



Court of Cassation puts an end to long-running Sheraton dispute

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Legal updates: case law analysis and intelligence

- This dispute involving the SOYIÇ HOTEL device mark and Sheraton's well-known S device mark started in 2015
- A key finding of the court was that the defendant's hotels could be perceived as an affordable sub-brand of Sheraton Hotels
- The decision provides a good example of how the well-known status of a mark may increase the likelihood of confusion

Background

In 2015 the Turkish Court of Cassation (CoC) found that the trademark SOYIÇ HOTEL and device (depicted below on the left) was confusingly similar to Sheraton's well-known device mark (depicted below on the right), so that there was likelihood of confusion ([decision of the 11th Chamber of the Court of Cassation dated 9 March 2015](#), merit number 2014/ 18262, decision number 2015/ 3101).



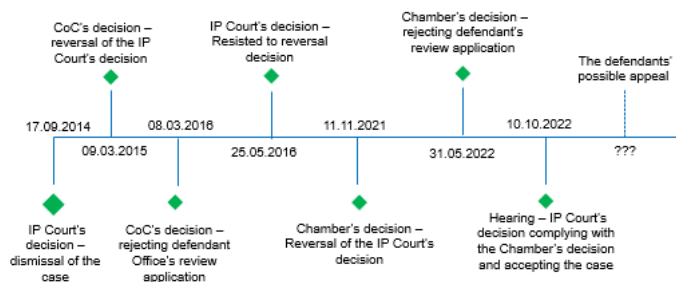
The CoC also held that Sheraton's device trademark is well known in its sector. Therefore, it was not possible for consumers to recognise that the trademarks depicted above belonged to two different entities, and consumers would consider that the SOYIÇ HOTEL mark belonged to plaintiff Sheraton. The court further held that the defendant sought to benefit unfairly from the

plaintiff's trademarks. However, the First Instance IP Court ('IP Court') had reached a contrary decision (see [here](#)).

Developments since 2015

The case is still pending today but there have been significant developments since 2015, as shown in the chart below:

Timeline



Timeline of the court proceedings:

- After the CoC's decision, the IP Office filed a request for review of the CoC's decision. The CoC rejected the IP Office's application in 2016 (decision of the 11th Chamber of the Court of Cassation dated 8 March 2016, merit number 2015/8950, decision number 2016/2522).
- Upon the finalisation of the CoC's reversal decision, the file was sent to the IP Court and given a new merits number. The IP Court decided not to follow the reversal decision, maintained its own decision and again rejected the action in 2016 (decision of the Ankara 2nd Civil IP Court dated 25 May 2016, merit number 2016/137 E, decision number 2016/169 K).
- Sheraton filed an appeal before the General Civil Chamber ('the chamber') of the CoC against the IP Court's decision.
- Towards the end of 2021, the chamber rendered its decision and decided that there was a likelihood of confusion between the trademarks (decision of the General Civil Chamber of the Court of Cassation dated 11 November 2021, merit number 2018/11-36 E, decision number 2021/1400 K). In addition, it evaluated that the defendant's trademark aimed to resemble, and take unfair advantage of, Sheraton's well-known trademark. Although the IP Court had found that the average consumers for the parties' trademarks were different, the chamber was of the opinion that the defendant's hotels could be perceived as an affordable sub-brand of the Sheraton hotels due to the well-known status of Sheraton. As a result, the chamber concluded that the second decision of the IP Court was not legal and should be dismissed.
- The defendant filed a request for review of the chamber's decision, asking for the reversal of the CoC's decision in early 2022.
- In May 2022 the chamber dismissed the defendant's request for review, simply mentioning that the request did not meet the procedural conditions for changing its previous decision (decision of the General Civil Chamber of the Court of Cassation dated 31 May 2022, merit number 2022/11-533 E, decision number 2022/789 K).
- As a result of these decisions, the reversal decision of the CoC - in favour of Sheraton - became final and binding on the IP Court. The case was remitted to the IP Court for a retrial.

- The IP Court decided to comply with the CoC's reversal decision and accepted the case in a trial held in October 2022. The defendant is still entitled to file an appeal before the CoC after being notified of the IP Court's reasoned decision, but such appeal would not change the binding character of the chamber's decision.

Comment

Despite the amount of time involved in resolving this dispute, the matter presents some significant points of interest.

First, in recent years the IP Courts have usually preferred to comply with the CoC's reversal decisions; the fact that the IP Court in this matter resisted in its initial decision is a rare occurrence.

Second, the chamber provided a well-grounded and detailed decision. In particular, its comment that the contested trademark could be perceived as an affordable sub-brand of Sheraton Hotels due to the well-known status of Sheraton's trademark is remarkable. Arguably, the chamber provided a new perspective for the enforcement of the well-known status of a trademark, and considered such well-known status more broadly than usual.

It is an established fact that well-known status is one of the criteria that may increase the likelihood of confusion, but this is rarely implemented by the CoC. In this matter, however, the chamber's perspective provides a good example of how the well-known status of a trademark may increase the likelihood of confusion.

As the chamber occupies the highest position hierarchically and its decisions are binding, this approach can be applied to other cases - especially in the case of group trademarks appealing to consumers with different income levels.

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