happen if the Council of State affirms the trade mark's well-known status, which is contrary to the ruling of the Supreme Court? It seems that in addition to business competition, judicial competition has a role to play in this case.