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Intellectual Property case law guide

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The guide "Intellectual Property Case Law Guide" is a comprehensive resource that offers valuable insights and guidance regarding the intricacies of intellectual property disputes and litigation within the legal landscape of Armenia. This guide provides an overview of the intellectual property disputes and litigation.



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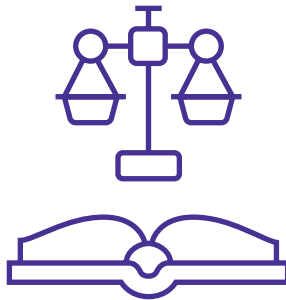
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Introduction

Dear Reader,

Presented by Lawsuit Law Firm, we are proud to introduce the first and most efficacious guide on intellectual property court cases in the Republic of Armenia. This comprehensive guide covers a wide range of intellectual property issues, including cases in the Board of Appeal of the Intellectual Property Office of the Republic of Armenia and the Competition Protection Commission of the Republic of Armenia.

Our guide includes the majority of Court cases of General Jurisdiction, as well as the most significant cases from the Administrative Court and the latest cases, the practice of the Board of Appeal of the Intellectual Property Office of the Republic of Armenia and the Competition Protection Commission of the Republic of Armenia. Additionally, we have included relevant cases from the practice of the Constitutional Court of the Republic of Armenia.

At Lawsuit Law Firm, our specialization lies in the protection and safeguarding of intellectual property rights. We also offer extensive support to clients facing intellectual property issues internationally.

This guide will be released annually, maintaining its periodic nature. It is the most significant resource available as it encompasses a wide range of court cases. By briefly familiarizing Yourself with the guide, You will gain insight into the cases and can further delve into the specific case numbers for more detailed information.

Our team is dedicated to promoting and advancing intellectual property law in the Republic of Armenia. We firmly believe in the power of creativity and its impact on society.

CEO&Founder of Lawsuit law firm
Annie Davtian



Lawsuit is a highly reputable law firm that offers a comprehensive range of legal services, catering to the diverse needs of individuals and businesses alike. With a deep understanding of the complexities of the legal landscape, Lawsuit is committed to providing top-notch legal guidance and support.

One of the key strengths of Lawsuit lies in its expertise in intellectual property law. The firm excels in safeguarding and defending intellectual property rights, offering comprehensive legal solutions to protect clients' patents, trademarks, copyrights, and trade secrets. Their extensive knowledge and experience in this field make them the go-to law firm for individuals and businesses seeking to navigate the complex world of intellectual property law.

In addition to intellectual property, Lawsuit boasts a strong specialization in business and corporate law. The firm's seasoned lawyers assist clients in all stages of their business journeys, from company formation and contractual agreements to mergers and acquisitions. With a keen eye for detail and a thorough understanding of corporate governance, Lawsuit ensures that businesses operate within legal boundaries, maximizing their potential for success.

The firm's proficiency in retail and fashion law is yet another notable attribute. Understanding the unique legal challenges faced by this industry, Lawsuit provides tailored legal support to retail and fashion businesses. From protecting trademarks and copyrights to negotiating licensing agreements, Lawsuit ensures that clients in this sector can focus on their creative pursuits while their legal matters are handled seamlessly.

CONSTITUTIONAL COURT OF THE REPUBLIC OF ARMENIA

The Decision of the Constitutional Court of the Republic of Armenia CCD-1428 on the issue of compliance with the Constitution of the Republic of Armenia of the obligations laid down in the Agreement ‘On the management order of copyright and related rights on a collective basis’, signed on December 11, 2017

The Agreement ‘On the procedure for the management of copyright and related rights on a collective basis’ (hereinafter referred to as ‘Agreement’) was signed on December 11, 2017, in Moscow, based on the provisions of the Treaty on the Eurasian Economic Union dated May 29, 2014, and the law of the Eurasian Economic Union and in order to create favorable conditions for copyright and related rights holders.

On August 24, 2018, the Government of the Republic of Armenia submitted an application to the Constitutional Court of the Republic of Armenia in order to verify the compliance of the Agreement with the Constitution of the Republic of Armenia, examining which the Constitutional Court of the Republic of Armenia noted the following:

01. In accordance with subparagraph 3 of Article 89 of Clause 2 of the Treaty on the Eurasian Economic Union of May 29, 2014, ratified by the Republic of Armenia by the National Assembly’s Decision NAD-132 of December 4, 2014,

the member states of the the Eurasian Economic Union cooperate in order to create favorable conditions for the copyright holders of copyright or related rights in those states.

02. The obligations assumed by the Republic of Armenia under the Agreement are in line with the provisions of Article 13 of the Constitution of the Republic of Armenia (‘Foreign Policy’) and are aimed at contributing to the development of the order of management of copyright and related rights on a collective basis in the territories of the member states of the Eurasian Economic Union, as well as favorable conditions for the right holders of these rights.

03. The implementation of the obligations assumed by the Republic of Armenia under the Agreement is also aimed at contributing to the implementation and strengthening of the protection of intellectual property rights stipulated by Article 60, Part 7 of the Constitution of the Republic of Armenia.

The Agreement ‘On the procedure for the management of copyright and related rights on a collective basis’ was found to be in conformity with the Constitution of the Republic of Armenia.

The Decision of the Constitutional Court of the Republic of Armenia CCD-1428 on the issue of compliance with the Constitution of the Republic of Armenia of the obligations stipulated in the Treaty 'On Trademarks, Service Marks and Places of Origin of Goods of the Eurasian Economic Union' signed on February 3, 2020 in Moscow

On February 3, 2020, the Treaty 'On Trademarks, Service Marks and Places of Origin of Goods of the Eurasian Economic Union' was signed in Moscow (hereinafter referred to as 'Treaty').

On August 27, 2020, the Government of the Republic of Armenia adopted Decision N 1401-A to apply to the Constitutional Court of the Republic of Armenia to determine the issue of compliance of the Treaty with the Constitution of the Republic of Armenia.

While examining the Application submitted on September 4, 2020, the Constitutional Court of the Republic of Armenia noted the following:

- 01.** The Treaty was signed in order to ensure the legal protection of Eurasian Economic Union trademarks, service marks and place names of origin of goods in the territories of the member states of the Eurasian Economic Union.
- 02.** The body responsible for the execution of the Treaty is the Ministry of Economy of the Republic of Armenia.
- 03.** The Treaty regulates the relations arising in connection with the

registration, legal protection and use of trademarks, service marks and names of origin of goods of the Eurasian Economic Union, and the Agreement does not apply to certification and guarantee marks, as well as to those characters that cannot be represented graphically.

The registration of the Eurasian Economic Union trademark, service mark and appellation of origin shall have the force of a national registration of a trademark, service mark and appellation of origin in each member state of the Eurasian Economic Union.

- 04.** The exclusive right to the Eurasian Economic Union trademark shall be effective from the date of its registration in the Unified Register of the Eurasian Economic Union trademarks until the expiration of 10 years, calculated from the date of filing of the Eurasian Economic Union trademark application. The term of validity of the exclusive right can be extended by 10 years by the submission department, according to the application submitted by the right holder during the last year of the validity of that right in accordance with the procedure established by the Directive.

The term of validity of the exclusive right to the trademark of the Eurasian Economic Union can be extended an unlimited number of times.

05. The Constitutional Court of the Republic of Armenia considers that the obligations assumed by the Republic of Armenia under the Treaty correspond to the objectives of foreign policy established by article 13 of the Constitution of the Republic of Armenia aimed at establishing neighbourly good, mutually beneficial relations with States on the basis of International Law.

The Treaty ‘On Trademarks, Service Marks and Places of Origin of Goods of the Eurasian Economic Union’ was found to be in conformity with the Constitution of the Republic of Armenia.



The Decision of the Constitutional Court of the Republic of Armenia CCD-1455 on application of the ‘SAKI AND SANS’ CJSC determining the constitutionality of the Point 2 of Part 2 of the Article 1172 of the Civil Code of the Republic of Armenia and Point 2 of Part 1 of the Article 10, Point 2 of Part 1 of the Article 12 of the Law of the Republic of Armenia ‘On Trademarks’

The application was submitted by the ‘SAKI AND SANS’ CJSC (hereinafter referred to as ‘Applicant’).

The Defendant in the case was a representative of the National Assembly of the Republic of Armenia, Head of the Legal Support Department of the Legal Expertise Office of the National Assembly of the Republic of Armenia A. Kocharyan.

The Applicant considers that the right of the registered trademark holder to prevent third parties from using another registered trademark in the course of business, identical or similar to the registered trademark and used for goods and (or) services that are identical or identical to the goods and/or services for which the trademark is registered, if the use of this mark creates a risk of misleading consumers, including a combination of a registered trademark, can be lawful, proportionate and legally defined only if at least the criteria and limits are defined by law, by which it will be

possible to assess the real possibility of misleading the consumer, that is, the real possibility arising from the application of objective criteria. Thus, the Applicant notes that both the Civil Code of the Republic of Armenia and the Law of the Republic of Armenia ‘On Trademarks’ do not define the concept of ‘danger of causing confusion’ and objective criteria for its evaluation.

The Constitutional Court of the Republic of Armenia, in its decision on the application, considers necessary to answer the following questions:

- Do the contested provisions of the Civil Code of the Republic of Armenia as well as the Law of the Republic of Armenia ‘On Trademarks’ violate the rights of the trademark holder as provided for in Article 60 of the Constitution of the Republic of Armenia, subject to legal practice?
- Whether the contested provisions are consistent with the principle of certainty established by article 79 of the Constitution of the Republic of Armenia and whether the necessary organizational structures and procedures are in place to implement the rights?
- Whether the application of the contested provisions may infringe a person’s freedom of economic activity as provided for in article 59 of the Constitution of the Republic of Armenia, thereby not guaranteeing economic competition?

In response to these questions, the Constitutional Court of the Republic of Armenia notes the following:

01. Although the provisions of the Article 60 of the Constitution of the Republic of Armenia on property rights generally also apply to intellectual property rights, not all provisions on property rights, including protection of property rights, are by nature applicable to intellectual property.

02. The law relating to the protection of intellectual property shall not violate the requirement of Article 60, Paragraph 4, of the Constitution of the Republic of Armenia that no one shall be deprived of property (in this case, the right to a trademark) except in court in cases determined by law.

03. The meaning of the right to and protection of the trademark is that consumers are given the opportunity to distinguish goods on the market, preventing the illegal use of the registered trademark by third parties, as a result, the rights and interests of the trademark holder are protected. For this reason, the legislator prohibits not only the illegal use of an already registered trademark, but also the use of trademarks that may mislead the consumer because of similarities.

04. Having established this exclusive right of the trademark owner, the legislator, bearing in mind the need to resolve possible disputes between owners of similar to the degree of intermingling of trademarks,

defined the concept of an earlier trademark protecting the interests of applicants, who have previously submitted a trademark.

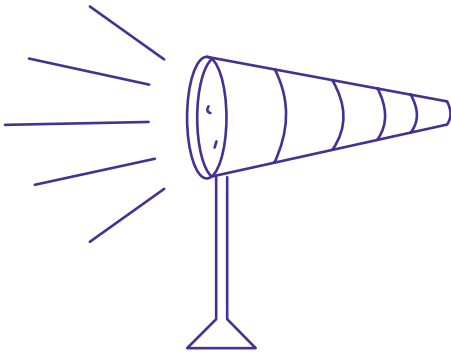
05. Both the contested provisions and the established jurisprudence are aimed at protecting the rights and interests of the former holder of trademark rights provided for in the Constitution of the Republic of Armenia and laws. Thus, the contested provisions of the Civil Code of the Republic of Armenia and the Law of the Republic of Armenia On Trademarks' do not infringe the rights of the trademark owner as provided for in Article 60 of the Constitution of the Republic of Armenia, but the restrictions provided by the contested rules, are appropriate and necessary to protect the legitimate interests of the pre-existing trademark.

06. If a distinctive element is repeated in a trademark, it can be concluded that it is confusingly similar.

07. The contested provisions are sufficiently defined and predictable, and the procedures aimed at realizing the rights of trademark owners meet the requirements of Article 75 (Organizational structures and procedures for the exercise of fundamental rights and freedoms) of the Constitution of the Republic of Armenia.

The contested provisions were found to be in conformity with the Constitution of the Republic of Armenia.

Courts of general jurisdiction



01. “Nemiroff Intellectual Property Establishment” v. “Alex Holding” LLC, “A and G” LLC, “Alex Grig” LLC - ԵՄԴ/2711/02/17

The representative of “Nemiroff Intellectual Property Establishment” filed a lawsuit against the “Alex Holding” LLC, “A and G” LLC, “Alex Grig” LLC to confiscate 1.500.000 AMD in favor of the claimant.

07.06.2019 the representative of the claimant company, and the representative of the defendant companies, presented to the court settlement agreement between the parties.

Examining the settlement agreement and other evidence, evaluating them, the court finds that the settlement agreement should be confirmed and the civil case proceedings terminated.

02. “Nemiroff Intellectual Property Establishment” v. “Alex Holding” LLC, “A and G” LLC, “Alex Grig” LLC - ԵՄԴ/2660/02/17

On 05.09.2017 “Nemiroff Intellectual Property Establishment” company submitted a claim to prohibit the use of the trademark and remove the counterfeit product from circulation against “Alex Holding” LLC, “A and G” LLC and “Alex Grig” LLC (hereinafter referred to as Companies).

The representative of Companies proposed to sign settlement agreement to the claimant.

“Nemiroff Intellectual Property Establishment” accepted the settlement proposal, which was approved by the Court.

The civil case proceedings were terminated because of settlement agreement signed by the Parties of the case.



03. “Grand Candy” LLC v. P.E “Karapet Karapetyan” - 471/0466/02/18

“Grand Candy” LLC filed a lawsuit against P.E “Karapet Karapetyan” for stopping the use of the trademark.

“Grand Candy” LLC informed that the company is the right holder of the famous trademark “Ponchikanoc” in the Republic of Armenia, and the trademark was recognized as famous trademark as of 01.01.2001.

The Company found that at Abovyan city, Hanrapetutyuan Str. 1/83 address there is a café named “Ponchikanoc No.1”, which provides services defined by class 43 of the Nice international classification of goods and services, that is “services of food and beverages” for which the “Ponchikanoc” trademark has been recognized famous.

The mentioned action violates the rights of “Grand Candy” LLC, the

owner of the famous “Ponchikanoc” trademark. “Homeve” LLC, the owner of the trademark, transferred its rights to “Grand Candy LLC” on 22.08.2016.

Based on the above, the court after studying the evidence presented in the case, states that according to the certificate No.12 issued by the RA Intellectual Property Agency, by the decision to register the transfer of right to the trademark, the owner “Homeve” LLC transferred its rights to the trademark to “Grand Candy” LLC and the latter is the rightholder of the famous trademark. “Ponchikanoc” trademark has been recognized since 01.01.2001 and provides food and beverage services defined in class 43.

The Court notes that the defendant has used the plaintiff’s trademark without legal grounds, which violates the rights of the claimant as the exclusive owner of the trademark. *Therefore, there are all legal grounds for satisfying the claim.*

04. “Grand Candy” LLC v. “Talgrig” LLC - ԵԱՆԴ/1426/02/12

“Grand Candy” LLC filed a lawsuit against “Talgrig” LLC, requesting by the claim:

1. To oblige the defendant to stop the illegal use of the “IMPERIA” trademark identical or confusingly similar to the trademarks with registration numbers 8730, 15478 owned exclusively by “Grand Candy” LLC
2. To destroy without compensation the entire volume of the boxes of the product package marked with the “IMPERIA” symbol.

“Grand Candy” LLC, is the owner of the following trademarks registered in the territory of the Republic of Armenia for all products of the 30th class of the Nice classification, which is certified by the Intellectual Property Agency of the Ministry of Economy of the Republic of Armenia (hereinafter referred to as the “Agency”).

On December 26 2011 the Administrative Court of the Republic of Armenia issued a decision by the Intellectual Property Agency of the Ministry of Economy of the Republic of the Armenia on 10.05.2011. Regarding the invalidating the registration of the trademark “IMPERIA” (certificate 17015 dated 30.05.2011) in the name of “Talgrig” LLC. Then the trademark was removed from the state register by the Agency, as result of which, the Defendant was deprived of the rights to the trademark.

However, during the design of candy boxes packages issued by the Defendant, contained the “IMPERIA” trademark, which is identical or confusingly similar to the above-mentioned trademarks belonging to “Grand Candy” LLC, which is confirmed by the presence of the corresponding product on the market.

Based on the above, the court, after studying the evidence presented in the case, states that after invalidating the registration of the “IMPERIA” trademark on behalf of “Talgrig” LLC on 10.05.2011, the use of this trademark is considered illegal by the Defendant.

The court considers that it is necessary to satisfy the claim by obliging “Talgrig” LLC to stop using “IMPERIA” identical or confusingly similar to trademarks with registration numbers 8730, 15478 owned exclusively by “Grand Candy” LLC illegal use of the trademark except for pasta, to destroy without compensation the entire volume of the product package/ boxes / marked with the “IMPERIA” symbol.

05. “Grand Candy” LLC v. “Arayik Eliza” LLC - ԵԱՆԴ/0587/02/09

“Grand Candy” LLC, applying to the court, asked to oblige the defendant to stop the illegal use of the “Dzyunik” trademark, which is identical or confusingly similar to the trademark with the registered trademarks owned exclusively by “Grand Candy” LLC, and to destroy it without any compensation the entire volume of the product package / boxes / marked with

“Dzyunik” trademark, which is illegally used. The plaintiff, applying to the court, informed that “Grand Candy” LLC is the owner of the following trademarks registered in the territory of the Republic of Armenia for all products of class 30 of the Nice Classification, which is certified by RA Intellectual Property Agency with certificates 7640 and 9424.

The representative of the defendant, in the case investigation to the court, told that the company does not object to the lawsuit, but asked for time to have the opportunity to consume the rest of the packaged sweets with the “Dzyunik” trademark available in the company.

In fact, the court also considers it confirmed that the defendant used the trademark registered in the name of the plaintiff, which is considered by the court as a violation of the exclusive right of the trademark owner/illegal use of the trademark/.

Referring to the motion of the representative of the defendant to provide time to consume the remaining packaged sweets of the “Dzyunik” trademark in the company, the court considers that the said motions is not subject to discussion within the framework of this case, by being groundless.

06. “Grand Candy” LLC v. “Ararat” LLC - ԵՔԴ/0325/02/08

“Grand Candy” LLC filed a lawsuit against “Ararat” LLC regarding the demands to stop the illegal use of

trademark and to destroy the entire volume of the product package marked with the illegally used trademarks.

The design of the candy boxes\ packages produced by the defendant, are identical or confusingly similar to “Grand Candy” LLC trademarks / Zhemchuzhina, Lesnaya skazka, Vdokhnovenie, Romantic/ and are used illegally, which is confirmed by the presence of corresponding products on the market.

The comparison of the marks makes clear the fact that the above-mentioned trademarks used by the respondent and the corresponding trademarks registered in the name of “Grand Candy” LLC, despite the presence of individual differences, are generally combined.

With an additional explanation, the plaintiff stated that both the word “ANUSH” and the combined “ANUSH” trademarks are registered under the name “Grand Candy” LLC. The registered word trademark. “ANUSH” is written in uppercase letters of the Armenian alphabet, and the combined trademark is written in Cyrillic and Armenian alphabet letters.

The court also took into account the fact that the trademark refers to the same type of product/ candy, the field of use is the same, and the terms of sale of the product are the same. As for the confusing similarity between the combined trademark “Lesnaya Skazka” produced by “Ararat” LLC and the

“Lesnaya Bil” word trademark of “Grand Candy” LLC, the court considers that, according to the criteria of the above-mentioned order, there is no similarity to the point of confusion between those two trademark and in that regard the claim is subject to rejection.

The reasoning of “Ararat” LLC that the trademarks “Belochka”, “Mishka Kosolapiy” are universally recognized trademarks, they are produced in accordance with the “GOST 4570-93”. According to GOST and Article 11 of the RA Law “On Trademarks and Service Marks, Places of Origin of Products”, they are not subject to registration. The court found the mentioned statement not applicable to the case, because the plaintiff disputed the fact that the chocolate candies produced by “Ararat” LLC are identical or confusingly similar to “Grand Candy” LLC to the registered trademark, not to the one by which “Grand Candy” LLC’s registered trademarks are not subject for registration.

As for the defendant’s reference to the fact that the main element of the plaintiff’s combined trademark “Kosolapiy Medved” is the famous Russian landscape painter Shishkin’s painting “Utro v Lesu”, the court notes that the “Kosolapiy Medved” trademark is not disputed in this case, therefore this fact is not related to the given dispute. The court stated to partially accept the claim: oblige the respondent “Ararat” LLC to stop using “Grand Candy” LLC trademarks identical or confusing to the point of

confusion, such as “Zhemchuzhina”, “Vdokhnovenie”, “Romantic”, / illegal use of “Anushik”, “Squirrel”, “Arjuk”, “Caravan” signs.

To destroy without any compensation the entire volume of the product package marked with “Zhemchuzhina”, “Vdokhnovenie”, “Romantic”, “Anushik”, “Squirrel”, “Arjuk”, “Caravan” symbols illegally used by “Ararat” LLC

Reject the rest of the claim



**07. “Yerevan Cognac Factory” CJSC
v. “Ijevan Cognac Factory” CJSC -
SԴ/0856/02/17**

On 14.11.2017, “Yerevan Cognac Factory” CJSC filed a lawsuit against “Ijevan Wine Cognac Factory” CJSC regarding the demands to stop the illegal use of the trademark and remove the fake product from circulation.

After that the Parties agreed to sign a settlement agreement, which was presented to the court.

The plaintiff’s representative on 15.05.2018 at the held court session, asked to confirm the settlement agreement signed between the plaintiff “Yerevan Brandy Factory” CJSC and “Ijevan Wine Brandy Factory” CJSC and to terminate the case proceedings.

The court approved the settlement between the parties and terminated the case proceedings.



08. “Sena Shin” LLC v. “E and D” LLC - ԵԴ/29984/02/19

On 12.09.2019 the representative of “Sena Shin” LLC filed a lawsuit against “E and D” LLC, and asked to prohibit “E and D” LLC from using the ROYCE trademark in any way. As a derivative claim, oblige “E and D” LLC to destroy the prepared images of the trademark, to remove the illegally used trademark from the product or its packaging. If it is impossible to fulfill this requirement, destroy all products bearing the ROYCE trademark.

The court, after examining the claim, documents available in the case, decided that the submitted claim is subject to return for following reasons: by this lawsuit the demand against “E and D” LLC was to prohibit the use of the ROYCE trademark in any way and as a derivative claim to “E and D” LLC to destroy the prepared images of the trademark, to remove the illegally used trademark from the product, or its packaging, and in the event of the impossibility of fulfilling this demand, a demand to oblige to destroy all products bearing the ROYCE trademark, but did not specify the products and the specific and individualizing features of the said products, so that the actions constituting the content of the demand addressed to him were clear for the respondent.

09. Hrant Khachatryan v. “Hovhannes Talayan” I.E - ԵԴ/34155/02/19

On 15.10.2019, Hrant Khachatryan’s representative submitted a claim against “Hovhannes Talayan” I.E to stop

the illegal use of the trademark, destroy the package of products marked with the illegally used trademarks or to remove the trademark from the product.

The claimant informed the court that Hrant Khachatryan is the owner of the trademark “Franko” registered in the territory of the RA for all goods under 7,9,11,21 classes. The illegal use of the “Franko” trademark by the defendant was demonstrated by the importing goods marked with this trademark, so that the circumstance is substantiated by the decision of the SRC of RA. The plaintiff did not grant the defendant the right to use the “Franko” trademark, so in this case, the illegal use of the “Franko” trademark by Hovhannes Talayan I.E is a violation of the exclusive right of the trademark owner.

The court, after hearings, studying the case and the evidences, decided to terminate the case for the following reasons: in this case, the plaintiff’s representative abandoned the claim on 14.10.2022, therefore, the civil case proceedings are subject to termination according to provisions of the above mentioned.

10. «Jermuk Group» CJSC ընդդեմ «Vankava Group» LLC - ԱՎԴ/2906/02/19

On 07.10.2019, a lawsuit was submitted to the court against “Vankava Group” LLC regarding the illegal ban of the trademark and claims for compensation for the damage caused.

Since October 18 2018, “Vankava Group” LLC has started advertising the mineral water produced by it, which is presented to the consumer under the trademark “Jermuk”. The ad was placed and distributed by “Kentron” TV.

On the basis of false advertising, the RA Investigative Committee initiated a criminal case, but it was terminated due to the lack of criminal, and the RA State Commission for the Protection of Economic Competition recorded that the act was unfair competition.

According to the lawsuit, “Jermuk” Group CJSC against the Intellectual Property Agency of Economy “Jermuk Aqua” LLC, on the request to invalidate the registration of the trademark “jermukaqua” under serial number No.30207, in administrative case No. VD/0317/05/20, the Administrative Court of the RA decided on 27.07.2020 made a decision according to which “satisfy the request of the “Jermuk Group” CJSC to declare invalid Registration of the combined trademark “jermukaqua” under number 30207 in the name of “Jermuk Aqua” SP company on 20.01.2020 made by the RA Intellectual Property Agency of the RA Ministry of Economy.

28.08.2019 By decision No. 104-A, the RA State Commission for the Protection of Economic Competition decided:

1. To qualify the actions and behavior described by the decision of “Vanakva-Group” LLC as an act of unfair competition (hereinafter -

Violation of the Law).

2. For the violation of the law, impose a fine on “Vanakva-Group” LLC in the amount of AMD 143,094 as interest on the income of the months preceding the violation.

3. To entrust “Vanakva-Group” LLC:

1) within 10 days to correct the violation of the Law, to stop the production and sale of the product with the trademark “Jermuk” and to recall the given product from all commercial facilities;

2) within 10 days, submit to the commission a document certifying the payment of the fine specified in point 2 of this decision;

3) Within 3 days after the execution of the instruction set forth in Sub-Clause 1 of this clause, inform the Commission about it by presenting supporting evidence, as well as submit information in the same period about the volume (remaining) of the product with the trademark “Jermuk” after recalling it from all commercial facilities, presenting supporting evidence.

4) To exclude the violation of the Law in the future.

As a result of the studies of “Jermuk Group” CJSC, recorded that as of the date of filing the claim, the company suffered a loss of approximately 300,000 (three hundred thousand) AMD.

And by submitting a lawsuit the claimant paid 14,000 (fourteen thousand) AMD state duty in advance.

Based on the internal conviction formed on the basis of comprehensive, objective and complete investigation of the written evidence examined in this case, the court considers it confirmed that the defendants "Vanakva Group" LLC, Suren Garniki Balayan, Karen Sureni Balayan, "Vanakva Group" LLC, "Vanakva" LLC, "Super Group" LLC, "Jermuk Aqua" LLC, without the consent of "Jermuk Group" CJSC, the right holder of the "Jermuk" trademark, illegally advertised the "Jermuk" trademark, produced and sold mineral water under the trademark "Jermuk" in the Armenian market, as a result, in the form of omitted benefit, "Jermuk Group" CJSC suffered a material loss of AMD 300,000 (three hundred thousand) as of the date of filing the claim to the court on 07.10.2019, so the court finds that the claim is justified and subject to satisfaction.

The court decided to satisfy the claim.

1. To confiscate 300,000 (three hundred thousand) AMD from "Vanakva-Group" LLC, Suren Garniki Balayan, Karen Sureni Balayan, "Vanakva Group" LLC, "Vanakva" LLC, "Super Group" LLC, "Jermuk Aqua" LLC in favor of "Jermuk Group" CJSC as the missed profit as of the date of filing the claim to the court - 07.10.2019, but not less than the income received by the Defendants from the sale of the "Jermuk" trademark,

2. confiscate produced and available mineral waters on the market with the trademark "Jermuk",

3. to oblige to destroy the prepared images of the trademark, to remove the illegally used "Jermuk" trademark from the product or its packaging.

4. To confiscate 14,000 (fourteen thousand) AMD as a court fee in favor of "Jermuk Group" CJSC, as the amount of the state duty paid in advance.

11. Hrant Xachaturyan v. "Hovhannes Talalyan" PE - ԵՂ/30985/02/19

On September 23, 2019, Hrant Khachaturyan's representative submitted a claim against "Hovhannes Talalyan" PJSC to stop the illegal use of the trademark, a package of products marked with illegally used trademarks or to remove the trademark from the product.

According to the decision of the Court dated 02.10.2019, the claim and the attached documents were returned to the plaintiff. On 08.10.2019, the claimant submitted the claim to the court again.

According to Article 127, Part 1, Clause 4 of the RA Civil Procedure Code, the court of first instance shall return the claim if the document certifying the payment of the state duty in the manner and amount prescribed by law or the corresponding code certifying the transfer to the relevant treasury account, provided by the settlement organization, has not been submitted, and in cases where the law provides

for the possibility of exempting from payment of state duty, delaying its payment or reducing its amount, then there is no petition regarding it, or the court did not satisfy it.

So the court decided to return the claim and the documents, for making the changes and resubmit to the court.

12. “Jermuk Group” CJSC v. “Vankava Group” LLC - ԱՎԴ/2128/02/19

“Jermuk Group” CJSC on 09.08.2019 submitted a lawsuit against “Vanakva-Group” LLC regarding the prohibition of the illegal use of the trademark and claims for compensation for the damage caused.

Considering the issue of accepting the claim for proceedings, the court finds that it is subject to return.

In this case, a state duty receipt in the amount of AMD 6,000 was submitted to the claim, while the claimant’s claim refers to the monetary claim of confiscating the amount of AMD 300,000, as well as two separate non-property claims: to confiscate mineral waters with the “Jermuk” trademark produced and available on the market from the defendant and to oblige to remove the “Jermuk” trademark from the product or its packaging, for which the amount of state duty to be paid will be 14,000 AMD (300,000 AMD x 2%+8000 AMD), which was not done by the claimant, and also no petition was submitted regarding granting the privilege of payment of the unpaid part of the state tax, under which conditions it would be possible to discuss the justification of this petition.



13. “Jermuk Group” CJSC v. “Vankava Group” LLC - ԱՎԴՅ/0589/02/19

“Jermuk Group” CJSC on 27.06.2019 filed a lawsuit against “Vankva-Group” LLC regarding the ban on the illegal use of the trademark and claims for damages.

Taking into account the fact that the plaintiff did not submit a motion to take a measure to secure the claim, the court notes that according to the provisions of the above-mentioned legal norms, the plaintiff was obliged to present to the court the evidence certifying the sending of the copy of the claim and copies of the attached documents to the persons participating in the case.

In this case, the plaintiff, did not complying with the requirements for the form, content and attached documents of the claim filed by the current legislation, submitted a claim, to which he did not submit a copy of the claim and the evidence certifying that the copies of the attached documents were sent to the persons participating in the case, under such conditions, the court finds that the claim is subject to return to the plaintiff.

14. “UNILEVER N.V.” LLC v. “SAS-GROUP” LLC - ԵՂ/4755/02/19

“UNILEVER N.V.” on 19.02.2019, submitted a claim to the court against “Sas-Group” LLC regarding the request to prohibit the sale of products bearing the registered trademark.

In this case, “UNILEVER N.V.” the claim submitted on behalf of the company was

signed by Georgi Mnatsakanyan, with the power of attorney dated 22.01.2019 “UNILEVER NV” attached to the claim. The company, which is a legal entity, in accordance with the legislation of the Netherlands, hereby appoints the citizen of RA G.M. as an authorized person as acting and their legal and acting representatives in the Republic of Armenia with respect to the intellectual property of the Authorizer and with the right to act fully on his part.

The power of attorney is signed by Adam Widler. At the same time, with the attached documents, the notary confirmed that Adam Widler is duly authorized to sign the attached power of attorney on behalf of the company in accordance with this Power of Attorney issued by the company in his name on 15.11.2012, a copy of which was submitted to the undersigned notary public.

It follows from the above that “UNILEVER N.V.” Adam Widler, an ex officio representative authorized to act on behalf of the company, was authorized to reauthorize either a lawyer or a person working with the said company to perform legal representation.

Meanwhile, the court notes that proof of Georgi Mnatsakanyan being an employee of the company “UNILEVER N.V.” was not submitted and there is no proof in the case that “UNILEVER N.V.” according to the company’s charter, Georgi Mnatsakanyan can sign the claim as an ex officio representative.

At the same time, taking into account the fact that in this case a motion to apply a security measure was submitted, the court notes that the copy of the statement of claim and the copies of the documents attached to it, in accordance with the number of persons participating in the case, are not attached to the statement of claim.

Therefore, the court finds that the claim does not comply with the requirement to be submitted to the claim and the attached documents provided by Article 121-122 of the RA Civil Procedure Code, therefore the claim subject to return.

15. “Lilit Boryan” I.E. v. “Haverjutyun A-M” LLC - ԵՂ/25667/02/18

The representative of “Lilit Boryan” I.E. filed a lawsuit against the respondent “Haverjutyun A-M” limited liability company, asking the court to prohibit “Haverjutyun A-M” LLC /farewell hall/ from using the “Haverjutyun” trademark belonging to the plaintiff. the symbol for mourning goods/services of Class 45 of the Nice Classification, in particular, to provide or offer a service under that mark, to use the mark on documents or for advertising purposes, to use the mark on the Internet or other global computer networks of telecommunications, in particular, by any means of addressing, including Internet domain names.

The summary result of the above is that the claim of the Claimant against “Haverjutyun A-M” Limited Liability Company to ban the use of the

trademark is legitimate, because the latter, by posting on the social website “Facebook” the trademark registered in the name of Lilit Boryan I.E. gets unreasonable advantages over the owner of the registered trademark, thus leading to the violation of the latter’s rights.

As for the website <https://haverjutyun.am>, the conclusion of the Court of Appeal in this regard comes to the fact that the words haverjutyun or haverzhutyun in Latin on the respondent’s website can be used exclusively for its full brand name, namely “Haverjutyun A-M”- in accordance with the Latin alphabet.

This position of the Court of Appeals is due to the fact that the respondent company was registered under the brand name “Haverjutyun A-M” at the time of its establishment, the registration of that brand name has not even been challenged in court at this point, taking into account the fact that many legal entities carrying out business activities persons do not have a registered trademark, but must have a registered business name.

And in the context of the mentioned, the assertions of the plaintiff’s representative at the court hearing that in the case of the existence of a registered trademark, the advantage should be given to the trademark, they are equal, until any of them are canceled by a court order, are not convincing.

Based on the norms of the Civil Procedure Code of the Republic of Armenia, as a result of the evaluation of the examined evidence in the civil case, the Court of Appeal confirms the following new facts: the defendant providing funeral services with the domain haverjutyun.am uses on its social website the trademark "Haverjutyun" registered by Lilit Boryan I.E. consisting of the following characters: "Հավերժություն/HAVERJUTYUN" word mark in the upper edge, in the center - Eternity, a circular image consisting of centrifugal arcs, in the lower edge in the part, an illustration of laurel leaves.

Thus, taking into account the fact that the Court of Appeal considers the appellate complaint to be well-founded, the disputed judicial act on the basis of Article 380, Part 1, Clause 4 of the RA Civil Procedure Code should be annulled and amended, satisfying the claim and prohibiting "Haverjutyun A. -M" LLC to use the "Haverjutyun" trademark registered by Lilit Boryan I.E. .

16. "Tieras de Armenia" CJSC v. "Sanki and Sans" JCSC

Representative of "Tieras de Armenia" CJSC submitted a lawsuit against "Saki and Sans" CJSC about the demand to stop the illegal use of the trademark. On 24.09.2018 the the claim was accepted for proceedings by the court decision. At the same time, the request of the plaintiff's representative regarding the application of a security measure for the claim was granted: the defendant "Saki and Sans" CJSC and other persons were prohibited from selling or in any

other way expropriating "3 KARASI" ZORAH" trademarked products until final judgment is issued.

The court, having studied the circumstances of the case and the presented evidence, evaluating each piece of evidence with internal conviction based on a comprehensive, complete and objective examination of all the evidence in the case, found that the civil case proceedings are subject to termination for the following reasons: according to Clause 7 of Article 182 of the Civil Procedure Code of the Republic of Armenia, the court of first instance terminates the case proceedings at any stage of the proceedings, if the plaintiff has abandoned the claim.

In this case, the Claimant's representative refused the claim, which is the basis for terminating the case proceedings according to Article 183, Part 3 of the Civil Procedure Code of the Republic of Armenia.

17. "Egalite" LLC v. "Radio Marshal FM-103.5" - ԵԴ/19848/02/18

On September 13, 2018, "Egalite" LLC submitted a lawsuit to the court, stating that the plaintiff company is the right holder of the sound trademark in Armenia. It became known to the plaintiff company that "Radio Marshall" FM-103.5 during its activities, on the air in advertisements, etc., illegally uses the sound trademark belonging to the plaintiff, misleading the consumer.

Therefore, he asked to prohibit the defendant company from using the trademark similar to the sound mark belonging to the plaintiff.

On September 27, 2018, the court returned the claim and the attached documents.

After correcting the defects and resubmitting it again, the court, by decision of 15.11.2018, admitted the claim to proceedings and rejected the petition to apply a measure of securing the claim by the same decision. By the decision of 15.07.2019, the court replaced the irresponsible defendant "Radio Marshall" FM-103.5 company with the responsible defendant "Ardzagank ST" LLC. By its decision dated 27.07.2020, the court granted the petition of Armen Grigoryan, the representative of "Ardzagank ST" LLC, and suspended the proceedings of the case until the final judicial act issued by the RA Administrative Court in the administrative case VD/9926/05/18 enters into legal force.

"Egalite" LLC filed an appeal against the said decision on 11.08.2020, which was admitted to proceedings by the decision of 07.09.2020 and it was decided to examine it in a written procedure, setting the date of publication of the court act on 22.09.2020. The Court of Appeal considers that the Court did not justify and did not give a reason for the impossibility of investigating the

case by deciding to suspend the case proceedings in accordance with the requirements of Articles 8 and 9 of the RA Civil Procedure Code. In particular, the judicial act does not reflect the judgments and conclusions of the court in connection with the assessment of the evidence, the establishment of the facts and the application of Article 157 of the RA Civil Procedure Code, which are the basis for the suspension decision. The court was content with stating only that it is impossible to examine this case before the legal entry into force of the act in the administrative case. However, he did not justify and did not explain why the examination of the administrative case makes the examination of this case impossible.

In accordance with Article 160, Part 3 of the RA Civil Procedure Code, if the court's decision to suspend the case proceedings is canceled, the case proceedings are considered resumed.

In other words, the appellate complaint regarding the rejection of the motion to resume the case proceedings and the continuation of the case investigation becomes pointless and subject to rejection.

Based on the above, the Appellate Court considers that it is necessary to apply Article 380, Part 2 of the RA Civil Procedure Code. that is, to satisfy the appeal by canceling the appealed judicial act.

18. “Biokor” LLC v. “Vaga Pharm” LLC - ԱՐԴ/0908/02/18

On 18.04.2018, the company “Biokor” LLC (hereinafter referred to as the plaintiff) filed a lawsuit against “Vaga Farm” LLC, a third party, the intellectual property agency of the Ministry of Economic Development and Investments of the Republic of Armenia for the trademark BEЧEPHEE (BEЧEPHEE) about the requirement to prohibit the illegal use of registered trademark.

Examining the settlement agreement signed between the parties on 29.10.2018, the court finds that it does not contradict the requirements of the law and other legal acts, and does not violate the rights and legal interests of the parties and third parties. The reconciliation agreement is the result of the free will of the parties, the parties signed it using the right reserved to them by law.

19. “Sas-Holding” CJSC v. “Main” LLC - ԵՂ/4915/02/18

“SAS HOLDING” CJSC has submitted a claim to the court against “MAIN” LLC regarding the demand to ban the use of the trademark.

According to the lawsuit submitted to the court, it appeared that “SAS HOLDING” CJSC (hereinafter the Company) is the right holder of a number of trademarks, among which is the trademark registered for plastic bags with a combination of red, blue and white colors, which is widely popular in the RA market and among consumers are closely associated

as a bag provided by certain SAS Supermarkets.

“MAIN” LLC (hereinafter the Organization), which operates in the Davitashen administrative district as DEGA supermarket, copied the plastic bags with legal protection registered under the name of the Company, demonstrating unfair competition behavior.

According to the facts of this case, “SAS HOLDING” CJSC is the right holder of the registered trademark for bags with a combination of red, blue and white colors, which are widely distributed in the RA market and are associated among consumers as a bag provided by certain SAS Supermarkets.

“MAIN LLC”, whose activity is carried out in Davitashen administrative district as DEGA supermarket, duplicated the plastic bags with legal protection registered under the name of the Company.

In this case, the court appointed two expertizes.

Upon receiving the results of the first examination, the defendant submitted a sample of the plastic bag to the court to certify that the blue color on the bag was replaced by black. The court again appointed an expert examination, the execution of which was assigned to the Intellectual Property Agency of the RA Ministry of Economic Development and Investments.

According to the received conclusion; “The trademark with the red and black color combination ”Dega Supermarket” used by the ”Dega” supermarket submitted to the examination is confusingly similar to the trademark ”SAS” (N 26862, 25.12.2017) registered under the name of ”Sas Holding” CJSC mark.”

Taking into account all the above, the court finds that the claim is well-founded, as it considers the fact that the trademark with the inscription ”Dega Supermarket” in red and black color combination is confusingly similar to the trademark registered under the name of ”Sas Holding” CJSC. ”SAS” trademark. The court decided to satisfy the claim, prohibiting ”MAIN” LLC from using the unregistered trademark, which is confusingly similar to the trademark registered by the plaintiff.

20. “Arsan” CJSC v. “M.L.N Pharm” LLC - ԵՂ/0719/02/18

“Arsana” CJSC filed a lawsuit against “M.L.N Pharm LLC to prohibit the use of the trademark.

According to the decision of the court dated 12.02.2018, the claim was accepted for proceedings.

The Court of Cassation considers it necessary to add that the legal protection of the trademark is aimed at preventing unfair competition, guaranteeing the protection of investments, protecting the interests of consumers against false or misleading advertising and low-quality products or services. The Court of Cassation considered it necessary to record that the use of such a trademark to the point of confusion is the imitation of the elements of another trademark, which, although it cannot be assessed as the use of an identical mark, is sufficient to cause confusion among the consumer. Confusion, in particular, can be expressed to the consumer by creating the impression that two different goods or services are respectively produced or provided by the same person when in fact this is not the case. Moreover, the consumer, expecting a certain quality of a specific person’s product, with which he was previously familiar, can only experience disappointment due to its lack in someone else’s product.

The Court of Cassation considered it necessary to emphasize that the

similarity of trademarks to the point of confusion is a fact subject to assessment in each specific case, which is the responsibility of the court, and which must be carried out according to a number of mandatory standards (similarity of trademarks, degree of trademark protection, similarity of products, actual likelihood of confusion, marketing channels used, type of product, likely buyer focus, possibility of product range expansion, product competitiveness, etc.) as a result of the evaluation.

The Court of Cassation concluded that during the comparison of the trademark, the distinctive element must be taken into account, regardless of the presence of additional and purely symbolic elements. In other words, if the distinctive element is repeated in the trademark, it can be concluded that it has a confusing similarity.

At the same time, the Court of Cassation considered it necessary to record that the trademarks should be compared as a whole in order to create the same situation as the consumer, since the latter does not have both marks at his disposal to be able to find their distinguishing features.

The Court of Cassation considered it necessary to record that a trademark can be qualified as imitated if it is proven that it caused confusion among persons who were well aware of the respective trademark.

At the same time, the fact that the two trademarks have operated together for a considerable period of time without causing any confusion among consumers indicates that there is no possibility of confusion.

The Court of Cassation also considered it necessary to note that when assessing the risk of confusion, the fact that the trademark is well-known should also be taken into account, because in the case of imitation of well-known trademarks, the probability of the consumer making a mistake increases. In this case, the consumer, likening the imitated trademark to the well-known trademark, may no longer pay attention to the minor differences that exist between these trademarks. In addition, in such cases it is not essential that the product personalized with a well-known trademark is the same or similar, because well-known trademarks are given legal protection even when they are used to personalize completely different products.

The court considers that a sign that cannot be perceived audiovisually, and can be used as a trademark if it can be presented in a typographical / graphic form, and which will be clear, unambiguous, derogatory, accessible, perceptible, objective. and durable.

The court considers it necessary to emphasize that the similarity of the trademarks to the degree of confusion was not contested by the defendant, but the latter contested only that the letter combination <<АНТИ-АНГИН>>

could not receive state registration as a trademark, because it is the name of a medicine., and was to be treated as an unprotected element, and with regard to the second trademark, without disputing its similarity again, he stated that a claim for the recognition of the copyright of another person was submitted to the court within the framework of another civil case.

From the examination of the graphic signs, the court comes to the conclusion that they match in terms of the number of sounds, the total number of matching syllables, the proximity of the vowels, and the emphasis, which can cause confusion among consumers.

In addition, the graphic symbol, <<Natur Produkt>> letter combination with the image of a tree, is placed on the products, to which the claimant's right was registered with the same graphic reflection in the color combination of black, green and gray.

The court considers it necessary to note that in this case there are trademarks whose distinctive element is repeated, regardless of the presence of additional and purely symbolic elements. Therefore, to record the fact of a criminal offense, it is sufficient to have a "real likelihood of confusion", not "actual confusion".

The court notes that the trademarks in this case are confusingly similar, which was not disputed by the defendant either.

Moreover, the defendant did not present sufficient admissible and relevant evidence that the defendant has any registered right or license for the import and sale of similar goods with the insertion of a similar trademark within the borders of the Republic of Armenia.

The court comes to the conclusion that the plaintiff presented sufficient admissible and relevant evidence that the plaintiff has a registered right to the trademark in question in the territory of the Republic of Armenia, therefore the presumption of legality of the certificates issued by the intellectual property agency is valid.

Therefore, in the presence of a registered right, the right holder has the right to prohibit other persons from using the trademark for which he has a registered right in any way.

Moreover, in this case, the three valid conditions defined by the precedent decision of the RA Court of Cassation are simultaneously present, under which conditions the plaintiff's claim to prohibit the use of the trademark is legal.

The court ruled.

1. To satisfy the claim of "Arsana" CJSC against "M.L.N PHarm " LLC to prohibit the use of the trademark.

Prohibit the use of "NATUR PRODUKT" and "ANTI-ANGIN" trademarks to "M.L.N Pharm LLC" that is, placing

those trademarks on goods or their packaging, as well as using them as packaging for those goods, in the case of a three-dimensional trademark, the offer for sale of goods marked with those trademarks, their sale or storage for that purpose, or the rendering or offering of services with those trademarks, the import or export of goods marked with those trademarks, the use of those characters on documents or for advertising purposes, the use of those trademarks on the Internet or other global computer networks of telecommunications, in particular in any means of addressing, including domain names.

21. "SeibrMare Limited Partnership" v. "Crossnet" LLC - ԵԿԴ/4034/02/17

The plaintiff's representative submitted a claim to the Court against "Crossnet LLC, Hana Rizk Sufea, third parties: "Hyperpayse LLC, "Internet Technologies Center LLC", "Internet Public" NGO for banning the use of the trademark and as a result to invalidate the contract for the provision of services concluded between Hana Rizk Sufea and Hyperspace LLC.

Applying to the Court, the plaintiff stated that Saber Mark Limited Partnership is the rightful owner of the Saber trademark, has been using the trademark in the United States since 1962, where it was registered in 1982.

Plaintiff provides computer software solutions under the Sabre trademark to specialized aviation and travel companies.

Sabre trademark was registered in Armenia on 07.10.2016.

In 2016, the plaintiff became aware of the website www.sabre.am, in which "Crossnet" LLC advertises the aviation computer software solutions of the plaintiff's competitors and offers buy them from him.

According to the "Information on Trademark Registration" extract of RA Intellectual Property Agency dated 09.08.2017, "SabreMark Limited Partnership" has registered the "Sabre" trademark as the right holder. The priority of the mark was registered on 23.11.2015.

Thus, the plaintiff company is the right holder of the trademark "Sabre" in the Republic of Armenia, and under that mark provides goods and services included in the classes registered by the competent authority in the Republic of Armenia. The SABRE.AM domain was registered in the name of Hana Rizq Sufea on 06.12.2017 by "ABCDomain" LLC as the registrar.

The court considers it necessary to note that the defendants did not present any admissible and relevant evidence that the use of the word SABRE in the domain name had a legal and legal basis, that is, there was the right holder's permission for its use, formulated in accordance with the law, as also regarding the definition of the order and terms of use.

Referring to the defendant's argument that the SABRE trademark is a generic mark and is not subject to legal protection, it should be noted that the defendant has not presented any evidence that the services provided by the plaintiff is a common name for the goods or services offered by him, in particular, if we conditionally accept the fact that the word "SABRE" means "swords" / although no admissible evidence proving the mentioned fact was presented by the defendant/, the defendant did not substantiate the fact that the product offered by the plaintiff is sword itself, or the provision of services is in any way related to sword.

The Court considers the objection presented by "Crossnet" LLC to the fact that the company has re-registered the SABRE.AM domain for about a year and does not use it, as partially justified, because there is "ABCDomain" LLC as a part of the case. by the registrar on 06.12.2017, proof of registration of the SABRE.AM domain in the name of Hana Rizq Sufea.

Turning to the plaintiff's claim to invalidate the contract for the provision of services concluded between Hana Rizq Sufea and "ABC Domain" JSC, the Court considers it necessary to note that the plaintiff has not presented any admissible and relevant evidence that the disputed contract is in any way violated. the claimant's property and/or non-property right, and the claimant is an interested party in challenging the said contract. Based on the above, the

Court comes to the conclusion that the claim is partially justified and subject to partial satisfaction, and rest of the claim should be rejected.

22. “Acba-Credit Agricole Bank” CJSC v. “AcbaCREDIT” LLC - ԱՐԴ/2602/02/17

The Plaintiff Company requested to prohibit “AcbaCREDIT” LLC from using the trademark “ACBACREDIT” in the territory of RA, which is confusingly similar to the brand name of “Acba-Credit Agricole Bank” closed joint stock company.

In a written application dated 18.05.2018, the Plaintiff Company informed the Court that it abandons the claim and on that basis requested to terminate the case proceedings.

23. “Burger King Corporation” v. “CVG” LLC - ԵԿԴ/1598/02/17

On 25.04.2017 representative of the plaintiff company “Burger King Corporation” (hereinafter also referred to as the Company, Plaintiff) filed a lawsuit against the company “CVG” LLC for the illegal use of the trademark number 25793 “BURGER KING” about the request to stop using.

Applying to the Court, the representative of the company “Burger King Corporation” stated that the company “Burger King Corporation” (address: 5505 Blue Lagoon Drive Miami, Florida 33126, USA) is one of the leading food service companies operating under its trademark BURGER KING in the field of fast food (especially hamburgers) worldwide, through franchising of restaurants

Consumers around the world have long known Plaintiff as a restaurant service and food company under the BURGER KING trademark, which first used its trademark more than sixty years ago in 1954. On 22.12.2016, the plaintiff submitted applications for the registration of 2 trademarks under class 35 of Nice Classification. By its decision of 17.03.2017, the agency decided to register the mentioned 2 trademarks in RA. And on 30.03.2017, the relevant registration certificates were issued.

Defendant “CVG” LLC uses the trademark N25793 “BURGER KING” identical to the plaintiff’s brand name and trademark.

It follows from the cited legal norms that the protection of property rights is carried out both by constitutional and international legal norms, and the protection of intellectual property rights, in addition to the above-mentioned guarantees, is also carried out by law.

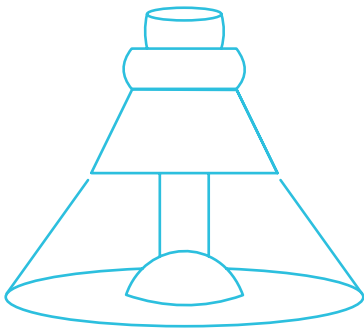
The representative of the claimant informed the court in the motion to reject the claim that the dispute has essentially ended, because the claim was initially filed regarding the request to stop the illegal use of the trademark “BURGER KING” No. 25793, the Defendant fulfilled the claim of the Claimant and has been using the trademark for years. use is discontinued.

It follows from the above that the possible obstacles to the realization of the rights of the Claimant have been

removed. Therefore, there is no longer any dispute between the litigants.

Based on the above, the Court notes that the Defendant has complied with the Claimant's request and the use of the trademark has been terminated and the violation of the claimant's rights has been eliminated.

Therefore, the Court considers that the claim should be rejected, taking into account the fact that the Defendant has fulfilled the claim of the Claimant and the use of the trademark has been stopped and there is no other dispute between the parties, moreover, the claimant has requested to reject the claim by the defendant on the basis that the claimant's claim has been fulfilled, the violation of the right has been eliminated and the dispute has been exhausted.



24. Tigran Chorokhyan v. <<Your Name>> LLC - ԵԿԴ/1422/02/17

Tigran Chorokhyan 12.04.2017 submitted a claim against the defendant "Your Name" LLC about prohibiting the use of the trademark.

The plaintiff's representative H. Ter-Vardanyan, informed the court that the plaintiff is the rightful owner of the trademark "ԼԱՎԱԳՈՒՅՆ ՄԱՅՐԻԿ ԼՍՎՈՐԻԿ MAMA BEST MOTHER" registered in the RA Intellectual Property Agency in the 21st class of the Nice Classification (registration number: 24842, date: 09.08.2016, application number: 20160152). He is also the author of the idea of this trademark and personally designed and commissioned the creation of the design.

"Your Name" LLC violates the plaintiff's rights to the given trademark, in particular, without the right holder's consent, it places the given trademark on cups, makes offers for the sale of the given cups through its Facebook page, and also sells cups bearing the above-mentioned trademark.

After listening to the plaintiff, his representative, analyzing and evaluating the case data and the written evidence examined during the trial, the court came to the conviction that the claim is fully subject to satisfaction based on the following factual circumstances established by the trial and the legal acts applicable to them.

With the sufficient evidence obtained in the case, the court found it confirmed that Tigran Chorokhyan is the rightful owner of the trademark "ԼԱՎԱԳՈՒՅՆ ՄԱՅՐԻԿ ԼՍՎՈՐԻԿ MAMA BEST MOTHER", while the defendant, violating the plaintiff's rights to the given trademark, places the given trademark

on cups without the owner's consent, makes sales offers on his Facebook page, as well as selling without having any legal basis to use that trademark, under such conditions, the plaintiff has the right to prohibit third parties from performing actions defined by Article 12 of the RA Law "On Trademarks".

<<Yor Name>> LLC did not submit an answer to the claim, which is evaluated by the court as acceptance of the facts presented in the claim, as a result of which the claim is subject to satisfaction.

25. <<Central Bank of RA>> v. Samvel Sahakyan - ԵԱԴԴ/0193/02/17

The Central Bank of the Republic of Armenia submitted a claim against Samvel Sahakyan regarding the demands to stop the illegal use of the trademark of the Central Bank of the Republic of Armenia and to pay compensation.

During the preliminary court session held on 27.03.2018, the plaintiff's representative submitted an application to withdraw the claim.

26. Karen Hamleti Aghajanyan, <<Hamar Mek Law Firm>> LLC v. <<Tiv 1>> LLC - ԵԿԴ/0197/02/17

Karen Aghajanyan, "Hamar Mek Law Firm" LLC, "Hamar Mek Travel Agency" LLC, "Hamar Mek Accounting Services" LLC, "Hamar Mek" LLC filed a lawsuit against "Tiv 1" LLC (hereinafter referred to as Plaintiffs) to stop illegal use of trademarks, to destroy the entire package of advertising materials

marked with illegally used trademarks and to prohibit the use of the trademark in the company name.

The plaintiff raised the issue of terminating the case proceedings. The court, discussing the application of Suzanna Malkhasyan, the representative of the Plaintiffs, and the issue of terminating the civil case proceedings, comes to the conclusion that the proceedings of the civil case are subject to termination on the basis of the claimant's refusal of the claim for the following reasons.

On the basis of the above, the Court records that the Plaintiffs have waived the legal claim without any conditions, so the proceedings of this civil case are subject to termination on the basis of the plaintiffs' waived claim.

27. <<Ararat Production Cooperative>> v. <<Grants Food>> LLC - ԵԿԴ/4400/02/16

Applying to the court, the plaintiff asked to oblige <<Grants Food>> to stop the unfair competition, that is, to stop the production of all meat products labeled with the <<Ararat>> trademark and the sale of the produced product from the market. recalling the already supplied one, as well as eliminating the violation of the intangible right of "Ararat Production Cooperative", that is, the illegal use of the "Ararat" trademark.

In this case, the claimant side abandoned the claim with an application.

Based on the above, the court states that the plaintiff without any condition has renounced the substantive legal claim directed at the defendant and the procedural remedy for the protection of rights, in which proceedings of this civil case are subject to termination on the basis of the plaintiff's abandonment of the claim.

28. <<Parlament Distribution>> LLC v. <<A and G>> LLC, <<Alex Grig>> LLC - ԵՄԴ/3204/02/15

In a lawsuit submitted to the Court on 14.10.2015, the plaintiff asked to prohibit "A and G" and "Alex Grieg" LLC's from using the trademark PARLAMENT belonging to the plaintiff for the goods of class 33 of the Nice Classification:

- 1) to insert the mark on the goods or their packaging, as well as to use them as the packaging of those goods in the case of a three-dimensional trademark;
- 2) to make an offer for sale of goods marked with that symbol, their sale or storage for that purpose, or the provision of services with that symbol or its offer;
- 3) to import or export goods with that mark;
- 4) use the mark on documents or for advertising purposes;
- 5) use the character on the Internet or other global computer networks of telecommunications, in particular by any means of addressing, including Internet domain names;

6) reproduction, storage or sale of the sign for the purposes specified in 1-4 points listed above.

In this civil case, the Court of First Instance (hereinafter also referred to as the Court) has confirmed the fact that "the Defendants use the Parliament trademark in their commercial activities. "A and G" LLC produces vodka, and "Alex-Grig" LLC sells it."

Thus, the Court, confirming the fact regarding the defendant's use of the trademark belonging to the plaintiff, did not evaluate any evidence presented by the persons participating in the case to confirm or deny this fact. The court did not present what evidence it examined, on the basis of which it came to the conclusion that the defendant is using the trademark belonging to the plaintiff.

In this case, the Claimant substantiated his claim with the information available on the www.aipa.am website of the RA Intellectual Property Agency submitted to the Court, according to the fact that "Parliament Distribution" LLC is the rightful owner of the trademark PARLAMENT PARLIAMENT (registration date: 13.06.2005, supposed end of registration). 26.07.2014, the end of the extended validity^a 26.07.2024, registration number^a 9433). The trademark is registered for the goods of the 33rd class of the Nice Classification. The claimant also presented a photo of a bottle of PARLAMENT vodka purchased from the "Yerevan City" store belonging to the "Alex Grieg" LLC for AMD 700, the purchase receipt, as

well as the said bottle of vodka.

The Court of Appeal, by studying the recording of the court session of 19.07.2016, states that the defendant did not object and did not deny the fact that "A and G" LLC produces vodka with the PARLAMENT trademark, and "Alex Grieg" LLC sells it. In addition, they have not expressed a position on having a legal basis for using the PARLAMENT trademark.

Based on the above, the Appellate Court notes that the Claimant, being the rightful owner of the ПАРЛАМЕНТ PARLIAMENT trademark, has the right to demand on that basis that the Respondents do not use it without any legal basis.

29. Vlaktor Trading LLC v. A and G LLC, Alex Grig LLC - ԵՄԴ/3201/02/15

In a lawsuit submitted to the Court on 14.10.2015, the Plaintiff requested to prohibit "A and G" and "Alex Grig" LLCs' from using the <<ЗЕЛЕНАЯ МЕТКА>> trademark similar to the trademarks owned by the Plaintiff for the goods of class 33 of the Nice Classification in particular;

1) to insert the mark on the goods or their packaging, as well as to use them as the packaging of those goods in the case of a three-dimensional trademark;

2) to make an offer for sale of goods marked with that symbol, their sale or storage for that purpose, or the provision of services with that symbol or its offer;

3) to import or export goods with that mark;

4) use the mark on documents or for advertising purposes;

5) use the character on the Internet or other global computer networks of telecommunications, in particular by any means of addressing, including Internet domain names;

6) reproduction, storage or sale of the sign for the purposes specified in points 1-4 listed above.

According to the decision of the court dated 16.10.2015, the claim was accepted for proceedings.

According to the judgment of the court dated 27.01.2017, the claim was satisfied.

On 03.03.2017, Lernik Hovhannisyan, the representative of "Alex Grig" LLC, filed an appeal against the above judgment, which was accepted for proceedings by the decision of the Court of Appeals dated 03.20.2017.

The Appellate Court notes that the argument of the appellant that the Court took as a basis the data on trademark registration submitted from the official website of the RA Intellectual Property Agency www.aipa.am is irrelevant.

The Court of Appeal, by studying the recording of the court session of 20.01.2017, states that the

representative of "Alex Grig" LLC did not object and did not deny the fact that "A and G" LLC produces vodka with the trademark ЗЕЛЕНАЯ МЕТКА, while "Alex Grig" LLC sells them, at the same time stated that the trademarks are identical or not similar to the trademarks ЗЕЛЕНАЯ МАРКА and ЗЕЛЕНАЯ МАРКА ГЛАВСПИРТТРЕСТ ZELYONAYA MARKA GLAVSPIRTTREST owned by the Claimant.

In addition, he noted that the conclusion regarding the similarity of trademarks can be recorded solely on the basis of the results of the examination carried out within the given case. However, during the examination of the case, he did not present to the Court any documents regarding the registration of the trademark "ЗЕЛЕНАЯ МЕТКА", and did not dispute the fact that he did not have the appropriate registration of the trademark.

According to the assessment of the Appellate Court, the evidence justifying the Claimant's claim is so obvious that the Court, under those conditions, the Vodka produced by "A and G" LLC under the trademark ЗЕЛЕНАЯ МЕТКА and sold by "Alex Grig" LLC and "ЗЕЛЕНАЯ МАРКА ZELYONAYA MARKA and ЗЕЛЕНАЯ МАРКА ГЛАВСПИРТТРЕСТ ZELYONAYA MARKA GLAVSPIRTTREST" owned by the Plaintiff. To clarify the degree of similarity of the brands of vodka did not see needed, because it was obvious confusing.

In other words, the claim of the appellant that if the examination was not carried out, therefore justice was not done, is unfounded in the assessment of the Court of Appeal.

Based on the above, the Appellate Court states that the Claimant, being the rightful owner of the trademarks "ЗЕЛЕНАЯ МАРКА ZELYONAYA MARKA and ЗЕЛЕНАЯ МАРКА ГЛАВСПИРТТРЕСТ ZELYONAYA MARKA GLAVSPIRTTREST", has the right to demand on this basis that the Respondents do not use it without any legal basis.

So the therefore, the appeal is inadmissible.

30. <<Mikshin>> LLC v. <<Gaysat>> LLC - ЧГЗ/0229/02/15

"MIKSHIN" LLC filed a lawsuit against "GAYSAT" LLC, demanding to prohibit the Company from using the "SweetAngel" trademark and to oblige the Company to collect from the market and its to remove the "SweetAngel" trademark from all products or their packaging, and also to confiscate from the Organization in favor of the Company 4,000 AMD as the amount of pre-paid state duty, and 170,000 AMD as the amount of a reasonable attorney's fee.

On October 26, 2015, the Court of General Jurisdiction of the RA Kotayk Marz (hereinafter referred to as the Court) ruled:



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”Satisfy the claim partially. Prohibit ”GAYSAT” LLC from using the ”SweetAngel” trademark and oblige ”GAYSAT” LLC to collect from the market and remove the ”SweetAngel” trademark from all its products or their packaging.

To confiscate 4,000 AMD as the amount of pre-paid state duty from ”GAYSAT” LLC in favor of ”MIKSHIN” LLC. Reject the rest of the claim».

The director of the respondent Organization, A. Ghazaryan, and Angela Balyan, a person who was not made a participant in the case, filed appeals against the court’s decision.

The Appellate Court considers that, from the point of view of the correct resolution of the dispute in this case, first of all, the following legal question should be answered: whether Angela

Balyan’s rights were violated by the Court’s decision.

The Court of Appeal notes that the Court’s judgment of October 26, 2015 was not made regarding Angela Balyan’s rights and responsibilities. Therefore, the latter filed an appeal against such a judgment, which cannot refer to her rights, duties and legal interests, and is therefore groundless, the claim of the appellants that the judgment made in this civil case also refers to Angela Balyan’s rights and responsibilities, therefore the Court was obliged to make her a participant in the said civil case as well.

As for the claim of the Organization from the appellants that the Court did not perform a multi-faceted, full and objective examination of the existing evidence in the case, as a

result of which it deviated from the requirements of Articles 53, 131 and 132 of the Civil Procedure Code of the Republic of Armenia, the Court of Appeals also considers the said is unreasonable.

It was substantiated by the case materials that the defendant Company used the trademark belonging to the plaintiff Company illegally without state registration, so the Court rightly decided to prohibit the Company from using the "SweetAngel" trademark and to oblige the Company to collect from the market and remove all its products or remove the mark from their packaging.

Taking into account the mentioned, the Court of Appeal notes that there are no grounds for satisfying the appeal complaints.

31. "Mila" LLC, "Best offer Systems" LLC v. Samvel Martirosyan - ԵԿԴ/0602/02/15

23.02.2015 plaintiffs "MILA" LLC and "BEST OFFER SYSTEMS" LLC submitted a lawsuit to the Court against Samvel Martirosyan, asking to oblige Samvel Martirosyan to stop using the registered trademark No. 18042 / My notebook/ in the domain name "mynotebook.am".

13.05.2015 at the preparatory stage of the case hearing, the representative of the plaintiffs submitted an application to withdraw the claim to the Court office, in which they announced that they are abandoning the submitted claim with this application.

The court decided to dismiss the case.

32. "Pasta and wine" LLC v. "Artstep" LLC - ԵԱԲԴ/4587/02/14

The representative of "PASTA AND WINE" LLC submitted a claim to the court against "Artstep" LLC recognizing the fact of illegal use of the plaintiff's trademark by the defendant and the violation of the latter's exclusive right, claims to compensate the damages suffered by the plaintiff, including the attorney's fee and state duty".

During the trial, between the director of the plaintiff company and the director of the defendant company on 19.01.2015. a settlement agreement was signed.

33. "Marog Marketing" LLC v. "Artstep" LLC - ԵԱԲԴ/4586/02/14

The plaintiff's representative submitted a lawsuit against the fact of illegal use of the trademark, to recognize the fact of publishing and spreading defamatory information about the plaintiff's professional activities, compensation for defamation: 2,000 .000 AMD, pre-paid state duty in the amount of AMD 53,000, lawyer's fee in the amount of AMD 250,000.

On 06.02.2015, the Plaintiff and the Defendants submitted to the Court an application to confirm the settlement agreement and terminate the civil case proceedings, stating that the parties signed a settlement agreement, submitting the original written, signed and sealed text of the settlement agreement.

34. “Patisserie Cake” LLC v. “General Distribution” Inc. - ԵՇԴ/2542/02/14

On 02.08.2014 “Patisserie Cake” LLC submitted lawsuit against “General Distribution” Inc., “Dole Food Company” about the request to prohibit the use of the trademark.

RA Administrative Court in administrative case No. ԿԴ/9691/05/13 dated 06.02.2015. decided. “The lawsuit of “Dole Food Company” Inc. against the Intellectual Property Agency of the Ministry of Economy of the Republic of Armenia, third parties “Patisserie Cake” LLC, “Catherine Groupe” LLC for not having used the word “DOLE” with registration No. 12544 and the combined “DOLE” with registration No. 13301 for the last five years. or to recognize the existence of the legal relationship of not being put into actual use and, as a consequence, to cancel the registrations of “DOLE” trademarks combined with registration No. 12544 and No. 13301, to satisfy.”

As a result of the analysis of the above-mentioned articles and the comparison of the facts of this case, taking into account that based on the judgment made by the RA Administrative Court on 06.02.2015 and entered into legal force, the registrations No. 12544 and No. 13301 in the name of “Patisserie Cake” LLC were canceled and “Pattiserie Cake’ LLC was completely deprived of the rights to the “Dole” trademark, and the subject of the claim in this civil case is to prohibit the use of the trademark with the above-mentioned

registrations, the court comes to the conclusion that the claim of “Pattiserie Cake” LLC has become pointless , groundless and subject to rejection.

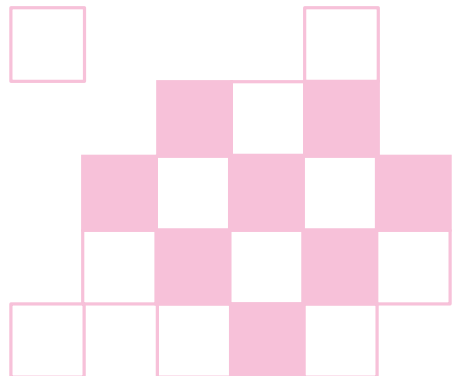
35. “VI Veda Invetment” LLC v. “A and G” LLC, “Alex Grig” LLC - ԵՄԴ/1745/02/14

On 30.07.2014, “VI VEDA INVESTMENT” LLC submitted a claim against “A and G” and “Alex-Grig” LLC regarding the demand to prohibit the use of the trademark.

The plaintiff’s representatives informed the court that the plaintiff company is the right holder of the “ВЕДА” trademark, which has also received legal protection in the Republic of Armenia.

The trademark is registered for a variety of products, including alcoholic beverages.

The defendants use the “ВЕДА” trademark in their commercial activities: “A and G” LLC produces vodka, and



“Alex-Grig” LLC sells it.

Based on the facts of this case

a/ “VI VEDA INVESTMENT” LLC is the right holder of the trademark “ВЕДА”, which has received legal protection in the Republic of Armenia.

The representative of “A and G” LLC intervened regarding conducting an examination, which was satisfied by the court and assigned to the Intellectual Property Agency.

According to the conclusion of the agency’s expert, the compared trademarks are confusingly similar, as they are generally combined with each other /ie, it causes a person /average consumer/ to perceive the same word/, despite the existence of individual insignificant differences.

The court decided to prohibit “A and G” LLC and “Alex-Grig” LLC without “VI VEDA INVESTMENT” LLC permission to use a mark identical and/or similar to the “Veda” trademark in the course of its commercial activities, in terms of

goods of class 33 of Nice Classification, in particular;

1) to insert the mark on the goods or their packaging, as well as to use them as the packaging of those goods in the case of a three-dimensional trademark;

2) to make an offer for sale of goods marked with that symbol, their sale or storage for that purpose, or the provision of services with that symbol or its offer;

3) to import or export goods with that mark;

4) use the mark on documents or for advertising purposes;

5) use the character on the Internet or other global computer networks of telecommunications, in particular by any means of addressing, including Internet domain names;

6) reproduction, storage or sale of the sign for the purposes specified in points 1-4 listed above.

**36. “Imex Group” LLC v. “Ideal Gas” LLC
- ԵԱՆԴ/0806/02/14**

At the court session, the court found out that the representative of the claimant “IMEX GROUP” submitted lawsuit about the prohibition against the defendant “Ideal Gas” LLC from using the trademarks of the domain name “ԻԴԵԱԼ {”, “Իդեալ համակարգ”, “IDEAL{” which are confusingly similar to the characters “Իդեալ գազ”, “IDEAL GAS” and the brand name “IDEAL GAS”.

The court found it confirmed that according to the trademark registration certificates No. 49, No. 9332, No. 16308, No. 12227, No. 17814, No. 17815 issued by the Intellectual Property Agency^a IDEAL{, { IDEAL, IDEAL [{], [{] IDEAL system, IDEAL [{], the right holder is “Imex Group” LLC.

The court also confirmed that the defendant illegally used the plaintiff's brand name and trademark without the plaintiff's permission, which is considered by the court as a violation of the trademark owner's exclusive rights / illegal use of the trademark.

Moreover, on 10.06.2014, in the court session, the representative of the claimant, having fully accepted the presented demand, presented in accordance with the decision No. 208-A of the RA State Commission for the Protection of Economic Competition, dated 02.06.2014. Receipt for payment of AMD 429,740 to the central treasury by “Ideal-Gas” LLC.

So the court decided to satisfy the claim of “IMEX GROUP” LLC against “Ideal Gas” LLC regarding the demand to prohibit the use of the trademark, brand name.

37. “Alvanshin Pars” CJSC v. “Alvan Bardina” LLC - ԵԱԶԴ/2406/02/13

“Alvanshin-Pars” CJSC filed a lawsuit against “Alvan Bardia” LLC, a third party Intellectual property agency of Ministry of Economy of RA, to stop the illegal use of the trademark number 6375, and to confiscate the income received as a result of illegal use.

In response to the claim, “Alvan Bardia” LLC stated that the company is engaged in the sale of paints in the Republic of Armenia, which are imported to the Republic of Armenia from the Iranian organization “Alvan Paints and Rubber Products” registered in the Islamic Republic of Iran.

As a result of the evaluation of the above factual circumstances, the Court considers the fact that “Alvan Bardia” LLC actually uses not the trademark of “Alvanshin-Pers” CJSC, but the trademark of the Iranian organization “Alvan Paints and Rubber Products” registered in the Islamic Republic of Iran. the sign, the right to use of which, as mentioned above, is owned by “Alvan Bardia” LLC.

The court ruled 1. The claim of “Alvanshin-Pars” CJSC against “Alvan Bardia” LLC, a third party the intellectual property agency of the Ministry of Economy of RA, regarding

the request to stop the illegal use of a mark similar to trademark No. 6375 owned by the exclusive right, and to confiscate the income received as a result of illegal use, is to be rejected.

2. To satisfy the counter claim, to cancel the registration made in the name of "Alvanshin Pars" CJSC in the state registry of trademarks on the basis of the application N 20010247 submitted by "Alvanshin Pars" CJSC on 18.04.2001.

38. "Patisserie Cake" LLC v. "Generosa" LLC - 657/1341/02/13

"Patisserie Cake" LLC filed a lawsuit against "Generosa" LLC, third party "Dole Food Company" Inc., asking to ban "Generosa" LLC and "Dole Food Campaign" Inc. the company to use the "Dole" trademark belonging to the "Patisserie Cake" LLC in terms of goods of classes 29, 30, 31 and 32 of the Nice Classification, in particular: to insert the trademark on the goods or their packaging, as well as to use them as packaging of those goods in the case of a three-dimensional goods trademark, to make an offer for the sale of goods marked with that trademark, their sale or storage for that purpose or the provision of services with that mark or its offer, to import or export goods with that trademark, use of the trademark on documents or for advertising purposes, use of the trademark on the Internet or other global computer networks of telecommunications, in particular, by any means of addressing, including Internet domain names, reproduction,

storage or sale of the mark for the specified purposes.

The court states that on 27.02.2008, the trademark "DOLE" was registered under serial number N 12544 under the name of "Patisserie Cake" LLC, and on 07.10.2008 under number N 13301, the trademark "DOLE & SUN Design" was registered. trademark, therefore since 2008 the plaintiff "Patisserie Cake" LLC is the rightful owner of trademarks N12544 "DOLE" and N13301 "DOLE & SUN Design".

In such conditions, the court finds that "Generosa" LLC, importing products corresponding to the trademark registered in the name of the plaintiff company, used the trademark belonging to "Patisserie Cake" LLC. At the same time, the court documents that the use of the trademark was without the permission of the plaintiff company, therefore, illegal, also taking into account the fact that the defendant company did not present to the court any admissible and relevant evidence justifying the fact that the use of the trademark was legal.

The court decided to partially satisfy the claim. Prohibit "Generosa" LLC from using the "Dole" trademark belonging to "Patisserie Cake" LLC in particular, to insert the mark on the goods or their packaging, as well as to use them as packaging of those goods in the case of a three-dimensional goods mark, to make an offer for the sale of goods marked with that mark, their sale or storage for that purpose, or the provision of a service with that

mark or its offer, to import goods with that mark or export, use the mark on documents or for advertising purposes, use of the mark on the Internet or other global computer networks of telecommunications, in particular, by any means of addressing, including Internet domain names, reproduction, storage or sale of the mark for the specified purposes.

39. “Alvanshin-Pars” CJSC v. “Alvan Bardia” LLC - ԵԱԲԴ/2184/02/13

Vardan Ghazaryan, director of “Alvanshin-Pars” CJSC, filed a lawsuit against the defendant “Alvan Bardia” LLC, a third party, the intellectual property agency of the RA Ministry of Economy, and asked to prohibit the defendant “Alvan Bardia” LLC with exclusive rights to “Alvanshin-Pars” CJSC, illegal use of a mark identical or confusingly similar to the trademark with registration number 3675 belonging to “Alvanshin-Pars” CJSC.

Taking into account the fact that the claim does not meet the requirements set by the RA Civil Procedure Code, the court decided to return the claim and the attached documents to the plaintiff.

40. “Patisserie Cake” LLC v. “Dole Food Company” - ԵԿԴ/2069/02/13

“Patisserie Cake” LLC filed a lawsuit against “Dole Food Company” about banning the use of registered trademark.

However, due to the incompleteness of the claim, the court decided to return the claim and the

accompanying documents.

41. “Patisserie Cake” LLC v. “Dole Food Company” - ԵԿԴ/1826/02/13

“Patisserie Cake” LLC filed a lawsuit against “Dole Food Company” about banning the use of registered trademark.

In this case, it was found out from the study of the claim that “Dole Food Company” itself is the defendant in the claim, which is not located in the territory of the Republic of Armenia, and the legislator does not set an exception for the requested claim.

Based on the above, the court considers it confirmed that the address of the respondent’s location is not included in the judicial areas of RA courts.

The court considers it necessary to emphasize that it does not address the issue of compliance with other conditions of the form and content of the claim, on the basis that the claim is not subject to examination by this court.

So, the court decided to return the claim and the accompanying documents.

42. “BeeLine” LLC v. “Armentel” CJSC - ԵԱԲԴ/2266/02/12

Applying to the court, the “Bee Line” LLC asked to prohibit “ArmenTel” CJSC from using the brand name of the plaintiff “Bee Line” limited liability company in the RA territory, similar to “Beeline” and “Билайн” trademarks, including banning the use of “beeline”

and other domain names containing a word component with a distinctive meaning that sounds like "beeline" and any other means of addressing in the Armenian ".am" domain.

On 18.04.2013, the judgment of the court on case No. ԵԱԶԴ/2266/02/12, the civil case proceedings was terminated, because there is a legally binding judgment of the court regarding a dispute between the same persons, on the same subject, on the same basis.

In this case, the plaintiff "Bee Line" limited liability company filed an appeal.

The Court of Appeal considers that in this case it should address the question of whether the grounds of the lawsuit in the civil case No. ԵԶԴ/0496/02/08 and this case were identical, which could only lead to the termination of the case proceedings.

Taking the above as a basis and taking into account the fact that both the judgment entered into legal force and within the framework of this case the issue of violation of the plaintiff's exclusive rights to trademarks and brand name was presented as a factual basis of the claim, the Court of Appeal notes that in two cases presented the same legal and factual basis of claim.

The court decided to reject the appeal. To leave the decision of the Court of General Jurisdiction of Arabkir and Kanaker-Zeytun Administrative Districts of Yerevan, dated 18.04.2013,

No. ԵԱԶԴ/2266/02/12 unchanged, in legal force.

43. "Rust Incorporated" CJSC v. "Alex Grig LLC" - ԵՄԴ/1056/02/12

Applying to the court, the closed joint stock company "Rust Incorporated" (hereinafter also referred to as the Plaintiff or "Rust Incorporated" CJSC) requested to oblige the limited liability company "Alex-Grig" (hereinafter referred to as the Defendant) to stop using the trademark.

By the decision of the court of general jurisdiction of the Malatia-Sebastia administrative district of Yerevan city (hereinafter also referred to as the Court) dated 14.06.2013 (hereinafter referred to as the Decision), the claim was satisfied.

"Alex-Grig" LLC filed an appeal.

In the reasoned part of the appealed judgment, the court recognized as a confirmed circumstance that the defendant, "Alex-Grig" limited liability company, are well-known circumstances:

- to produce vodka,
- to mark with a trademark belonging to the plaintiff, as well as
- The sale by the respondent of the self-produced vodka marked with the "RUSSKY STANDARD" trademark at the outlets of the "Yerevan City" chain of stores.

The judgment is built entirely on the basis of facts recognized as well-

known circumstances. Meanwhile, the mentioned facts are not well-known and the Court could not recognize them as well-known for the reasons mentioned below.

Based on the above, the Appellate Court considers the stated basis of the complaint justified and finds that the Court made a known judicial error in assessing the cited facts.

At the same time, the Appellate Court considers that the mentioned judicial error cannot be a basis for annulment of the judicial act, because it did not affect the outcome of the case for the reasons mentioned below. Vodka is produced by the Defendant. There is an identity of the product, for which the trademark belonging to the Claimant is registered, and the product (vodka) produced by the Defendant.

As for the sale of that product by the defendant in the stores of the "Yerevan City", the Court of Appeal considers that the mentioned fact is not of significant importance, to the extent that the placement of the trademark on the goods is already the use of the trademark, regardless of the "Yerevan City" chain of stores. from the fact of selling at stores.

Based on the above, the Appellate Court finds that the facts contested by the Appellant in the appeal and of essential importance for the case are confirmed by the evidence available in the case and examined by the Court.

Based on the above, the Appellate Court finds that the stated basis of the complaint is pointless and does not address it further.

Summarizing the above, the Appellate Court considers the grounds of the appeal to be partially justified, but finds that the Court did not commit a judicial error affecting the outcome of the case.



44. “Liga Press” LLC v. “Elite Life” LLC - ԵԿԴ/2294/02/12

“Liga Press” LLC’s representative on 18.10.2012, appealed to the court against “Elite Life” LLC, asking the court to prohibit the defendant from using the name “Luxury” and confiscate 136,400 AMD as court costs.

“Liga Press” LLC filed a motion to withdraw the lawsuit and terminate the case proceedings, which was granted by the court.

45. “Ararat Group” LLC v. “Sil Mineral Water Factory” LLC - ԵԿԴ/1674/02/12

The plaintiff “Ararat Group” LLC applied to the court against the “SIL Mineral Water Factory” LLC to stop the illegal use of the trademark, to remove the illegally used trademark from the product or its packaging or a sign confusingly similar to it, to remove the trademark from the product or its packaging. about requests to destroy images or the entire volume of goods marked with illegally used trademarks.



In the trademark registered under the name of "Ararat Group" LLC and used by "SIL Mineral Water Factory" LLC, the word "ARARAT" is only one of the elements of the trademark, and in order to evaluate this element, it is necessary to consider them semantically, from the point of view of image and sound perception.

From the study of trademarks registered under the name of "Ararat Group" LLC, it becomes clear that the trademark containing the element "ARARAT" registered under the name of "Ararat Group" LLC, according to certificate No. 17516, is protected by the combination of orange, light blue and white colors. according to certificate No. 17521, with a combination of light and dark gray, orange and white colors, and according to certificate No. 17522, with a combination of light and dark blue, orange and white colors, and the word "ARARAT" (Ararat), which is included in the trademark and is the subject of the dispute, is written in Latin letters. Thus, in the trademarks registered under the name of "Ararat Group" LLC, the dominant color is orange, that is, the main background is orange, on which the word "ARARAT" is written in white color and Latin letters.

The trademark used by "SIL Mineral Water Factory" LLC for carbonated water is represented by a combination of white, dark blue and red colors, and the trademark used for non-carbonated water is represented by a combination of light and dark blue, dark blue, white and red colors.

In the sign used by "SIL Mineral Water Factory" LLC, the word "Ararat" is also written in Armenian letters painted in red color, which are bordered in white color, and the letter "T" of the "ARARAT" element begins with the letter "T" painted in red and in dark blue. outlined drop of water with "water" written in dark blue letters on a sky blue background. That is, the significant color difference with which the elements "ARARAT" and "ARARAT" are written take over the entire image perception and the degree of their confusion is reduced to a minimum.

It is obvious from the comparison of the two trademarks, not the "ARARAT" and "ARARAT" elements taken separately, but the whole combination of all their elements, that they are significantly different from each other in visual perception, because they are different from the point of view of graphic representation, the used letter samples (font) type, graphic writing due to the nature of the letters, styling, arrangement of letters in relation to each other, as well as color combination, external appearances of the signs and the consumer is able to distinguish the above-mentioned trademarks at first sight. The difference is also due to the fact that the name of the company that produces it is indicated on each product.

In order to evaluate the similarity of the elements of the disputed trademarks "ARARAT" and "ARARAT" to the point of confusion, their sound (sound) perception should also be evaluated,

and in these trademarks, the sound perception in addition to the elements "ARARAT" and "ARARAT" is also assumed the other elements mentioned above: water, sil, natural mineral still water, etc., therefore, it cannot cause confusion by phonetic perception either, in particular, it is not substantiated in any way that the product with the given trademark can be perceived sonically by the sound expression of the element "ARARAT" written in the trademark, and not by the phonetic combination of other elements contained in the trademarks, for example Ararat sil, Ararat water, Ararat in my life, etc.

With the above-mentioned reasons, the appellate court finds that the trademark used by "SIL Mineral Water Factory" LLC in this case is not similar to the trademarks registered under the name of "Ararat Group" LLC, both in terms of meaning, image and sound. It cannot be likely to cause confusion to the public and the overall visual and auditory impression is to minimize the possibility of causing confusion to the consumer.

Under these conditions, the appellate court considers the arguments of the appeal mentioned in the grounds of the appeal to be valid, which are a sufficient basis for satisfying the appeal and evoke the judgment.

46. "Baccarat" CJSC v. Ruben Aghayan I.E. - ԵԱԲԴ/1030/02/12

04.06.2012 In the lawsuit submitted to the court, the individual entrepreneur Ruben Aghinyan was asked to oblige stop using the "BACCARAT" trademark

for the 8th, 9th, 11th, 14th and 21st classes of the Nice Classification. In support of his claim, the plaintiff referred to the following facts: by virtue of the international registration made in the 70s of the previous century, the plaintiff is the owner of the "BACCARAT" trademark.

The above-mentioned facts of this case and the contents of the appealed judgment prove that the appeal's arguments regarding the Court's dismissal of the claim in violation of the law are well-founded.

The point is that the defendant disputed the fact that it trades in such goods, as cited by the plaintiff, which are included in classes 8, 9, 11, 14 and 21 of the Nice international Classification (moreover, the defendant also stated as of the time of the investigation of the case, in connection with the renovation of his store, the sign bearing the disputed trademark has also been removed, and during the review of the appeal, the plaintiff's representative admitted that the plaintiff considered the mere presence of the mentioned sign as a manifestation of the violation of his rights, and that products bearing the plaintiff's trademark were not sold by the defendant) and the plaintiff, while bearing the obligation to present proofs of the above-mentioned fact he referred to, did not present such proofs. The plaintiff did not provide any evidence that the defendant violated or violates the plaintiff's rights in any other way by illegally using the latter's trademark. In such conditions,

the Court was obliged to apply the existence of the facts referred to by the plaintiff, placing the burden of its negative consequences on the plaintiff and accordingly coming to the conclusion that the claim is not factually substantiated, and that the material legal norms established in the legal basis of the claim are also not applicable for their application. due to lack of factual conditions.

Based on the above, the Court of Appeals decided, according to the claim of "Bakara" CJSC against "Baccarat" CJSC, "BACCARA". on the demand to obligate the use of the trademark by "Bakara-Glas" LLC for the 8th, 9th, 11th, 14th and 21st classes of goods and services, 25.04.2013 of the Court. to satisfy the appellate complaint brought on behalf of the defendant against the judgment, to annul the said judgment and to modify it, to reject the claim.

47. "Top Motors" LLC v. Levon Khachatryab, "ABCdomen" LLC - ԵԱՆԴ/0383/02/12

"TOP MOTORS" limited liability company filed a lawsuit against Levon Khachatryan and "EBISIDOMEN" limited liability company demanding to prohibit the defendant Levon Khachatryan from using the mazda.am domain name, to resolve the contract on providing a paid service for registration of the mazda.am domain name in the AM domain signed between Levon Khachatryan and the Company on December 11, 2008, to oblige the Organization to sign an agreement with the Company to

register the mazda.am domain name in the AM domain, and also to confiscate AMD 350,000 from the defendants in favor of the Company as the amount of remuneration paid to the lawyer and AMD 19,000 as the amount of state duty paid in advance.

As a result of combining the legal norms and facts, the Court of Appeal notes that the Company, before submitting a claim to the Court, was obliged to notify the licensee Mazda Motor Corporation and, if the latter did not submit a corresponding claim within a reasonable time, to apply to the court.

From the examination of the materials of this case, it appears that the case lacks admissible and relevant evidence defined by Article 51 of the RA Civil Procedure Code, which can be used to confirm the fact that the appellant fulfilled the above-mentioned obligation, i.e. notified the licensee.

As for the appellant's argument that he notified the licensee by means of communication, which is confirmed by the testimony given by his representative during the investigation of the case, the Court of Appeal considers that the fact of notifying the licensee cannot be confirmed by the testimony of the party citing it.

The above means that in this case, the fact of the Company notifying the licensee has not been proven, the negative consequences of which, according to Article 48, Clause 6 of the Civil Procedure Code of the Republic of

Armenia, are borne by the appellant.

Taking into account the mentioned, the Appellate Court notes that there are no grounds for satisfying the appeal.

48. “Burberry Limited” company v. “Jazzve” LLC - ԵԿԴ/0374/02/12

2012 on August 30 the court examined the civil case according to the claim of “Barbri Limited” company against “Jazzve” SP company, regarding the demand to prohibit the use of the trademark.

After that, the reconciliation agreement was signed between the parties.

49. “Spyur” LLC v. “Eight Seven Seven Eight Directory” LLC - ԵԿԴ/0306/02/12

Applying to the court, “SPYUR” limited liability company (hereinafter referred to as “Plaintiff” or “Spyur” LLC) requested to compel “EIGHT SEVEN SEVEN EIGHT INFORMER” limited liability company (hereinafter also “Respondent” or “Eight Seven Seven Eight Informant” LLC) to stop “YELLOW PAGES OF ARMENIA”. the use of the phrase (including the Russian and English translations of the phrase), as well as the subsequent use of other possible phrase(s) confusingly similar to the phrase “YELLOW PAGES OF ARMENIA” (including their Russian and English translations) on the website, as well as to confiscate the amount of state duty in his favor in the amount of 4000 drams as incurred court costs, the sums determined by the contract signed between him and “Goroyan” closed joint stock company for the

provision of legal services and judicial representation, in the amount of 230,000 drams in total.

The claim was satisfied by the decision of the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan (hereinafter referred to as the Court) dated 27.12.2012.

“EIGHT SEVEN SEVEN EIGHT DIRECTORY” limited liability company filed an appeal against the mentioned judgment, which was satisfied by the decision of the RA Civil Appeal Court dated 25.04.2013 and the case was sent for a new examination.

According to the judgment of the court dated 17.12.2013 (hereinafter referred to as “Judgment”), the claim was partially satisfied. “EIGHT SEVEN SEVEN EIGHT DIRECTORY” LLC was obliged to stop using the phrase “YELLOW PAGES OF ARMENIA” (including Russian and English translations of the phrase), and 234,000 was confiscated from “EIGHT SEVEN SEVEN EIGHT DIRECTORY” LLC in favor of “SPYUR” LLC. AMD, of which AMD 230,000 is the lawyer’s fee, and AMD 4,000 is the state tax paid in advance. The rest of the claim was rejected on the grounds of being groundless.

“EIGHT SEVEN SEVEN EIGHT DIRECTORY” limited liability company filed an appeal.

The Court of Appeal on 25.04.2013 by the decision, as the scope of the new investigation, it was also established

that during the process of registration of the controversial trademark, the claimant's exclusive right to that mark was violated by the defendant and that the given mark was used illegally, to find out the existence of the fact referred to by the claimant, if necessary, also appointing an appropriate expertise to clarify the issues that require special knowledge.

The Appellate Court, after examining the Expert opinion, notes that it lacks a mention of the methods by which the expertise was carried out, a detailed description of the conducted research is not presented, and therefore the conclusions made as a result of them (as a result of the research) are missing.

It also follows from the above that the Court did not fully comply with the order of the Court of Appeal dated 25.04.2013. the examination of the case with the scope determined by the decision.

Based on the above-mentioned reasons, the Court of Appeal considers the basis of the appeal to be justified and finds that the Court committed a judicial error affecting the outcome of the case.

50. "Burberry Limited" Company v. "Henry Trade" LLC - ԵԿԴ/2718/02/11

On 08.11.2011, representatives of "Burberry Limited" company submitted a lawsuit to the Court of General Jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan against "Henry Trade" limited liability company regarding the demand

to prohibit the illegal use of trademarks.

On 10.11.2011 court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan, according to the decision, returned the claim.

An appeal was filed against the decision and the appeal of the Civil Court of RA on 15.12.2011. by decision, the appellate complaint was satisfied, the decision of the Court of General Jurisdiction of Yerevan Kentron and Nork-Marash administrative districts of 10.11.2011 "Returning the Claim" was abolished.

After that, the claim was admitted to the proceedings.

However, the given proceedings were terminated by the court.

51. "EcoFood" LLC, "Elit Shant" LLC v. "Arm sweet" LLC - ԵՄԴ/0503/02/11

The plaintiffs applied to the court and informed that based on the contract signed between them, the "Elite Shant" SP company uses the Brandy and Kakhardank brands as the design of packaging containers for confectionery and sweets produced by it. However, recently it has become known that the images of the mentioned trademarks are illegally used by Arm Sweet LLC as a design for packaging containers for confectionery and sweets produced by it. Therefore, they asked the court to prohibit Arm Sweet JSC from using the trademarks and oblige them to remove the packaging papers and containers from circulation and destroy them.

According to the facts of this case, according to the decision of the Malatya Investigation Department dated 26.10.2012 to terminate the proceedings in the criminal case and not to carry out criminal prosecution, "Arm Sweet" LLC with the trademarks "Cognac" and "Magic" no longer produces products from 15.06.2011. produce and did not realize.

In the circumstances of this case, the defendant's violations of the plaintiffs' rights have disappeared and if the defendant violates the plaintiffs' exclusive rights again in the future, the latter will not be deprived of the opportunity to apply for judicial protection, because the grounds of the claim will be different, considering the fact that currently there are no plaintiffs' rights violated by the defendant's actions., and later it is possible that as a result of the illegal actions of the defendant, the rights of the plaintiffs will be violated and there will be a need to restore them.

In such conditions, the arguments of the appellants are not valid and sufficient to annul the judicial act, in such conditions it is necessary to apply the subparagraph 1 of Article 221, Clause 1 of the RA Civil Procedure Code, that is, to reject the appeal, leaving the judicial act in legal force.

52. "Pak Gyda Uretim v Pasarlama A.SH" LLC v. T.Nahapetyan I.E. - ԵԿԴ/0956/02/11

The claimant has submitted a claim to the court of first instance of general

jurisdiction of Kentron and Nork-Marash communities of Yerevan, RA against the Defendant regarding the demand to prohibit the use of the word mark "paknaya" and the figurative part of the trademark "pakmaya".

According to the facts of this case, according to the photocopy of the trademark extract of the RA Intellectual Property Agency printed from the aipa.am website on 27.04.2011, as trademark No. 540, a chef is depicted with a chef's hat and the Latin writing "pakmaya", the name of mark No. 540 is <<pakmaya>> Latin script.

The trademark was registered under serial number No. 5929 on 19.03.2001, the registration process was completed on 04.11.2009. The period of operation was extended until 04.11.2019. The application was submitted on 04.11.1999.

The owner of the sign is the company "Pak Gyda Uretim ve Pasarlama A.SH", which is registered in the Republic of Turkey.

A photocopy of the photo shows an activated dry yeast called "paknaya", with an image of a chef wearing a chef's hat. The yeast was packaged in Armenia, produced in the Islamic Republic of Iran. The packager was T.Nahapetyan I.E. .

In this case, the claimant submitted the above-mentioned two pieces of evidence in the form of a photocopy attached to the claim in support of the use of the word mark "paknaya" and

the figurative part of the trademark "pakmaya" by the defendant.

In this case, the packaging of activated dry yeast with the name "paknaya" presented in the justification of the fact of use by the Defendant as the word mark "paknaya" and the image part of the trademark "pakmaya" presented in the application, and the original documents submitted in the application are missing, and/or duly certified copies were not submitted by the Petitioner as requested by the Court.

Since the right holder's rights to the trademark in the case being examined are not presented in the form of the original patent (certificate) or a properly certified copy, moreover, the Claimant, having received the decision to assign the case to trial and the Court's letter, did not fulfill their requirements, the Court considers the mentioned fact to be at least controversial, considering it is unproven.

From the combination of the above facts, it is obvious that the fact of use of the word mark "paknaya" and the pictorial part of the trademark "pakmaya" by the Respondent has not been proven in any way, the copy of the photo of the packaging presented in this regard is admissible evidence in the sense of Article 51 of the Civil Procedure Code of the Republic of Armenia.

The court came to the conclusion that in the absence of the original, the Plaintiff's arguments that the word mark "paknaya" and the figurative

part of the trademark "pakmaya" are used by the Defendant are not credible and valid, therefore "paknaya" word mark The claimant, bearing the burden of proof, did not prove the fact that the defendant used the mark and the figurative part of the "pakmaya" trademark.

In fact, the claim is groundless for the following reasons: the evidence was presented in an inadmissible form, it was not proven that the marks were identical, and it was also not proven that the Defendant uses a similar mark and the latter is considered the person who violated the right.

Summarizing the legal positions, the Court came to the conviction that the claim is baseless and subject to rejection, given the fact that the evidence is invalid and that the existing evidence is presented in a non-permissible manner as defined by the law.

53. "Yerevan Cognac Factory" CJSC v. "Ararat Wine Factory" LLC - ԱԿԴ/0081/02/11

14.03.2011 "Yerevan Brandy Factory" CJSC has filed a lawsuit in the Court of General Jurisdiction of Ararat and Vayots Dzor Marz of RA against "Ararat Wine Factory" LLC for the termination of the action of unfair competition by prohibiting the identified use of the mark "ARARAT" and the defendant about the requirement to oblige to insert a name /trademark/ on the product.

Before starting the trial of the civil case, the parties on 07.09.2011 They signed a reconciliation agreement in Yerevan and submitted it to the court for approval.

The court considers that between the parties on 09.05.2011 the signed reconciliation agreement is subject to approval, as it does not contradict the law and other legal acts and does not violate the rights and legal interests of other persons, in accordance with Article 33, Clause 4 of the Civil Procedure Code of the Republic of Armenia.

54. “Colorful Mobile” LLC v. “Orange Armenia” CJSC - ԵԿԴ/0402/02/10

Plaintiff “Colorful Mobile” LLC on 01.03.2010. submitted a claim to the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan against “Orange

Armenia” CJSC regarding the requirement to oblige to stop the illegal use of the “Orange” trademark.

Defendant “Orange Armenia” CJSC on 09.04.2010. submitted a counterclaim to the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan against “Colorful Mobile” LLC, regarding the request to stop the illegal use of the “Orange Mobile” trademark with registration No. 12146 belonging to “Colorful Mobile” LLC and to declare it invalid.

Bearing in mind that the activities of “Colorful Mobile” LLC, the plaintiff in the original claim in the civil case, and the defendant in the counterclaim, have been suspended/dissolved/, therefore, the court finds that the proceedings of the civil case No. ԵԿԴ/0402/02/10 according to the claim of “Colorful



Mobile” LLC against “Orange Armenia” CJSC and according to the counterclaim of “Orange Armenia” PB company against “Colorful Mobile” LLC, about the demand to stop the illegal use of the “Orange Mobile” trademark with registration No. 12146 belonging to “Colorful Mobile” LLC, it should be terminated, as the legal entity participating in the case is dissolved.

55. “Habanos Corporation S.A.” v. “Agrosya” LLC - ԵՂ/0071/02/20

On 08.01.2020, “Habanos Corporation S.A.” (hereinafter also referred to as the Claimant) filed a claim with the Court against “Agrosya” LLC (hereinafter referred to as the Defendant), requesting to oblige the Defendant to terminate No. 5480 “COHIBA”, No. 799456. “MONTECRISTO”, No. 804593 “PARTAGAS”, No. 783216 “ROMEO Y JULIETA” illegal use of the trademarks and as a result, to destroy the goods imported into Armenia with the declaration No. 05100010/191219/0122411 and “COHIBA”, “MONTECRISTO”, “PARTAGAS” and “ROMEO Y JULIETA” trademark products.

“Habanos Corporation S.A.” acquired the rights to the trademarks “COHIBA”, “MONTECRISTO”, “PARTAGAS”, “ROMEO Y JULIETA”, which were protected in Armenia.

On 25.05.2018, the claimant applied to State Revenue Committee of the RA in order to assist in the protection of his intellectual property rights, that is, he asked the RA customs authorities to write his above-mentioned four

trademarks in the customs register of intellectual property objects and to stop the release of tobacco products transported across the RA customs border. which contains signs of violation of rights to the intellectual property objects of the Claimant.

The release of products bearing the trademarks “COHIBA”, “MONTECRISTO”, “PARTAGAS”, “ROMEO Y JULIETA” has been suspended by the head of the Ararat customs department of the RA SRC.

Taking into account the decision of the Ararat Customs Department of the RA SRC to suspend the importation of goods bearing the trademarks, as well as the protocol prepared by the representative of the Claimant on 25.12.2019, it becomes obvious that the goods were imported without the consent of the trademark owner.

The court also notes that the parallel trade of goods was limited only to member states of the EEA Agreement by Annex 26 of the Agreement on the EEU Agreement, which entered into force on January 1, 2018. In other words, in case of registration of the right holder’s trademark, only his official distributor has been given the right to import.

On 25.12.2019, the representative of the Claimant in the presence of the representative of the Defendant and an official representative of the customs body, Artur Arsenyan, inspected and photographed the suspended goods and drew up a protocol, according

to which the suspended goods are <<COHIBA>>, <<MONTECRISTO>>, <<PARTAGAS>> >> and <<ROMEO Y JULIETA>> brand cigars.

Taking into account the decision of the Ararat Customs Department of the RA CA SRC to suspend the release of goods bearing the trademarks, as well as the protocol prepared by the representative of the Claimant on 25.12.2019, it becomes obvious that the goods were imported without the consent of the trademark owner.

Based on the above, the court notes that the plaintiff has a registered right to the trademarks in question in accordance with the requirements of the law.

Therefore, it has the right to prohibit others from using the mentioned trademarks in any way.

Taking into account the whole, the court finds that the respondent <<Agrosya>> LLC formulated goods declaration No. 05100010/191219/0122411 and <<COHIBA>>, <<MONTECRISTO>>, <<PARTAGAS>> and <<ROMEO Y JULIETA>> >>the importation of the products bearing the trademarks was done in violation of the exclusive right of the plaintiff as the owner of the above-mentioned trademarks, therefore the court considers the claim of the plaintiff to be reasonable.

The court decided to satisfy the claim, obliging the Defendant "Agrosya"

LLC to stop the illegal use of the trademarks "COHIBA", "MONTECRISTO", "PARTAGAS", "ROMEO Y JULIETA" and, as a consequence, to destroy RA through the Defendant "Agrosya" LLC. imported goods bearing the relevant trademarks.

56. Lilit Ter-Hakobyan – "Alexander Tamanyan Museum-Institute" state non-profit organization, "A-G-L" LLC - ԵԿԴ/0976/02/09

Applying to the court, Lilit Ter-Hakobyan (hereinafter also referred to as the Plaintiff in the original lawsuit) requested to declare invalid the custody agreement signed between "Alexander Tamanyan Museum-Institute" SNOC and "AGL" LLC on October 25, 2008.

In a counterclaim, Hayk Tamanyan and "Alexander Tamanyan Museum-Institute" SNOC (plaintiffs in the counterclaim) demanded to invalidate the copyright registration made by the non-governmental organization for the protection of the rights of Armenian authors, to oblige the Respondents to return Manrakert to the organization.

With the request to increase the counter claim, the counter claimants demanded to declare invalid the "Copyright Object Deposit" certificate dated 10.15.2008 issued by "Armheginak" non-governmental organization for the protection of authors' rights 07/383 issued on 10.17.2008. registration No. 08/1301 and to oblige Lilit ter-Hakobyan to return the miniature to "Alexander Tamanyan Museum-Institute" SNOC.

According to the judgment of 07.06.2011 of the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan (hereinafter referred to as the Court) (hereinafter referred to as the Judgment), the claim was rejected, and the counterclaim was satisfied.

Lilit Ter-Hakobyan (hereinafter also referred to as Appellant) filed an appeal.

According to clause 2 of the labor contract No. 6 signed between "Alexander Tamanyan Museum-Institute" SNOC and Lilit Ter-Hakobyan dated 01.09.2006, Lilit Ter-Hakobyan has been working at "Alexander Tamanyan Museum-Institute" SNOC since November 6, 2002. as a senior researcher.

According to the contract, among the functions of the employee, the performance of scientific work corresponding to the museum's profile and specific profession was mentioned.

According to the legal act regulating labor relations, Lilit Ter-Hakobyan was ordered to complete the model, which is derived from the general content of the latter's work duties. In addition, Lilit Ter-Hakobyan was rewarded for performing the referenced work by a number of other labor legal acts in the case, the performance of the specified work is included in the employer's activity reports, etc.

Based on the above, the Appellate Court concludes that the model was prepared by Lilit Ter-Hakobyan within the framework of labor relations with "Alexander Tamanyan Museum-Institute" SNOC, the preparation of the model was related to the performance of work duties defined by the Employment Contract.

Based on the above reasons, the Appellate Court does not consider the appellant's claim that the respondents concluded a transaction related to his rights and obligations by carrying out a transaction without his consent and permission, and does not address all the other arguments of the appellate complaint brought on the basis of property rights.

Referring to the issue of existence of non-property rights with Lilit Ter-Hakobyan, the court concluded that the Legislator did not consider the miniature as an object of copyright, while the object of copyright can be the project or sketch of the miniature.

The Appellate Court considers it necessary to note that both the plans, maps and sketches provided by the Law, as well as the model, can be the object of copyright in the presence of the features of the "work".

The Court of Appeal considers it necessary to note that a model can be considered as a simple reproduction of an architectural work in the event

that the corresponding building and its complete plans are available, under which conditions it is assumed that the creative work is absent.

In the framework of the "Project and Structure of the Year 2007" contest-exhibition, the diploma issued for the scientific and legal discovery and evaluation of the Yaroslavl exhibition complex of the great Armenian architect A. Tamanyan confirmed the fact that the Petitioner is the author of the model, about the handing over of the copyright object to the public organization for the protection of the authors' rights "ArmAuthor". the inscription, in which "Yaroslavl jubilee exhibition" is mentioned separately as the name of the work, a brief description of the deposited work: model, model author Lilit Ter-Hakobyan.

Based on the above, the Appellate Court finds that the complaint is justified on the basis of non-property rights, and the judicial act is subject to annulment in that respect.

57. Ruben Malayan v. "Tsupani" LLC - ԵԴ/11503/02/19

On 17.04.2019, Ruben Malayan submitted a lawsuit to the Court against "Tsupani" LLC, a third party, "Alexander Hotel" LLC, with demands

to destroy all the Armenian letters that make up the constituent parts of the BarRelief and to confiscate AMD equivalent to 15,000 USD from the defendant in favor of the plaintiff.

2023 on January 10, the plaintiff's representative submitted a motion to the court to terminate the investigation of the case, with which he stated that the plaintiff's position is that the dispute in this case has essentially ended, as the parties have reached a settlement agreement and the plaintiff does not have any demands from the defendants.

In this case, making the motion of the plaintiff's representative the subject of examination, the court considers it necessary to record that the dispute can be revoked in the event that the persons in legal relations no longer disagree on any issue arising from their relations, that is, in that case each of the parties ceases to have any claim. on the other hand, according to that, in the event of the conclusion of the dispute, the need to examine the claim ceases, which happened in this case. Therefore, the court considers it right to terminate the proceedings of the case, as the dispute has essentially been exhausted.

ADMINISTRATIVE LITIGATION

ՎԴ/0237/05/14- Japan Tobacco Inc. Corporation v. Intellectual Property agency of Ministry of Economy of RA

Plaintiff “Japan Tobacco ” Inc. Corporation on 29.01.2014 filed a lawsuit against the Intellectual Property Agency of RA of Ministry of Economy for about the request to declare the state registration invalid for the trademark “BISTON BLUE KING SIZE CIGARETTES” with registration number 20785.

The plaintiff is the right holder of “WINSTION”, “WINSTON Balanced Blue”, “WINSTION BLUE”, “WINSTON Blue super slims” and a number of other trademarks, which received legal protection in Armenia through the international procedure.

As a basis for invalidating the disputed registration, the plaintiff cited that the trademarks “Biston” and “Winston” are at least confusingly similar.

By examining the above-mentioned factual circumstances, the court concludes that in this case the compared signs and the compared words that make up the signs are

different and cannot create a sense of perception of the meaning of the “colors” of the “word” of the same image.

In such circumstances, the court concludes that the consumer hearing or pronouncing the above-mentioned words, hearing their initial syllables “which are completely different” will not in any way identify one with the other. In other words, in this case, the compared words cannot evoke the feeling of the same word for the consumer. It should also be noted that graphic similarity is not present in this case either, because there is a phonetic difference, which is also part of the graphic design, and in such conditions, the feeling of the same word or image cannot arise because the consumer can see the significantly different initials to indentify the compared signs.

Based on the above-mentioned factual circumstances and legal grounds, the court concludes that the compared trademarks are not similar to each other from the sound, graphic points of view and the claim is subject to rejection.

**ՎԴ/9190/05/13 - Giorgio Armani
S.P.A Milan-Swiss Branch Mendrision
Company - Intellectual Property agency
of Ministry of Economy of RA**

On November 27, 2015 examining the cassation appeal of the director of “Aygepat wine brandy factory” LLC against the decision of the RA Administrative Appellate Court, according to the claim of Giorgio Armani S.P.A Milan, Swiss Branch of Mendrision Company (hereinafter referred to as the Corporation) against the RA Ministry of Economy on behalf of the Intellectual Property Agency (hereinafter referred to as the Ministry), third part “Aygepat wine-brandy factory” LLC (hereinafter referred to as the Company) to recognize the existence (absence) of the legal relationship expressed by the non-use of the Armenian Cognac product during the five years preceding the filing of the combined trademarks, “AYGEPAT ARMANI AYGEPAT”, belonging to the company, and as a consequence: about the requirement to cancel the registrations of the combined trademarks “ARMANI ARMANI ARMENIAN COGNAC” and “AYGEPAT ARMANI AYGEPAT” for the Armenian cognac product, the Cassation Court ascertained:

The Cassation Court considers that before addressing the issue of the presence or absence of legal relationship to use the trademarks by the Company within the 5 year period defined by the RA “Law on Trademarks”, in this case it should be determined whether the Organization is an entity with the right to apply to the court, i.e. an “interested party person”.

Meanwhile, the Cassation Court notes that in this case, the Corporation did not present such relevant and admissible evidence, which would justify the existence of the fact of violation of the subjective rights of the latter of the existence of the risk of violation, its legal interest in terms of the submitted claim, being an entity with the right to apply to the Court.

Therefore, the Corporation is not an entity with the right to apply to the Court in this Case under Article 3, Part 1 of the RA Code of Administrative Procedure, under such conditions, the Appellate Court’s findings that the provisions of the Article 17, Part 2 of the RA Law “On Trademarks” are sufficient in order to consider the person’s interest confirmed, the Cassation Court considers it unfounded.

47/0475/05/15 – “Burger King Corporation” Company – Intellectual Property agency of Ministry of Economy of RA

Applying to the Court the Corporation requested to oblige the Agency to register the “Burger King” trademark applied for 43rd Nice Classification.

According to the judgment of the RA Administrative Court (hereinafter referred to as Court) the claim was satisfied, the Agency was obliged to register the trademark “Burger King”.

According to the decision of the RA Administrative Appellate Court (hereinafter referred to as the Appellate Court) the appeal was brought, by a person who was not a participant in the trial, but the Appellate Complain was rejected, and the Court’s decision was left unchanged.

Within the framework of this cassation appeal, the Court of Cassation reaffirming and developing the legal positions it previously expressed, considers it necessary to address the following legal question: is it fair not to make the right holder of a trademark participant in the hearings of the administrative case, which was initiated on the basis of claim to compel the registration of an unregistered trademark on the basis of confusingly similar to the trademark ?

The Cassation Court consider that under such conditions, the judgment by which the Court partially obliged the Agency

to register the trademark “Burger King” applied by the Company, even if only in terms of two services, inevitably and directly extends to the rights and responsibilities of the Company.

The Company, as the rightful owner of the “Burger King” trademark, has an exclusive right to that trademark, for the protection of which, the latter must necessarily have become a participant in the hearings of the case that was brought to the degree of confusion regarding its trademark on the basis of a claim to oblige such trademark to be registered in the name of another business entity.

As a result of the above-mentioned legal analysis, the Court of Cassation concludes that the Company should have become a participant in the hearings of this administrative case by presenting its arguments or objections regarding the registration of the trademark applied for by the Company, the guaranteed realization of the protection of its exclusive right to the “Burger King” trademark in order to ensure the protection.

Based on the above, the Court of Cassation records that the Court issued a judicial act regarding the rights and obligations of the Company without making it a participant in the trial, violating the legal requirement to involve it as a third party.

ՎԴ/6263/05/15 – “Burger King Corporation” Company - Intellectual Property agency of Ministry of Economy of RA

“Burger King Corporation” Company has submitted a lawsuit to the Administrative Court of the Republic of Armenia against the Intellectual Property Agency of the Ministry of Economy of the Republic of Armenia for the non-use of the trademark No. 10531 during the previous five years registered by the Intellectual Property Agency of the Ministry of Economy of the Republic of Armenia for services in the 43rd class of the Nice Classification.

Applying to the Court, the plaintiff company “Burger King Corporation” asked to recognize the fact that the trademark 10531 “Burger King” was not used for a part of the services provided.

According to the judgment No. ՎԴ/7342/05/15 entered into legal force of the administrative court of RA, the right to the trademark “Burger King” according to the contract signed between “Valetta” LLC and “CVIG” LLC on 09.10.2015 was recognized by

“CVIG” LLC the existence of the legal relationship to be transferred from 12.11.2015.

At the same time, the RA Administrative Court recognized the registration of the right to transfer the trademark (as an administrative act) and recognized the rights of “CVIG” LLC to that trademark.

Therefore, regardless of the fact of registration (or not) of the trademark “Burger King” in the name of “CVIG” LLC, “CVIG” LLC is the bearer of all rights and responsibilities regarding this trademark.

In the light of the cited comments, the Appellate Court concludes that the fact that the right to the “Burger King” trademark was transferred to “CVIG” LLC under the trademark transfer agreement dated 09.10.2015 is sufficient to record that the disputed trademark until filing a lawsuit in this case became the subject of an assignment agreement, which is a factual basis for dismissing the filed lawsuit.

**ԿՂ/7342/05/15 – “Valette” LLC -
Intellectual Property agency of Ministry
of Economy of RA**

According to the agreement signed on 09.10.2015 about the transfer of trademark right, “Valette” LLC transferred its own trademark “Burger King” with its class number 43, “Coffee house” with its class number 30 to “CVI” LLC free of charge, and the recipient of the rights, after registering the contract with the RA Intellectual Property Agency, acquired ownership rights to trademarks in all their classes.

1. In this case, the court discussed whether “Valette” LLC has a legal interest in recognizing the existence of the required legal relationship.

The trademark owner has the right to own, use and dispose of the trademark. The right of ownership implies a legally guaranteed possibility to determine the fate of the trademark. The legislator has provided for the owner of the registered trademark to transfer the rights to the trademark in whole or in part to another person, which transfer is expressed by the right of disposal. At the same time, the legislator established the possibility of one of the parties to the contract submitting an application to the authorized body to register the transfer of trademark rights.

In an administrative proceeding regarding the transfer of right to a trademark, the actions or inaction of the administrative body may

interfere with the property right of the trademark, therefore the Petitioner company has a legal interest.

2. The court discussed also another question, whether the Plaintiff could apply to the court with a different type of claim defined by the Code of Administrative Procedure of the Republic of Armenia.

The examination of the case, in particular, the decision of the Intellectual Property Agency of the Ministry of Economy of the Republic of Armenia dated 12.11.2015 confirmed that the consideration of the application submitted by “Valette” LLC for the registration of the transfer of rights was suspended until the court decision. In other words, in this case, the administrative body made a decision to suspend the administrative proceedings.

In this case, the defendant initiated the proceedings based on the application of “Valette” LLC, i.e the administrative proceedings were not concluded with the adoption of an administrative act, therefore the court finds that the decision of 12.11.2015 Intellectual Property Agency of the RA Ministry of Economy, Article 66 of the RA Code of Administrative Procedure could not be challenged within the framework of the claim provided for in the article.

The court finds that in the conditions of the impossibility of applying to the court with the types of lawsuits provided by Articles 66-68 of the RA Code of Administrative Procedure,

the plaintiff can protect his rights within the framework of the first part of Article 69 of the RA Code of Administrative Procedure.

3. The court also discussed, whether within the framework of the requirement to recognize the existence of grounds for suspending the administrative proceedings can be verified.

Following from the above-mentioned legal norms that in case of submission of documents required by law for the registration of the transfer of trademark rights, the registration may be refused only in case of obvious confusion in the public about the nature, quality, geographical origin

of the goods and (or) services as a result of the transfer. Moreover, the apparent confusion must be caused by the transfer of rights. Meanwhile, in this case, the court finds that the above-mentioned obvious confusion cannot arise as a result of the transfer of trademark rights.

By combining the above facts, the court finds that within one month after receiving the application by the plaintiff, there was no case under administrative proceedings, as well as there were no grounds for rejecting the requested registration, therefore the claim is subject to satisfaction.

47/5982/05/18 – “ARMBURGER” LLC – RA State Commission for Protection of Economic Competition

On 21.05.2018, on behalf of “ARMBURGER” LLC, a claim was submitted to the Court against the Commission to recognize “Valletta” and “Armburger” LLCs’ as groups of persons and on that to request to cancel points 2 and 5 of Decision No. 41-A on applying a measure of responsibility against “Natfood” CJSC.

The court ruled “The claim of “Armburger” LLC against the RA State Commission for the Protection of Economic Competition, third parties “Burger King Corporation”, “Burger Arm” CJSC, “Valletta” LLC and “Natfood” CJSC dated 14.03.2018 “On recognizing Valletta and Armburger LLCs’ as a group of persons and on the request to eliminate Decision No.41-A, to reject”.

According to the assessment of the Appellate Court, the Court rightly concluded that the use of the expression “Burger King” cannot in any way be qualified as misleading the public about the company “Burger King Corporation”, “Burger Arm” CJSC as well as their activities.

Furthermore, the depiction of the US national flag on the Facebook page named “Burge King Armenia” does not at all indicate that the product is made in the USA or that the service provider has a franchise agreement with an American company or otherwise presents the products of that company. In this regard, the Court

made the right judgments.

The Court of Appeal states that in this case it is about confusion of the brand names of two organizations (“Burger Arm” CJSC and “Armburger” LLC). Under such circumstances, it is obvious that the brand name “Armburger” is the result of replacing the constituent elements “burger” and “arm” in the brand name, undoubtedly leads to a confusing similarity.

Summarizing the above, it can be noted that there is no misleading of the public in the actions and behavior of the plaintiff, qualified as an act of unfair competition, but, at the same time, there is confusion.

The Court of Appeal confirms the Court’s approach that the actions and behavior of a group of persons qualified as an act of unfair competition do not contain the element of misleading the public, but the element of confusion is present.

The Appellate Court also notes that characterizing the actions and behavior of the “Natfood” CJSC as an act of unfair competition in no way leads to the violation of the right of freedom of the plaintiff “Armburger” LLC in this case, as defined by Article 3 of the RA Code of Administrative Procedure, or the possibility of such a violation; in such case, with regard to the challenge of point 5 of the Commission’s decision No. 41-A of 14.03.2018 “Armburger” LLC is not an interested party within the meaning of Article 3, Part 1 of the Administrative Procedure Code of the RA.

УГ/0422/05/20 – “Burger King Corporation” Company - Intellectual Property agency of Ministry of Economy of RA

On 29.01.2020, “Burger King Corporation” submitted a lawsuit to the Court against the Intellectual Property Agency of the Ministry of Economy of RA regarding the requirement to oblige the Intellectual Property Agency of the Ministry of Economy of the RA to register the declared trademark No.1395851.

The court records that the defendant refused the registration of the trademark applied under number 1395851 in accordance with Article 10, Part 1, Clause 2 of the RA Law “On trademarks” only on the grounds that the applied mark is not subject to registration as a trademark in the RA degree of confusion protected by registration due to the existence of such word mark “Burger King”.

The court considers it necessary to refer also to the meaning of fixing the right to the trademark and its protection. In the context of legal fixation of trademarks and the disclosure of the meaning of its protection, it becomes obvious that in cases where a trademark similar to an already legally protected trademark is declared, which is already known to the consumer and the declared trademark cannot cause confusion to the consumer in any way with a trademark that has already received a legal protection, the registration of such a mark cannot be refused only on the basis that such a mark is similar to an already registered trademark, citing Article 10, Part 1, Clause 2 of the RA Law “On trademarks”.

So based on the above mentioned, the court decided to satisfy the “Burger King Corporation” company’s lawsuit.

**47/0823/05/14 – “Vest” LLC -
Intellectual Property agency of Ministry
of Economy of RA**

Examining the Cassation appeal of the representative of “McDonald’s Corporation” (hereinafter referred to as the Company) against the decision of the RA Administrative Appeals Court, according to the claim of “Vest” LLC (hereinafter referred to as the Corporation) against the Intellectual Property Agency of the Ministry of Economy of RA (hereinafter referred to as an Agency), a third party about the request to cancel (recognize) the registration of the trademark “Ronald McDonald” with registration number 4041 stated;

The Cassation Court considers it necessary to address the following legal question: is the case initiated on the basis of the claim to cancel the registration of a trademark based on Article 17, Part 2 of the Law “On Trademarks” of the RA, is it pending under the administrative court or the court of the general jurisdiction ?

Based on the legal regulations regarding the cancellation of trademark registration on the basis of non-use, the Cassation Court states the following:

1. The subjects of the dispute regarding the cancellation of the registration of a trademark on the basis of non-use are exclusively private persons: on the one hand, the rightful owner of the trademark or the person

who has the right to use the trademark and on the other hand, the interested person who applied to the court with the request to cancel the registration of the trademark,

2. the dispute regarding the cancellation of the registration of a trademark on the basis of non-use arises from such a legal relationship, the content of which boils down to the duty of a private subject of civil law, the owner of a trademark or a person with the right to use a trademark, to exercise his civil rights in good faith in connection with the use of a trademark and that civil law refusing to implement the adverse legal consequences,

3. although canceling the registration of a trademark on the basis of non-use is ultimately aimed at ensuring the public interest, in particular, the normal functioning of the market economy, the said legal relationship does not arise from the realization of that public interest, but from the private economic interests of the interested person who applied to the court for the cancellation of the trademark registration in connection with realization and objectification in socio-legal practice.

The subjects of the dispute to be examined in this case regarding the cancellation of the registration of the “Ronald McDonald” trademark on the basis of non-use are exclusively private individuals; on the one hand, the rightful owner of the said trademark, the Company and on the other hand, the

person who applied to the court with a request to cancel the registration of that trademark, the Corporation.

Therefore the lower courts did not take into account that this case initiated on the basis of the claim of the Company to cancel the registration of the trademark “Ronald McDonald” in the name of the Company on the basis of part 2 of Article 17 of the RA Law “On Trademarks” is not open to the examination of the administrative

court, in which case the procedural consequences of violation of the rules of arbitration are subject to application.

Based on the above mentioned, Cassation court decided to revoke the decision of the RA Administrative Appellate Court of 27.05.2015 and send the case to the RA Administrative Court for a new examination.

**ՎԴ/0112/05/15 – “Vest” LLC –
“Intellectual Property agency of
Ministry of Economy of RA**

Examining the appellate complaint brought by the representative of “Vest” LLC, according to the claim, “Vest” LLC against the Intellectual Property Agency of Ministry of Economy of RA /third party, “McDonalds Corporation” company/ having the registration number 4039 registered by the RA IP agency to recognize the lack of legal relationship. for the use of the McDonald’s trademark, and, as a derivative claim, to cancel the registration of the “McDonald’s” trademark with the registration number 4039 on the claim for all goods and services, in the administrative case ՎԴ/0112/05/15, stated that; examining the complaint, the Court of Appeal finds that it is subject to rejection on the following grounds: the Administrative Court of the Republic of Armenia dismissed the proceedings on the ground that the plaintiff in this administrative case applied to the court another administrative case, that there are no exceptions provided for in Article 97, Part 2 of the Administrative Procedural Code of RA.

The appellate court also states that in both cases the Plaintiff and the Defendant are the same persons, the

subject and grounds of the claim are also the same. The appellate court also notes that the appellant does not dispute these facts. In this case, the matter of dispute is the clarification of the question whether the presence of a third person in this case can be considered as a change of parties in the administrative case or not.

The Appellate Court notes that the plaintiff and the defendant in both cases are the same persons, that is, they are the same parties. And the legislator does not make any exception to the general rule regarding the participation of a third person in part 2 of Article 97 of the Administrative Procedure Code of the RA.

Therefore, the Appellate Court considers that the RA Administrative Court’s conclusion is legitimate, that in two different cases there is the same subject and grounds of the dispute, as well as the fact of the identity of the parties, in which case the case proceedings are subject to termination according to Article 96 of the RA Code of Administrative Procedure on the basis of point 9 of part 1, especially since the complaint was not submitted by a third party, but by the plaintiff.

Decision of the
Court of First
Instance of the
Aragatsotn region
ARAD1/0022/01/18

Short description

The accused Edgar Parvanyan, being the Director of 'Aparan Group' LLC and fully aware that 'Aparan Group' LLC's application for registration of 'Aparan Aqua' trademark to the Intellectual Property Office of the Republic of Armenia submitted on February 2, 2015, was completely rejected on the grounds that the trademark 'Aparan Aqua' is similar to the degree of mixing with the trademark 'Aparan' which belongs to the 'Waterlock' LLC.

After that, until October 30, 2017, 'Aparan Group' LLC intentionally used the 'Aparan Aqua' trademark and illegally spent at the enterprise 17 128 bottles with a capacity of 0.5 liters and 675 bottles with a capacity of 6 liters to mark bottles with water, which were spent by PE Mnatsakan Eghiazaryan, 'Nor Zovq' LLC, 'Tigran Second' LLC and 'Alex Holding' LLC, through which 'Waterlock' LLC caused major property damage in the amount of 635 086.37 AMD.

'Parvanents' LLC, registered in the Republic of Armenia in 2006, having technical conditions of registered bottled natural water, was renamed in 2010 and registered in the Agency of the State Register of Legal Entities of the Republic of Armenia as 'Aparan Group' LLC.

In 2014 'Aparan Group' LLC registered its bottled water 'Aparan Aqua' in NGO GS1 Global Office and thus advertised in the information system 'Spyur'.

In 2014 'Aparan Group' LLC submitted to the Intellectual Property Agency of the Republic of Armenia an application for registration of production and sale of water under the 'Aparan Aqua' trademark, produced by the above-mentioned organization, which was rejected by the competent authority in 2015 on the grounds that such a legal status may cause confusion to the public and is identical to other products registered earlier.

'Aparan Group' LLC was selling products with the unregistered 'Aparan Aqua' trademark through various wide networks, which gives sufficient grounds to conclude that there is a turnover of illegal products of the unregistered trademark.

In particular, according to actual data, water shipments under the brand name 'Aparan Aqua' are currently consumed in the supermarket 'Gntunik' in Aparan and in the supermarket chains 'Nor Zvok' and 'City' in Yerevan, as well as in a number of other points of consumption in Yerevan and in shops.

Judging by the inscription on the product, it is supposedly certified according to the international standards ITO 22000:2005, has quality code HST A 01 and code EAEU (Assessment of compliance with technical regulations of the Customs Union), but according to the Ministry of Economy of the Republic of Armenia 'Aparan Group' has not been issued such quality certificates.

The above leads to a reasonable suspicion that the waters of various shipments of unregistered products manufactured by 'Aparan Group' LLC on the facts of consumption constitute the elements of such crimes, illegal use of a trademark (Article 197 of the Criminal Code of the RA) and false advertising (article 198 of the Criminal Code).

According to the declaration of conformity of the EAEU Customs Code, translated from Russian into Armenian and notarized in the case file, the applicant 'APARAN GROUP' LLC indicated that it delivers drinking water in bottles. 'APARAN AQUA', 'SPRING ARMENIA', 'AGBYUR' manufacturer 'APARAN GROUP' LLC prepares suitable drinking water for spring, bottled 'APARAN AQUA', submitted the water specification, description and test report, on the basis of which 26.05.2016 was registered for compliance declaration valid until 25.05.2019.

According to the decisions of the investigator in 2018, 6 bottles of 6 liters each and 145 bottles of 0.5 liters of water with the brand name 'Aparan

Aqua', presented by 'Nor Zovq' LLC were seized and admitted as physical evidence and taken into custody.

The Director of the same company, submitted by PE Mnatsakan Egiazarian of the water, marked with the trademark 'Aparan Aqua' with a capacity of 115 0.5 liters and transferred for storage to Mnatsakan Egiazaryan, located in Aparan, 190 boxes with 0.5 liter capacity with labels 'Aparan Aqua', 12 bottles of water in each, 10 bottles in each.5 liters of water, 79 bottles of water in bottles of 6 liters with labels 'Aparan Aqua', packing (roll) 2.5 kg of labels 38 boxes of 12 bottles of water with labels 'Aparan Aqua', 31 boxes of 12 bottles of water with labels 'Aqua Armenia', bottles with unspecified water with a capacity of 0.5 liters, 6 bags of red plugs with 500 pieces, with the recording, blue cork without inscription 15 packages of 1000 each were left for storage by director of 'Aparan Group' LLC Edgar Parvanyan, 1 bottle of water with labels 'Aparan Aquá with capacity of 6 liters and 0.5 liters, and 5 bottles with labels 'Aparan Aqua' 0.5 litres of water purchased in the supermarket 'Gntunik' presented by the representative of the victim Grant Abrahamyan and 1 bottle of water with labels 'Aparan Aqua' of 6 litres were stored in the evidence room.

The investigator took decisions on recognition of 'Yerevan-City' LLC, 'Nor Zovq' LLC, 'Gntunik' LLC, invoices received from 'Alex Holding' LLC and 'Nor Zovq' LLC, as well as data in invoices as other evidence.

The defendant, Edgar Parvanyan, pleaded he is not guilty to the charges.

The Court, examining and evaluating the evidence obtained in the case in their entirety, with an internal conviction based on their multilateral, complete and objective research, considers the charge against the defendant Edgar Parvanyan under article 197 of the Criminal Code of the RA to be proven. that he, being a member of 'Aparan Group' LLC the director of 'Aparan Group' LLC and fully aware that submitted to the Intellectual Property Agency of RA on February 2, 2015 the application for registration of 'Aparan Aqua' trademark as intellectual property of 'Aparan Group' LLC was completely rejected: 'Aparan' on the basis that the trademark 'Aqua' is similar to the degree of mixing with the trademark 'Aparan' belonging to 'Waterlock' LLC on intellectual property rights. After that, in the period until October 30, 2017, the 'Aparan Group' LLC intentionally used the trademark 'Aparan Aqua' illegally in 17,128 bottles with a capacity of 5 liters and 675 bottles for marking water bottles with a capacity of 6 liters, which were spent by PE Mnatsakan Egizaryan, 'New Army' LLC, 'Tigran Second' LLC and 'Alex Holding' LLC through which 'Waterlock' LLC caused major property damage in the amount of 635 086.37 AMD.

In the conclusions of the documentary, cultural and psycholinguistic examination 17-2614 and 17-2891 conducted in the criminal case, the experts noted that '(...) Subjecting

records and images of tags that are the objects of research to psycholinguistic research, addressing the questions posed in the decree, it should be noted that, despite the fact that the results of cultural research, two groups of labels are identified as part of this comprehensive assessment. are not identical in graphical images, and the two groups of tags of the results of the documentary examination of this complex examination differ from each other in the content, type and location of the eponymous records, images and shades of the background of the label, but taking into account the similarity of the top labels /'Aparan' and 'APARAN' /, which is perceived as a picture and the other features of the label are perceived as a background, we conclude that 'APARAN AQUA' has been withdrawn from 'Aparan Group' LLC. Between labels with inscription and labels with inscription 'Aparan', belonging on intellectual property rights of 'Waterlock' LLC, there is an unfortunate similarity. If bottled water 'Aparan' and 'APARAN AQUA' are sold in batches in one store and these waters are located next to each other, the labels on these bottles can give buyers a sense of identification or identification, the impression and can cause confusion among buyers.

With regard to the issue of causing major damage, which is a mandatory ground for the offence under article 197 of the Criminal Code of the Republic of Armenia, the Court notes that, according to the evidence presented in the narrative and motive part of this

sentence, the general damage caused by the 'Waterlock' LLC will be 635 086.37 AMD.

With regard to the contradictory testimony given by Rafael Alikhanov at the trial and the reason for his poor knowledge of the Armenian language, although his work is carried out in the Armenian language orally and in writing, in other words, the documents submitted to him for verification and approval were in Armenian, the investigator did not read them. It is possible that the water obtained by their organization was not 'Aparan Aqua' water, and what water it was, he cannot say, the court considers it unreliable.

The Court considers it necessary to note that the witness Rafael Alikhanov, as well as the witnesses questioned in court, including Mnatsakan Egiazarian, Samvel Gasparyan, were embarrassed to testify, according to the court, because they were in business relationship with Edgar Parvanyan.

With regard to the release of the defendant Edgar Parvanyan from criminal liability and punishment for a criminal act under article 197 of the Criminal Code of the Republic of Armenia due to the expiry of the statute of limitations, the Court notes that the act provided for in article 197 of the Criminal Code of the Republic of Armenia. The Criminal Code of the Republic of Armenia is an intentional offence, and the penalty provided for in article for

the penalty of detention does not exceed three months, so the criminal act in question is classified as a minor offence. Thus, the perpetrator is exempt from criminal liability if two years have elapsed between the date on which the offence was deemed to have been committed and the date on which the sentence became enforceable.

The Court of Cassation of the Republic of Armenia, referring to the termination of criminal proceedings after the expiry of the statute of limitations, noted: '(...) The legislator considers the expiry of the limitation period to be a circumstance precluding criminal proceedings and criminal proceedings, stating that criminal proceedings cannot be initiated and criminal proceedings cannot be pursued, and the criminal proceedings are to be terminated if the statute of limitations expires. However, the Criminal Procedure Law considers the consent of the accused to be a prerequisite for acquittal after the expiry of the statute of limitations. In other words, if a person does not agree with the refusal to institute criminal proceedings due to the expiry of the statute of limitations, the termination of criminal proceedings against him or her and the termination of proceedings, they must be given the opportunity to prove their innocence through judicial investigation. Thus, the court before it confirmed that the act of which Edgar Parvanyan was guilty ended on 30 October 2017, more than two years after the act was committed,

the limitation period was not interrupted or suspended, In the course of the trial, Edgar Parvanyan objected to the criminal charges against him, the proceedings were terminated and the criminal proceedings were terminated on the basis of the statute of limitations, the court continued the trial in the general manner and Edgar Pirwanyan was given the opportunity to contest the charge against him in the court of first instance, considers that article 75 of the Criminal Code of RA 1 is provided for in order to bring Edgar Parvanyan to justice. The statute of limitations, The criminal proceedings against him under Part 2, paragraph 2, have expired. 197 of the Criminal Code of the Republic of Armenia, should be terminated by the expiry of the statute of limitations.

Referring to the restraining order against the defendant, he considered that it should be revoked’.

Based on all the foregoing, the Court decided:

1. to find Edgar Parvanyan guilty under article 197 of the Criminal Code of the RA.

2. to discontinue criminal proceedings against Edgar Parvanyan under article 197 of the Criminal Code of the Republic of Armenia on the basis of the statute of limitations.

3. to remove the restraining order from Edgar Parvanyan.

4. to satisfy the civil claim of ‘Waterlock’ LLC and confiscate 635 086.37 AMD as compensation for property damage from Edgar Parvanyan in favor of ‘Waterlock’ LLC.

5. to confiscate from Edgar Parvanyan 1 048 320 AMD in favor of the state as legal expenses and cost of examination.

6. from 23.12.2020 to leave an arrest on trucks GAZ 3302, license plate 35 PL 773 and Ford Transit 2.0 TD, license plate 89 OM 089, belonging to Edgar Parvanyan, in order to ensure civil security.

7. to destroy the waters, recognized by decisions of the investigator by physical evidence and marked with a trademark ‘Aparan Aqua’.

COMPETITION PROTECTION COMMISSION OF THE REPUBLIC OF ARMENIA

PART 1. FINAL DECISIONS FAVORABLE TO THE APPLICANT (2023 EDITION)



214-A

On March 1, 2023, 'Vaviar Group' LLC submitted a report to the Commission, stating that 'Daphnevard' LLC did not eliminate the violations specified by the Commission's decision N 418-A of November 1, 2022, and the production and sale of noodles with the trademark 'ՄԵԼ ԻԳԻՏՅԱՆՍ ԱՐԻՏԻԱ ԻԳԻԹՅԱՆ ԵՂԲԱՅՐՆԵՐ ԳԱՎԱՌԻ ՆՆԱԿԱՆ ԱՐԻԾՏԱ' similar to the trademark 'ԲԱԶԻԿՅԱՆՆԵՐԻ ԱՐԻԾՏԱ' registered with order number 32356 owned by 'Vaviar Group' LLC continues.

In the central part of the united trademark 'ԲԱԶԻԿՅԱՆՆԵՐԻ ԱՐԻԾՏԱ' for goods of class 30 (pasta products, in particular noodles) of the international classification of goods and services under the name of 'Vaviar Group' LLC registered under the order number 32356, a chef with a long mustache holding a bowl of arishta is pictured. The trademark is preserved in a combination of green, red, white, yellow, beige and black. With the exception of 'ԲԱԶԻԿՅԱՆՆԵՐԻ' in the trademark, all other records are not objects of independent protection.

The trademark is used by the director of 'Vaviar Group' LLC Vanush Bazikyan, since 2015 the limited liability company has been registered in the name of PE Vanush Bazikyan on March 12, 2021, and by the decision of the Intellectual Property Agency on September 22, 2021, the right to the trademark was transferred to 'Vaviar Group' LLC.

'Arishta' is not a trademark registered under the name of 'Daphnevard' LLC and subject to legal protection in the Republic of Armenia.

On the trademark, presented by the appearance and used by 'Daphnevard' LLC, there is an image of a cook with oblong mustache and a plate of noodles in his hand.

'Vaviar Group' LLC and 'Daphnevard' LLC carry out activities in the same sphere of noodle production and sale.

The use of 'ՄԵԼ ԻԳԻՏՅԱՆՍ ԱՐԻՏԻԱ ԻԳԻԹՅԱՆ ԵՂԲԱՅՐՆԵՐ ԳԱՎԱՌԻ ՆՆԱԿԱՆ ԱՐԻԾՏԱ' trademark by 'Daphnevard' LLC, to the degree of mixing similar to the trademark 'Բազիկյանների արիշտա' registered under the order number 32356, belonging to 'Vaviar Group' LLC, was considered by the Commission in its non-appealable decision 204-A as unfair competition for which 'Daphnevard' LLC was ordered to pay a fine of 338 592 Dram.

'Daphnevard' LLC sold goods produced on 29, 30 June and 1 February 2023, and received the revenue.

Taking into account the above mentioned, the Commission

1. qualified the sale of the goods produced on 29, 30 June and 1 February 2023, under the 'X&L igityan'S ARISHTA ԻԳԻԹՅԱՆ ԵՂԲԱՅՐՆԵՐ Գավառի տնական ԱՐԻՇՏԱ' trademark by 'Daphnevard' LLC, to the degree of mixing similar to the trademark 'Բազիկյանների արիշտա' registered under the order number 32356,

belonging to 'Vaviar Group' LLC, as unfair competition.

2. ordered 'Daphnevard' LLC to pay a fine of 386,000 Dram.

3. obliged 'Daphnevard' LLC to cease the sale of goods similar to the degree of mixing.

The proceedings were initiated on the basis of the presence of signs of unfair competition against ‘Terteryan Gardens’ LLC, its activity and produced goods due to the use by ‘Alco Garden’ LLC and ‘Yerevan ‘Champagne Wines Factory’ OJSC of the trademark with the word ‘MERO’N’ and the image of a drop, as well as a the trademark with the word ‘LA MERO’N’/‘ԼԱ՝ ՄԵՐՈՆՆ’ and the image of a drop.

The combined trademark ‘MEYRON’, registered in the name of Mher Terteryan , is an image of a drop with the word ‘MEYRON’ in the upper part.

‘Terteryan Gardens’ LLC uses an image in the form of a drop and the word ‘MEYRON’ on the labels of the wines produced by it.

‘Yerevan ‘Champagne Wines Factory’ OJSC produced, and ‘Alco Garden’ LLC sold alcoholic beverages labeled ‘ՄԵՐՈՆՆ’/ ‘MERO’N’ and ‘ԼԱ՝ ՄԵՐՈՆՆ’/ ‘LA’ MERON’.

On the labels of alcoholic beverages with the trademark ‘ՄԵՐՈՆՆ’/‘MERO’N’, bottled with the image of ‘Alco Garden’ LLC and sold by ‘Alco Garden’ LLC, there is an image of a head looking to the side, the word ‘MERO’N’ is written inside, and in the case of some alcoholic

beverages (dry red) there is also an image of a drop on the labels.

The lexical element of the trademark (‘MEYRON’) and the word ‘MERO’N’ with a difference of one letter and one character completely repeat each other.

Considering the issue of confusion, the Commission assessed the similarity of trademarks and the risk of confusion between them and stated the following:

1. A trademark and a trademark containing the word ‘MERO’N’ are similar in visual, auditory and semantic perception.
2. Trademarks are similar to the images included in them.
3. The use of a trademark with the inclusion of the word ‘MERO’N’ and an image in the form of a drop may be associated with the trademark ‘MEYRON’.

The use of the trademark ‘ԼԱ՝ ՄԵՐՈՆՆ’/‘LA’ MERON’, to the degree of mixing similar to the trademark ‘MEYRON’, owned by ‘Terteryan Gardens’ LLC, may cause confusion regarding ‘Terteryan Gardens’ LLC, its activity and produced goods.

Taking into account the above mentioned, the Commission

1. qualified the use by 'Alco Garden' LLC and 'Yerevan 'Champagne Wines Factory' OJSC of the trademark with the word 'MERO'N and the image of a drop, both individually or collectively, to the mixing degree similar to the MEYRON trademark, registered under the name of Mher Terteryan and used by Terteryan Gardens LLC, in the period from September 9, 2021 to December 27, 2022, as an unfair competition.
2. gave a warning to 'Yerevan 'Champagne Wines Factory' OJSC.
3. ordered 'Alco Garden' LLC to pay a fine of 539,762 Dram.
4. obliged 'Alco Garden' LLC and 'Yerevan 'Champagne Wines Factory' OJSC to cease the sale of goods similar to the degree of mixing.

276-A

The proceedings N PG-00872/23 were initiated by the Decision of the Commission N 127-A of March 14, 2023 'On the initiation of proceedings by 'Inter Shoes' LLC on the offence in the sphere of economic competition'.

Natural person David Davtyan is the right holder of the combined trademark 'I'MKOSHIK BY D.D.' ('ԻՄ Կոշիկ') registered on November 28, 2022.

The trademark 'imkoshik' registered in the name 'Inter Shoes' LLC is missing.

'Inter Shoes' LLC's 'ԻՄ Կոշիկ' trademark is used in the domain of the internet website www.imkoshik.am, as well as in the window at the entrance to the 'Inter Shoes' LLC's shop located in Yerevan, North Avenue 6/15.

On April 4, 2023, a Settlement Agreement was concluded between 'Inter Shoes' LLC and Ani Davtyan. According to the Settlement Agreement, 'Inter Shoes' LLC transferred the 'imkoshik.am' domain to

David Davtyan and the application for the 'imkoshik.am' trademark registration to the Intellectual Property Agency of the Republic of Armenia was withdrawn.

Ani Davtyan and 'Inter Shoes' LLC, referring to the Settlement Agreement, asked to terminate the proceedings.

The website 'imkoshik.am' was discontinued.

Taking into account the above mentioned, the Commission

1. qualified the use of the word 'imkoshik' by 'Inter Shoes' LLC in the domain name 'imkoshik.am', to the degree of mixing similar to the trademark 'I'MKOSHIK BY D.D.' registered in the name of David Davtyan, as unfair competition.
2. gave a warning to 'Inter Shoes' LLC.



The proceedings were initiated by 'Noyan Tapan' LLC based on the use by 'Scarlet' LLC of the trademark in the form of a brown colored notebook which is causing mixing with 'Noyan Tapan' LLC, its activity and produced goods.

For goods and services of the 16th class of the international classification of goods and services in the name of 'Noyan Tapan' LLC, on August 13, 2018, a trademark with the name 'ՏԵՏՐ' was registered and accepted for legal protection under the order number 27762, which is protected in a combination of dark brown, beige, red, blue and black colors. All entries in the trademark are not objects of independent protection.

On August 1, 2022 under the name 'Scarlet' LLC 'ՏԵՏՐ ՀԱՍԱՐ ԴՊՐՈՑԻ ԴԱՍԱՐԱՆԻ ԱՇԱԿԵՐՏ 24 ԹԵՐԹ SKARLET' named trademark with the number 35253 for goods (notebook) 16 class of the international classification of goods and services was submitted via application for registration and protection legal protection on the territory of the Republic of Armenia. According to the application, 'ՏԵՏՐ ՀԱՍԱՐ ԴՊՐՈՑԻ ԴԱՍԱՐԱՆԻ ԱՇԱԿԵՐՏ 24 ԹԵՐԹ SKARLET' combined trademark is protected by a combination of black, white and brown colours. All other entries in the trademark, except the word «Scarlet», are not objects of independent protection. But the application on

registration was refused.

'Noyan Tapan' LLC sells a notebook presented in the form of a trademark. 'Scarlet' LLC, among other colours, produces and sells brown notebooks as well.

Consequently, 'Noyan Tapan' LLC and 'Scarlet' LLC carry out the same activity in the field of notebooks' sales.

Considering the issue of confusion, the Commission assessed the similarity of trademarks and the risk of confusion between them and stated the following:

1. There are visual and semantic similarities in trademarks.
2. Trademarks are applied to the same notebook product, which is an inexpensive product available to a wide range of society, in which consumers do not pay special attention when purchasing this product. Therefore, reasonable discrepancies may not be noticed. Therefore, the use of unregistered trademark by 'Scarlet' LLC, by the degree of mixing similar to the 'ՏԵՏՐ' trademark, registered under the name 'Noyan Tapan' LLC and order number 27762, may lead to confusion in relation to 'Noyan Tapan' LLC, its activity and produced goods, in connection with which the legislation provides for a real consequence-application of the liability.

Taking into account the above mentioned, the Commission

1. qualified the use of unregistered trademark by 'Scarlet' LLC, by the degree of mixing similar to the 'ՏԵՏՐ' trademark, registered under the name 'Noyan Tapan' LLC, as an unfair competition.

2. gave a warning to 'Scarlet' LLC.

3. obliged 'Scarlet' LLC to cease the sale of goods similar to the degree of mixing.

369-A (2020 edition)

The trademark 'Lenovo' is registered in the International Register of Trademarks with certificate N 1299513, which has received legal protection in the Republic of Armenia.

The trademark 'Lenovo' is registered in the Customs Register of Intellectual Property Objects of the Republic of Armenia, according to which 'Elcore Distribution' LLC, 'Mobile Centre Art' LLC, 'Dom-Daniel' LLC, 'Lans' LLC are indicated as persons entitled to import goods marked with the 'Lenovo' trademark.

'Oasis Computer' LLC has been importing goods marked with the 'Lenovo' trademark for about a year.

'Oasis Computer' LLC from January 31, 2018, to August 2020 had a case of suspension of the release of goods as a result of the import of goods marked with the 'Lenovo' trademark.

The suspension of the release of the goods marked with 'Lenovo' trademark by 'Oasis Computer' LLC, except for the suspension of the release of the goods issued in the declaration, lasted a maximum of 10 days, after which the goods were released.

To issue an import permit for goods marked with the 'Lenovo trademark', Lenovo Beijing Limited does not have a clearly defined list of documents or types of information required from importers.

Lenovo Beijing Limited has not provided clearly defined guidelines or regulations that would determine which circumstances deserve attention in specific cases, or what checks are carried out to allow the import of goods marked with the 'Lenovo' trademark, which would establish their legitimate purpose, impartiality, reasonableness and non-discriminatory principles.

The Lenovo Beijing Limited filed a lawsuit with the requirement to destroy the goods issued in the declaration at the expense of 'Oasis Computer' LLC and has submitted an application to the Customs Authority for the extension of the suspension of the release of goods issued by the declaration.

The Customs Authority has extended the suspension of the release of goods issued by the declaration for another 10 days.

The Lenovo Beijing Limited filed a petition to the Court with a request to apply the claim security mean for the extension of the suspension of the release of goods issued by the declaration.

The Court granted the petition and extended the suspension of the release of goods issued by the declaration until the final judicial act enters into force.

As a reason for filing a lawsuit against 'Oasis Computer' LLC and applying to the Customs Authority and the

Court with a request to extend the suspension of the contract for goods issued on request, the Lenovo Beijing Limited called incomplete submission of documents requested from 'Oasis Computer' LLC.

Lenovo Beijing Limited did not provide any evidence that the documents were in demand from 'Oasis Computer' LLC and their clear list.

The suspension of the release of goods issued by the declaration was canceled by the Court decision of November 18, 2020.

The Commission considered that Lenovo Beijing Limited, having the opportunity to unilaterally influence the number of general conditions for the import of goods marked with the 'Lenovo' trademark, banned 'Oasis Computer' LLC from disposing, owning and using the goods issued in the declaration, in the event that, without questioning the fact of marking the goods with the 'Lenovo' trademark issued in the declaration, has not established a clear list of documents or types of information required from importers, based on impartial, reasonable and non-discriminatory principles, legitimately favorable conditions, guidelines or rules that will determine which circumstances deserve attention in specific cases or which checks are carried out to allow

the import of goods marked with the 'Lenovo' trademark, and also committed an action that, although allegedly exercising civil rights, was intended to limit competition.

Taking into account the above mentioned, the Commission

1. qualified the actions and behavior of the Lenovo Beijing Limited, which consisted in the absence of clearly defined required documents, a list of types of information, evaluation criteria in the issue of issuing an import permit to economic entities importing goods marked with the 'Lenovo' trademark to the Republic of Armenia, as an unfair competition.
2. gave a warning to Lenovo Beijing Limited.
3. instructed Lenovo Beijing Limited to establish objective, reasonable and non-discriminatory conditions based on principles that pursue a legitimate goal in relation to the import authorization process of goods marked with the 'Lenovo' trademark.
4. instructed Lenovo Beijing Limited to exclude the violation in the future.

92-A (2022 edition)

PE Ani Shahbazyan filed an application to the Commission on December 14, 2021, informing that Ani Shahbazyan is the rightholder of the ‘Չայուհի’ trademark, is engaged in the production of care products, since February 2022 has started the production of jewelry, underwear and pajamas.

PE Ani Shahbazyan reported that PE Kristine Atasyan is using an unregistered ‘Չայոօհի’ trademark, to the mixing degree similar to ‘Չայուհի’ trademark and selling imported underwear, pajamas, bodysuits and slippers.

The ‘Չայուհի’ combined trademark was registered under the name of Ani Shahbazyan for clothing, shoes, hats on August 13, 2021, and received legal protection in the Republic of Armenia.

According to the information provided by PE Kristine Atasyan, the trademarks ‘Չայոօհի’ and ‘Չայ հի’ have been used by her since January 6, 2021.

PE Christine Atasyan uses trademarks ‘Չայոօհի’, ‘Hayoohi’ and ‘Չայ հի’ on the Internet platform, front panel of the store at Abovyan, Tartu 1/2, in the interior, as well as on bags and business cards.

The Commission, considering that the trademarks of ‘Չայուհի’, ‘Hayoohi’ և ‘Չայ հի’ are not the same, and having made the similarity of trademarks the

subject of discussion, considers that:

1. trademarks are similar in meaning and hearing.
2. there is no visual similarity between the trademarks.
3. business entities using trademarks sell identical goods in the same Internet space.

Taking into account the above mentioned, the Commission

1. qualified the use of unregistered trademarks ‘Չայոօհի’, ‘Hayoohi’ and ‘Չայ հի’ by PE Kristine Atasyan, to the degree of mixing similar to the ‘Չայուհի’ trademark, registered under the name Ani Shahbazyan, as an unfair competition.
2. gave a warning to PE Kristine Atanesyan.
3. obliged PE Kristine Atanesyan to stop the use of ‘Չայոօհի’, ‘Hayoohi’ and ‘Չայ հի’

trademarks in the process of trading in any way.



PART 2. FINAL DECISIONS FAVOURABLE TO THE APPLICANT (2023 EDITION)



The Commission statistically makes a larger number of final decisions on whether to declare a violation or not to initiate proceedings.

The first category of final decisions presupposes the failure of the addressee, recognized as an unfair competitor, to comply with the Commission's previous decision. Decision 258-A could serve as an example.

The second category of final decisions relates to the fact that the actions described by the applicant against him/her taken by a third party do not constitute unfair competition within the meaning of the existing legislation. Examples include the following decisions of the Commission:

- 128-A and 188-A(Razmik Danielyan v. PE Vahan Babayan);
- 183-A ('Popo-Group' LLC v. Hasbrow Inc.);
- 184-A ('City' LLC v. Hasbrow Inc.);
- 206-A ('Ecosut' LLC v. 'Bashkir Soda Company' JSC);
- 207-A ('Armeno' LLC v. 'Bashkir Soda Company' JSC);
- 235-A (Aram Machanyan v. PE Lilit Sahakyan);
- 243-A ('Roberto Plus' LLC v. 'Bamelex' LLC);
- 244-A ('Erebuni Air' LLC v. 'Tiked' LLC, 'DubaiTravel' LLC and 'The National' LLC);
- 246-A ('Flash' LLC v. PE Lilit Avagyan).

The following Commission's final decision on proceeding discontinuation will be considered in more detail:

The proceedings were initiated due to the usage of 'The Office' trademark registered in the name of an individual Armine Karapetyan on the basis of the presence of signs of unfair competition with the manifestation of confusion in relation to 'The Office' LLC («Դի Օֆիս» ՍՊԸ), its activities and produced goods.

On March 15, 2022, a trademark with the words 'The Office' registered for services of the 35th, 36th and 49th classes was registered in the name of an individual Armine Karapetyan and received legal protection in the Republic of Armenia.

The entry 'The' in the trademark and the word 'Office' for the 35th and 36th classes of the International Classification of Goods and Services are not objects of independent protection, and for the 43rd class have received legal protection.

A license agreement for 'The Office' trademark was signed between an individual Armine Karapetyan and 'The Office' LLC («Դի Օֆիս» ՍՊԸ) on May 16, 2022.

There is no registered trademark containing the words 'The OFFICE' in the name of 'The Office' LLC («Դի Օֆիս» ՍՊԸ) and receiving real protection in the Republic of Armenia.

'The OFFICE' trademark is used on 'The Office' LLC's («Դի Օֆիս»

ՍՊԸ) www.theoffice.art website, as well as on the following social media pages: www.instagram.com/theofficeyvnl/ and www.facebook.com/TheOffice102715408926137. 'The OFFICE' trademark is not used in the catering facility owned by 'The Office' LLC («Դի Օֆիս» ՍՊԸ), operating at 91 Teryan Street.

According to the information available in the database of the State Revenue Committee of the Republic of Armenia, 'The Office LLC' («Դի Օֆիս» ՍՊԸ) carries out activities for the provision of restaurant services and other services not included in other groups, while «The Office» LLC («Դի Օֆիս» ՍՊԸ) carries out activities for the serviced ancillary services.

'The Office' LLC («Դի Օֆիս» ՍՊԸ) was registered on November 11, 2022, and The Office LLC (Դի Օֆիս ՍՊԸ) was registered on May 3, 2022.

The Commission states that

1. In any case, the legislator has established the occurrence of confusion in relation to the economic entity, its activities or the offered goods as a condition for the occurrence of unfair competition, or its possibility, which is manifested in the use in advertising of such names, signs, sounds or words sold on the territory of the Republic of Armenia or otherwise put into circulation of goods, their

packaging or Internet domain name, trademark, service mark or brand name of another business entity, protected in the Republic of Armenia or previously used by him or well-known.

2. The conduct of 'The Office' LLC («Դի Օֆիս» ՍՊԸ) cannot cause unfair competition in the sense of the Law to cause confusion until economic competition is disrupted as a result.

3. The Commission may release an economic entity from responsibility for a committed offense in cases where the committed act does not pose a public danger because of its lesser importance.

Taking into account the above mentioned, the Commission

1. Discontinue production of PG-01555/22 for 'The Office' LLC («Դի Օֆիս» ՍՊԸ).

PART 3. INTERIM DECISIONS



Before making a final decision, the Commission makes interim decisions on the initiation of proceedings. These are the following decisions:

- 124-A ('Armenian Tobacco Company' LLC v. 'International Masis Tabak' LLC);
- 126-A ('Vaviar Group' LLC v. 'Daphnevard' LLC);
- 127-A (Davit Davtyan v. 'Inter Shoes' LLC);
- 277-A ('Covacoc' LLC v. 'Father and son Yeremyans' LLC);
- 293-A ('Roberto Plus' LLC v. 'Bamelex' LLC).

Several final decisions in cases between the parties in respect of which the above-mentioned interim decisions have been made have already been addressed in this Guideline.

The Commission also made interim decisions on proceedings period extension (132-A, 267-A), proceedings resumption (349-A) and recognition of the person's interest in the case (40-A) in 2023.

There is also one interim decision 59-A ('Terteryan Gardens' LLC v. 'Alco Garden' LLC and 'Yerevan 'Champagne Wines Factory'' OJSC) on termination of proceedings and refusal of application based on the existence of civil proceedings between the parties.

(2020)

The Intellectual Property Office of the Ministry of Economy of the Republic of Armenia (IPO)



<p>Decision N 2020-1-1-A 'WINSTON'</p>	<p>The 'WINSTON' trademark as a result of its use as of 01.01.2014 has received wide recognition in the territory of the Republic of Armenia for the relevant circles of society in relation to the goods for which the trademark was used.</p> <p>A trademark submitted in accordance with Article 31 of the RA Law 'On Trademarks' may be recognized as well-known in the Republic of Armenia for the goods "tobacco products, including cigarettes.</p> <p>The Japan Tobacco Inc. application submitted by the 'Winston' trademark dated 01.01.2014 as of the 34th class of 'tobacco products, including cigarettes' in the Republic of Armenia is fully satisfied.</p>
<p>Decision N 2020-1-2-A 'NASTOYASCHAYA'</p>	<p>Trademark registration was refused on the following grounds: According to paragraph 2 of Part 1 of Article 10 of the RA Law 'On Trademarks', the trademark that is identical or similar to an earlier trademark and the fact that the goods and (or) services marked by it are identical or identical is not subject to registration as a trademark, may cause confusion to the public, including pairing with an earlier trademark.</p> <p>The declared trademark is not subject to registration as a trademark protected on the basis of registration in the Republic of Armenia to the degree of confusion similar to 'НАСТОЯЩАЯ' ('Spirtnoy' Group of companies, société à responsabilité limitée 1-у Magistralny tupik, 5A, of. 23B, RU-123290 MOSCOU (RU) IR 1175675) 'НАСТОЯЩАЯ' (Société à responsabilité limitée 'Tchestnaya Vodotchnaya Kompaniya' oul. Professionalnaya, 177, k. 2, Moskovskaya oblast, RU141800 Dmitrov (RU) IR 1224041) due to the presence of trademarks.</p> <p>The applicant submitted a letter of agreement from the owners of the opposite trademarks.</p> <p>Letter if there are agreements, the claimed trademark is subject to registration.</p>

Decision N 2020-1-3-A
'ՅԱՄՈՎ ԽԻՆԿԱԼԻ'

Trademark registration was refused on the following grounds: According to paragraphs 2, 3, 7 of Part 1 of Article 9 of the RA Law 'On Trademarks' and subparagraphs 3 and 7 of paragraph 93 of the procedure for 'filling in, Submitting and Reviewing trademark applications' approved by RA Government Decree N 1017-n as of August 10, 2017, a mark consisting exclusively of designations that serve in trading the time of production of goods or services, type, quality, quantity, purpose of creation, value is not subject to registration, geographical origin or to mention other characteristics, as well as what may mislead consumers about the geographical origin of goods or services, their quality, nature or manufacturer.

The claimed mark is not subject to registration as a trademark, since the word 'ԽԻՆԿԱԼԻ', which occupies the dominant part of the combined trademark, except for the goods of the 30th class 'ԽԻՆԿԱԼԻ' for all other goods of the 29th and 30th classes, may mislead the consumer about the nature of the goods, and for the goods 'ԽԻՆԿԱԼԻ' and services of the 43rd class have a descriptive character, since 'ԽԻՆԿԱԼԻ' is a type of product, in this case in the form of food and is widely used in the field of public catering. As for the word 'ՅԱՄՈՎ', it does not have a distinctive feature, since it is a symbol of a laudable character according to paragraph 3 of Article 9 of the Law. In accordance with article 13, paragraph 104 of the Law, the exclusive right does not apply to trademark elements that cannot be registered as a trademark, in particular to descriptive elements, provided that they are used in good faith and do not infringe on the legitimate interests of third parties. The claimed mark is not subject to registration as a trademark, since the word 'ԽԻՆԿԱԼԻ', which occupies the dominant part of the combined trademark, except for the goods of the 30th class 'ԽԻՆԿԱԼԻ' for all other goods of the 29th and 30th classes, may mislead the consumer about the nature of the goods, and for the goods 'ԽԻՆԿԱԼԻ' and services The 43rd class has a descriptive character, since 'ԽԻՆԿԱԼԻ' is a type of

product, in this case in the form of food and is widely used in the field of public catering. As for the word ‘Ղաւով’, it does not have a distinctive feature. In accordance with article 13 of the Law, paragraph 104 of the procedure, the exclusive right does not apply to trademark elements that cannot be registered as a trademark, in particular to descriptive elements, provided that they are used in good faith and do not infringe on the legitimate interests of third parties.

The head of the examination Department noted that the decision taken is lawful and the registration of the claimed trademark is subject to refusal.

Decision N 2020-2-1-A
‘ԱՆԱՂԻՏ

Trademark registration was refused on the following grounds: According to paragraph 2 of Part 1 of Article 10 of the RA Law ‘On Trademarks’, the trademark that is identical or similar to an earlier trademark and the fact that the goods and (or) services marked by it are identical or identical is not subject to registration as a trademark, may cause confusion to the public, including pairing with an earlier trademark.

Registration is subject to refusal, as it is confusingly similar to the previously protected on the basis of registration in the Republic of Armenia ‘ANA HIT, AHANT, ԱՆԱՂԻՏ’ (‘KOVKASFOOD’ LLC, Yerevan, 56/2 Nzhdeh Street, N23396, 19.03.2015) and ‘ԱՆԱՂԻՏ’ (Armenian-Canadian joint venture ‘Grand Candy’ LLC, Yerevan, Masis 31, N 9413, 08.06.2005, N 21791, 18.04.2014) and ‘Anahit’ (Armenian-Canadian joint venture ‘Grand Candy’ LLC, Yerevan, Masis 31, N 9413, 08.06.2005, N 21791, 18.04.2014) to lexical and combined trademarks. The word ‘ԱՆԱՂԻՏ’ is fully included in registered trademarks.

Registration is subject to refusal, as it is confusingly similar to the previously protected on the basis of registration in the Republic of Armenia ‘ANA HIT, AHANT, ԱՆԱՂԻՏ’ (‘KOVKASFOOD’ LLC, Yerevan, 56/2 Nzhdeh Street, N23396, 19.03.2015) and ‘ԱՆԱՂԻՏ’ (Armenian-Canadian joint venture ‘Grand Candy’ LLC, Yerevan, Masis 31, N 9413, 08.06.2005, N 21791,

	<p>18.04.2014) similar to the verbal and combined trademarks. The word ‘ԱՆԱՐԻՏ’ is fully included in registered trademarks.</p> <p>The head of the examination Department noted that the decision taken is lawful and the registration of the claimed trademark is subject to refusal.</p>
<p>Decision N 2020-2-2-A ‘REMY MARTIN’</p>	<p>Trademark registration was refused on the following grounds:</p> <p>A trademark declared in accordance with paragraph 4 of Part 8 of Article 45 of the RA Law ‘On Trademarks’ is not subject to registration, since in response to the notification of the waiver of the claimed exclusive right to elements that do not have a corresponding distinctive feature, according to Part 7 of Article 45 of the Law, the applicant submitted an unacceptable objection.</p> <p>Partially satisfy the complaint filed by patent attorney Ararat Galoyan, partially cancel the decision of the re-examination and register the trademark ‘REMY MARTIN’ (IR1424312), in addition to all other inscriptions ‘REMY MARTIN’ and ‘ACCORD ROYAL’, also without providing independent protection to the shape of the bottle.</p>
<p>Decision N 2020-2-4-A ‘SEASONS’</p>	<p>Trademark registration was refused on the following grounds: According to paragraph 7 of Part 1 of Article 9 of the RA Law ‘On Trademarks’ and subparagraph 7 of Paragraph 93 of the procedure for ‘filling in, Submitting and Reviewing Trademark applications’ (hereinafter referred to as the procedure), approved by the RA Government Decree N 1017-n of August 10, 2017, registration a trademark is not subject to a mark that may mislead consumers about the geographical origin of goods or services, their quality, nature or manufacturer.</p> <p>The claimed mark is not subject to registration as a trademark, as a request about a communication service provider may mislead consumers, assuming</p>

that the claimed trademark belongs to 'FOUR SEASONS HOTELS (BARBADOS)' LTD, which is the copyright holder of the trademark 'Four Seasons' (N 26359), protected in the Republic of Armenia on the basis of registration.

The head of the examination department noted that the decision made by the department was legitimate, and insisted that the submitted trademark should be rejected.

Decision N 2020-2-5-A
'SEASONS

Trademark registration was refused on the following grounds: According to paragraph 7 of Part 1 of Article 9 of the RA Law 'On Trademarks' and subparagraph 7 of Paragraph 93 of the procedure for 'filling in, Submitting and Reviewing Trademark applications', approved by the RA Government Decree N 1017-n of August 10, 2017, registration a trademark is not subject to a mark that may mislead consumers in matters concerning the geographical origin of goods or services, their quality, nature or manufacturer.

The claimed mark is not subject to registration as a trademark, as a request about a communication service provider may mislead consumers, assuming that the claimed trademark belongs to 'FOUR SEASONS HOTELS (BARBADOS)' LTD, which is the copyright holder of the trademark 'Four Seasons' (N 26359), protected in the Republic of Armenia on the basis of registration.

The head of the examination department noted that the decision made by the department was legitimate, and insisted that the submitted trademark should be rejected.

Decision N 2020-3-2-A
'Starko'

Trademark registration was refused on the following grounds:

According to paragraph 3 of Part 4 of Article 10 of the RA Law 'On Trademarks' and subparagraph 14 of Paragraph 111 of the procedure for 'filling in, Submitting and Reviewing trademark applications',

approved by RA Government Decree N 1017-n of On August 10, 2017, trademark registration is subject to refusal if it may cause confusion regarding the trademark used in the Republic of Armenia or abroad as of the filing date of the application, which, that the applicant acted in bad faith when submitting the application.

The claimed mark is not subject to registration as a trademark, as it may cause confusion regarding the trademark 'Storko' used by the Bulgarian company 'STORKO' LTD on the territory of the Republic of Armenia and abroad as of the date of filing the application, about which the applicant may have known.

The head of the examination Department noted that the decision taken is lawful and the registration of the claimed trademark is subject to refusal.

Decision N 2020-3-3-A 'KARASI ARENI NOIR ZORAH'

Trademark registration was refused on the following grounds: According to paragraph 2 of Part 1 of Article 10 of the RA Law 'On Trademarks', a mark that is identical or similar to an earlier trademark is not subject to registration, and the identification or identification of the goods and (or) services marked by it carries the risk of confusion to the public, including pairing with an earlier trademark.

In this case, the claimed mark is not subject to registration as a trademark, since it is confusingly similar to 'KARAS' ('Tierras de Armenia' CJSC, Yerevan), protected on the basis of registration in the Republic of Armenia for goods of the 33rd class. Yerevan, M. Armenia, Yerevan, Davtashen, 4th Quarter, Anastas Mikoyan str., 109/8 house 2a, AM, N 19275 10.01.2013, N 18470 06.06.2012) combined trademarks.

The head of the examination Department noted that the decision taken is lawful and the registration of the claimed trademark is subject to refusal.

ecision N 2020-3-4-A
'DVIN'

Trademark registration was refused on the following grounds: According to paragraph 2 of Part 1 of Article 10 of the RA Law 'On Trademarks' (hereinafter referred to as the Law), a trademark identical or similar to an earlier trademark and identical or identical to the goods and (or) services marked by it, which carries there is a danger of causing confusion among the public, including pairing with an earlier trademark.

In this case, the claimed mark is not subject to registration as a trademark, since it is confusingly similar to 'ДВИН', 'DVIN' protected on the basis of registration in the Republic of Armenia ('Yerevan Brandy Factory' CJSC, Yerevan, Admiral Isakov Ave. 20/20 2, N 24391 of 12/18/2015., N 24397 of 18.12.2015.) to earlier verbal trademarks.

The applicant submitted a letter of agreement from the owner of the opposing trademarks.

The head of the Examination Department noted that the submitted letter, if there is an agreement, the claimed trademark is subject to registration.

The 'DVIN' trademark was registered (N 20191193).

Decision N 2020-3-5-A
'ԿՐԱԿՈՎՍԱՆ ԵՐՇԻԿ
KRAKOWSKA SAUSAGE
КРАКОВСКАЯ КОЛБАСА'

Trademark registration was refused on the following grounds: On the grounds established by subparagraph 3 of Part 1 of Article 9 of the RA Law 'On Trademarks' and subparagraph 3 of Paragraph 93 of the procedure for 'filling in, Submitting and Reviewing trademark applications' approved by the RA Government Decree N 1017-n of August 10, 2017, a sign consisting exclusively of such designations that serve in trade to indicate the time of production of goods or the provision of services, type, quality, quantity, purpose of creation, value is not subject to registration, geographical origin or other characteristics of the product or service.

The claimed mark 'ԿՐԱԿՈՎՍԱՆ ԵՐՇԻԿ KRAKOWSKA SAUSAGE КРАКОВСКАЯ КОЛБАСА' is not subject to registration as a trademark, since it characterizes the

	<p>type of product, namely: 'Krakow sausage' is a kind of boiled-smoked sausage (the name of which comes from the Polish city of Krakow), used by many meat products.</p> <p>The head of the examination Department noted that the decision taken is lawful and the registration of the claimed trademark is subject to refusal.</p>
<p>Decision N 2020-3-6-A 'ՆԱԽԱՃԱՆԻ ԵՐՇԻԿ SAUSAGE FOR BREAKFAST КОЛБАСА ДЛЯ ЗАВТРАКА'</p>	<p>Trademark registration was refused on the following grounds:</p> <p>On the grounds established by subparagraph 3 of Part 1 of Article 9 of the RA Law 'On Trademarks' and subparagraph 3 of Paragraph 93 of the procedure for 'filling in, Submitting and Reviewing trademark applications' approved by the RA Government Decree N 1017-n dated August 10, 2017, a sign consisting exclusively of such designations that serve in trade to indicate the time of production of goods or the provision of services, type, quality, quantity, purpose of creation, value is not subject to registration, geographical origin or other characteristics of the product or service.</p> <p>The claimed mark 'ՆԱԽԱՃԱՆԻ ԵՐՇԻԿ SAUSAG FOR BREAKFAST КОЛБАСА ДЛЯ ЗАВТРАКА' is not subject to registration as a trademark, since it characterizes the type of product, namely: 'sausage for breakfast', better known in the USA as 'rustic' sausage (Breakfast sausage), is made mainly from pork and served in the morning, so as it has a high calorie content and is used by many meat products.</p> <p>The head of the examination Department noted that the decision taken is lawful and the registration of the claimed trademark is subject to refusal.</p>
<p>Decision N 2020-3-7-A 'ԵՐՇԻԿ ՍԱԼԱՄԻ SAUSAGE SALAMI КОЛБАСА САЛЯМИ'</p>	<p>Trademark registration was refused on the following grounds:</p> <p>On the grounds established by subparagraph 3 of Part 1 of Article 9 of the RA Law 'On Trademarks' and</p>

subparagraph 3 of Paragraph 93 of the procedure for 'filling in, Submitting and Reviewing trademark applications' approved by the RA Government Decree N 1017-n dated August 10, 2017, a sign consisting exclusively of such designations that serve in trade to indicate the time of production of goods or the provision of services, type, quality, quantity, purpose of creation, value is not subject to registration, geographical origin or other characteristics of the product or service.

The claimed mark 'ԵՐՇԻԿ ՍԱԼՅԱՄԻ SAUSAG SALAMI КОЛБАСА САЛЯМИ' is not subject to registration as a trademark, since it characterizes the type of product, namely: 'salami sausage' is a type of meat, salted, seasoned, chopped and stuffed in a thin shell or in pure animal intestines, which is produced by fermentation and canning and is used many meat products.

The head of the examination Department noted that the decision taken is lawful and the registration of the claimed trademark is subject to refusal.

Decision N 2020-3-9-A
'SOBRANIE SLIDE'

Trademark registration was refused on the following grounds:

According to paragraph 4 of Part 8 of Article 45 of the RA Law 'On Trademarks', the claimed trademark is not subject to registration, since in response to the notification of refusal in the application of the exclusive right to an element that does not have the corresponding distinguishing feature in Part 7 of Article 45 According to the Law, the applicant submitted an unacceptable objection, a trademark consisting solely of designations or indications that have become universal in colloquial or commercial practice is not subject to registration as a trademark on the grounds established by subparagraphs 3, 4 of paragraph 93 of the procedure for 'filling in, submitting and reviewing trademark applications' approved by decision N of 2012.

Registration of the symbol is subject to refusal, as it is a generally accepted name and is used by many companies.

The Chairman of the Board, taking as a basis the provisions of Article 11 of the RA Law 'On Trademarks', submitted to the Appeal Board the results of the preliminary examination of the complaint on the full satisfaction of the complaint, the full invalidation of the decision of the re-examination and registration of the trademark, since the applicant submitted an application for the waiver of the exclusive right to the word "SLIDE".

Register the trademark 'SOBRANIE SLIDE' (N 20190673) without granting independent protection to the 'SLIDE' element.

Decision N 2020-3-10-A
'SOBRANIE SLIDE WHITES
BLACKS'

Trademark registration was refused on the following grounds: According to paragraph 4 of Part 8 of Article 45 of the RA Law 'On Trademarks', the claimed trademark is not subject to registration, since in response to the notification of refusal in the application of the exclusive right to an element that does not have the corresponding distinguishing feature in Part 7 of Article 45 According to the Law, the applicant submitted an unacceptable objection.
- A trademark consisting solely of designations or indications that have become universal in colloquial or commercial practice is not subject to registration as a trademark on the grounds established by subparagraphs 3, 4 of paragraph 93 of the procedure for 'filling in, submitting and reviewing trademark applications' approved by decision N of 2012.

Registration of the symbol is subject to refusal, as it is a generally accepted name and is used by many companies.

The Chairman of the Board, taking as a basis the provisions of Article 11 of the RA Law 'On Trademarks', submitted to the Appeal Board the results of the preliminary examination of the complaint on the full

satisfaction of the complaint, the full invalidation of the decision of the re-examination and registration of the trademark, since the applicant submitted an application for the waiver of the exclusive right to the word 'SLIDE'.

Register the trademark 'SLIDE WHITES BLACKS' without providing independent protection to the elements.

Decision N 2020-3-12-A
'ECO-COMFORT PACK'

Trademark registration was refused on the following grounds: According to paragraphs 2, 3, Part 1 of Article 9 of the RA Law 'On Trademarks' and subparagraph 3 of Paragraph 93 of the procedure for 'filling in, Submitting and Reviewing trademark applications' approved by the RA Government Decree N 1017-n of August 10, 2017, registration is not allowed a trademark that does not have a distinctive feature consists solely of a designation that serves in trade to indicate the type of product and is a symbol of a descriptive and commendable nature.

'ECO' is an abbreviated form of the word 'ecology', which means 'ecological', indicates the quality of the product, 'Comfort' – 'comfort', and 'Pack' – 'box', which is a kind of product. Consequently, the claimed trademark, devoid of a distinctive feature and consisting solely of a descriptive record, is not subject to registration as a trademark.

The head of the examination Department noted that the decision taken is lawful and the registration of the claimed trademark is subject to refusal.

Decision N 2020-4-1-A
'MEGA ARARAT NATURAL
HERBAL TEA'

Trademark registration was refused on the following grounds: According to paragraph 2 of Part 1 of Article 10 of the RA Law 'On Trademarks', a mark that is identical or similar to an earlier trademark is not subject to registration, and the identity of the goods and (or) services marked by it carries the risk of public confusion, including pairing with an earlier trademark.

The claimed mark is not subject to registration as a trademark, since it is confusingly similar for identical goods protected in the Republic of Armenia on the basis of registration of 'ararat tea' ('Ararat' Food Processing Plant LLC, Yerevan, 29 Arabkir str.,13/1, N 16613, 15.02.2011) and 'АРАРАТ КОНДИТЕРСКАЯ ФАБРИКА' ('Ararat' LLC, Yerevan, Pushkin str. 13/1, N 16613, 15.02.2011) combined trademarks.

Refuse to register the trademark 'MEGA ARARAT NATURAL HERBAL TEA' (N 20191856).

Decision N 2020-4-2-A
'MUCOSAT'

Trademark registration was refused on the following grounds:

According to paragraph 2 of Part 1 of Article 10 of the RA Law 'On Trademarks', the trademark that is identical or similar to an earlier trademark and the fact that the goods and (or) services marked by it are identical or identical is not subject to registration as a trademark, may cause confusion to the public, including pairing with an earlier trademark.

The claimed mark is not subject to registration as a trademark for Class 5 goods specified in the notification of international registration, as it is confusingly similar to the verbal trademark 'MUCOSIN' (Sanofi 54 rue la Boétie F-75008 Paris (FR), IR 824061.

The Chairman of the Board, on the basis of Part 3 of Article 10 of the RA Law 'On Trademarks', submitted to the Appeal Board the results of the preliminary examination of the complaint on full satisfaction of the complaint, full invalidation of the decision of the re-examination and registration of the trademark, since the applicant submitted a letter of agreements from the rightholder of the opposite trademark.

The head of the Examination Department noted that the submitted letter, if there is an agreement, the claimed trademark is subject to registration.

Fully satisfy the complaint of the patent attorney

	<p>Vahagn Petrosyan, completely cancel the decision of the re-examination and register the trademark 'MUKOSAT' (IR1414235).</p>
<p>Decision N 2020-4-3-A 'MYKOCAT'</p>	<p>Trademark registration was refused on the following grounds: According to paragraph 2 of Part 1 of Article 10 of the RA Law 'On Trademarks', the trademark that is identical or similar to an earlier trademark and the fact that the goods and (or) services marked by it are identical or identical is not subject to registration as a trademark, may cause confusion to the public, including pairing with an earlier trademark.</p> <p>The claimed combined trademark is confusingly similar to the verbal trademark 'MUCOSIN' (Sanofi 54 rue la Boétie F75008 Paris (FR), IR 824061).</p> <p>The Chairman of the Board, on the basis of Part 3 of Article 10 of the RA Law 'On Trademarks', submitted to the Appeal Board the results of the preliminary examination of the complaint on full satisfaction of the complaint, full invalidation of the decision of the re-examination and registration of the trademark, since the applicant submitted a letter of agreements from the rightholder of the opposite trademark.</p> <p>The head of the Examination Department noted that the submitted letter, if there is an agreement, the claimed trademark is subject to registration.</p> <p>Fully satisfy the complaint of patent attorney Vahagn Petrosyan, cancel the decision of the re-examination in full and register the trademark 'MYKOCAT' (IR1390027).</p>
<p>Decision N 2020-4-4-A 'LAVAIRWAYS'</p>	<p>Trademark registration was refused on the following grounds:</p> <p>For all Class 39 services specified in the application, except for 'air transportation'. The trademark is not subject to registration, since according to paragraph 7 of Part 1 of Article 9 and subparagraph 7 of paragraph 93 of the procedure for 'filling in,</p>

submitting and reviewing trademark applications', approved by the Decree of the Government of the Republic of Armenia N 1017-n of August 10, 2017, registration as a trademark the mark is not subject to a mark that may mislead consumers in matters concerning the geographical origin of goods or services, their quality, nature or manufacturer.

A trademark including the entry 'airways' cannot be registered for all other services, as consumers may be misled in questions about the nature and type of services.

Partially satisfy the complaint, partially cancel the decision of the re-examination and partially register the trademark for the following services: lesson 39. air travel. road transport. bus transportation. transportation by trucks. railway transportation. transportation by river transport. transportation by water transport. passenger transportation. sea transportation. storage of goods in warehouses; organization of transportation for tourist tours; transport services for tourists. Rent an airplane and a car. packaging of goods. transportation and delivery - all of the above services related to air transportation.

Decision N 2020-5-2-A
'INDIGO'

Trademark registration was refused on the following grounds:

For the 41st class services specified in the application, the trademark is not subject to registration, since according to paragraph 2 of Part 1 and subparagraph 2 of Part (b) of Part 2 of Article 10 of the RA Law 'On Trademarks', the trademark is not subject to registration as a trademark, which is identical or similar to an earlier trademark, and identical or identical goods and/or services marked by it may cause confusion among the public, including pairing with an earlier trademark.

The registration of the symbol is subject to refusal for the above service, since it is confusingly similar to 'INDIGO' (Kuzheliuk Tamara Mechyslavivna, prosp.

Maiakovskoho, bud. 4, kv. 164, m. Kyiv 02217 (UA), N 1365076, 14.02.2017) combined trademark.

The Chairman of the board submitted a proposal for the full satisfaction of the complaint, the complete annulment of the examination decision and the continuation of office work on the trademark application, since during the examination the department decided to refuse registration of the trademark and opposed the mark with which the office work was not completed.

Fully satisfy the complaint, completely cancel the decision of the examination and continue the paperwork on the application for the trademark 'INDIGO' (N 20191498).

Decision N 2020-5-3-A
'КУБАНСКОЕ ЗОЛОТО'

Trademark registration was refused on the following grounds: The claimed mark for goods of Class 29 ('edible oils and fats') specified in the application is not subject to registration, since in accordance with paragraph 3 of Part 4 of Article 10 of the RA Law 'On Trademarks' and paragraph 3 of Part 4 of Article 10 of the RA Law 'On Trademarks' from August 10, 2017 N 1017 - In accordance with subparagraph 14 of paragraph 111 of the procedure for 'filling in, submitting and reviewing trademark applications' approved by decision N, registration of a trademark is subject to refusal if it may cause confusion regarding a trademark used in the Republic of Armenia or abroad as of the date of filing the application, which is still in use, provided that the applicant acted in bad faith when submitting the application.

The claimed mark is not subject to registration as a trademark, as it may cause confusion regarding the trademark 'Кубанское Золото' used by the Russian company 'Kaloria' LLC outside the Republic of Armenia as of the date of filing the application, about which the applicant may have known.

The head of the examination Department noted that the decision taken is lawful and the registration of the claimed trademark is subject to refusal.

Decision N 2020-5-5-A
'HOMESHIN SOLID BASE'

Trademark registration was refused on the following grounds: According to paragraph 3 of Part 1 of Article 9 of the RA Law 'On Trademarks' and subparagraph 3 of Paragraph 93 of the Procedure approved by the Decree of the Government of the Republic of Armenia N 1017-n of August 10, 2017, a mark consisting of exclusively from such designations, which in trade serve to indicate the time of production of goods or services, type, quality, quantity, purpose of creation, value, geographical origin or other characteristics of the goods or services.

The claimed mark is not subject to registration as a trademark, since the entry 'HOMESHIN', included in the mark and being the dominant part of the mark, where 'HOME' means house in English, and 'SHIN' is the Latin form of the Armenian word 'Shin' (construction), is an element of a descriptive nature for the claimed services 37th class, indicating the type of service and the purpose of its creation.

The applicant submitted a letter from the owner of the opposite trademark agreement.

Partially satisfy the complaint, partially cancel the decision of the re-examination and register the trademark 'HOMESHIN SOLID BASE' (N 20192297) for services of class 35 ('Wholesale and retail').

Decision N 2020-6-1-A
'Сендвич'

United Trademark in the Republic of Armenia 2019. as of May 1, class 30 ('ice cream') for the product.

The Chairman and members of the board, when presenting the results of the preliminary examination of the application, noted that the information in the documents and justifications attached to the application indicate that the combined trademark 'Сендвич' as a result of its use was widely recognized in the territory of the Republic of Armenia for the relevant circles of society in relation to the product 'ice cream' as of 01.08.2020, and not requested on 01.05.2019, therefore, the submitted combined trademark 'Сендвич' can be recognized as well-known on 01.08.2020 as of.

	<p>The united trademark ‘Сендвич’ in the Republic of Armenia 2020 as of August 1 ‘class 30’. The application for recognition as well -known for the product ‘ice cream’ is fully satisfied.</p>
<p>Decision N 2020-7-1-A ‘VOYAGE’</p>	<p>Trademark registration was refused on the following grounds:</p> <p>For the goods ‘buses’ and ‘long-distance buses’ specified in the application, the trademark is not subject to registration as a trademark, since according to paragraph 3 of Part 1 of Article 9 of the RA Law ‘On Trademarks’ and subparagraph 3 of paragraph 93 of the procedure for ‘filling in, submitting and reviewing trademark applications’, approved by the Decree of the Government of the Republic of Armenia N 1017-n dated August 10, 2017, a sign that does not have a distinctive feature and consists exclusively of such, which in trade serve to indicate the time of production of goods or services, type, quality, quantity, purpose of creation, value, geographical origin or other characteristics of the goods or services.</p> <p>The claimed trademark consists exclusively of the word ‘VOYAGE’, which is a descriptive element and serves in trade to indicate the purpose of creating goods.</p> <p>The head of the examination Department noted that the decision taken is lawful and the registration of the claimed trademark is subject to refusal.</p>

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The Intellectual Property Office of the Ministry of Economy of the Republic of Armenia (IPO)



<p>Decision N 2023-1-1-A 'NESTLE'</p>	<p>According to paragraph 7 of Part 1 of Article 9 of the RA Law 'On Trademarks' and subparagraph 7 of Paragraph 93 of the procedure for 'filling in, Submitting and Reviewing trademark applications', approved by the Decree of the Government of the Republic of Armenia No. 1017-N of August 10, 2017, a mark that can introduce consumers to misconception about the nature of the service.</p> <p>The claimed trademark is not subject to registration, since it contains the entry 'мороженое' (translated as ice cream), which is a specific type of product. This is a refreshing dessert product, the main raw materials of which are dairy products, in particular milk, cream and butter, therefore, all other goods specified in the application do not correspond to the above entry, which will mislead the consumer in matters concerning the type of goods.</p> <p>Did not provide legal protection for the word 'мороженое'.</p>
<p>Decision N 2023-1-2-A 'NESTLE'</p>	<p>Trademark registration was refused on the following grounds:</p> <p>According to paragraph 7 of Part 1 of Article 9 of the RA Law 'On Trademarks' and subparagraph 7 of Paragraph 93 of the procedure 'filling in, submission and consideration of trademark applications', approved by the RA Government Decree N 1017-N of August 10, 2017, as a trademark is not a mark that may mislead consumers in questions about the nature of the service is subject to registration.</p> <p>The claimed trademark is not subject to registration, since it contains the entry 'мороженое' (translated as ice cream), which is a specific type of product. This is a refreshing dessert product, the main raw materials of which are dairy products, in particular milk, cream and butter, therefore, all other goods specified in the application do not correspond to the above entry, which will mislead the consumer in matters concerning the type of goods.</p>

Decision N 2023-1-3-A
'BASTARD ԲԱՍՏԱՐԴ'

Trademark registration was refused on the following grounds:

According to paragraph 6 of Part 1 of Article 9 of the RA Law 'On Trademarks' and subparagraph 6 of Paragraph 93 of the Procedure for 'filling in, Submitting and Reviewing trademark applications', approved by RA Government Decree N 1017-N of On August 10, 2017, a mark that contradicts public order, the principles of humanism or morality, and also does not correspond to national or spiritual values, such as, for example, paintings, images, is not subject to registration as a trademark, words or phrases and their combinations whose appearance, content or meaning contradict public order, principles of humanism or morality.

The claimed mark is not subject to registration as a trademark, since the dominant part of the mark is occupied by the word 'Bastard' and its translation into Armenian, where 'Bastard' in English means 'scoundrel, illegitimate child, bastard', therefore, registration of such a trademark contradicts the principles of morality.

Decision N 2023-2-2-A
'BURGER KING'

Trademark registration was refused on the following grounds:

For Class 43 services specified in the notification of international registration, the trademark is not subject to registration as a trademark, since according to paragraph 2 of Part 1 of Article 10 of the RA Law 'On Trademarks', a mark that is identical or it is similar to an earlier trademark, and the identity or analogy of the goods and (or) services marked by it carries the danger of confusion.

The claimed mark is not subject to registration as a trademark for 43rd class services specified in the notification of international registration, as it is confusingly similar to 'BURGER KING', protected in the Republic of Armenia on the basis of registration for 43rd class services (Hasmik Gasparyan, Yerevan,

Nor Mink 9th array, 20 house, sq. 11 10 AM, N 10531, 31.05.2006) to the verbal trademark.

Decision N 2023-2-3-A
'BIRKENSTOCK TRADITION
SINCE 1774'

Trademark registration was refused on the following grounds:

According to paragraph 4 of Part 8 of Article 45 of the RA Law 'On Trademarks', trademark registration was refused because the applicant submitted an objection unacceptable to the state authorized body to refuse an application for an exclusive right to an element that does not have a distinctive feature.

The disclaimer does not affect the exclusive right of the owner to the trademark, and the refusal to declare the exclusive right to the expression 'TRADITION SINCE 1774' assumes that the trademark will be preserved in its integrity, i.e. registration of a trademark with the disclaimer of the above expression does not restrict the rights of the applicant or other economic entities.

Decision N 2023-2-4-A
'ARSENAL'

Trademark registration was refused on the following grounds:

According to paragraph 3 of Part 1 of Article 9 of the RA Law 'On Trademarks' and subparagraph 3 of Paragraph 93 of the procedure for 'filling in, Submitting and Reviewing Trademark applications', approved by RA Government Decree N 1538-N of November 18, 2010, registration a mark that does not have a distinctive feature is not subject to, consists exclusively of such designations that in trade serve to indicate the time of production of goods or the provision of services, type, quality, quantity, purpose of creation, value, geographical origin or other characteristics of the product or service.

'Arsenal', which is the dominant part of the claimed trademark (lane 114). regarding your considerations that the applicant requests a re-examination and, at his discretion, to recognize the Arsenal entry as disqualified, we inform you that it is the dominant element of the trademark, therefore, according to

paragraph 104 of the procedure, if the unsaved element constitutes the dominant part of the trademark, then it is concluded that it is impossible to register this mark as a trademark the sign.

In this case, the 'Arsenal', which is the dominant part of the claimed trademark (Trans- Arsenal), is an element of a descriptive nature for the requested goods and services.

Decision N 2023-3-1-A
'BASTARD ԲԱՍՏԱՐԴ'

Trademark registration was refused on the following grounds:

According to paragraph 2, 7 of Part 1 of Article 9 of the RA Law 'On Trademarks' and sub-paragraphs 2 and 7 of paragraph 93 of the procedure for 'filling in, Submitting and Reviewing trademark applications' approved by the RA Government Decree N 1017-N of August 10, 2017, registration as a trademark is not subject to a sign that does not have distinctive features and consists of simple geometric shapes, lines, as well as their combinations, the combination of which does not give the perception of the elements included in it another qualitative level of discernible perception, or consists of individual letters, numbers, letters that are not perceived as a word, do not have a special graphic style, which may mislead consumers about the geographical origin of goods or services, their quality, character or manufacturer.

The claimed mark is not subject to registration as a trademark, as it consists exclusively of a simple geometric image that does not have a distinctive feature included in the circle, the word 'SPORT', which is from the entries 'ՍՊՈՐՏ ԲԱՐ' and 'COCKTAIL' and a stylized cocktail glass, as well as a trademark that includes the expression 'ՍՊՈՐՏ ԲԱՐ', cannot be registered for the requested services.

If the unguarded element constitutes the dominant part of the trademark, it is concluded that it is impossible to register this mark as a trademark and a decision is made to refuse registration of the mark.

Decision N 2023-3-3-A
'the Bake House'

Trademark registration was refused on the following grounds:

According to paragraphs 3 and 7 of Part 1 of Article 9 of the Law of the Republic of Armenia 'On Trademarks' and the Decree of the Government of the Republic of Armenia dated August 10, 2017 No. 1017- N accordance with sub-paragraphs 3 and 7 of paragraph 93 of the procedure for 'filling in, submitting and reviewing trademark applications', approved by decision N of December 19, 2009, a mark consisting exclusively of such designations that serve in trade to indicate the time of production of goods or the provision of services is not subject to registration, the type, quality, quantity, purpose of creation, value, geographical origin or other characteristics of the goods or services and which may mislead consumers in matters of, concerning the geographical origin of goods or services, their quality, nature or manufacturer.

In this case, the claimed mark is not subject to registration as a trademark, since it consists solely of the descriptive expression 'The BAKE HOUSE', which indicates the purpose of creating the requested goods of the 2nd, 21st classes, namely baking products and baking molding. In accordance with articles 11 and 13 of the Law, a trademark cannot consist only of such elements that are not subject to registration as trademarks and the exclusive right does not apply to elements of a trademark that cannot be registered as a trademark, in particular descriptive elements, provided they are used in good faith and are not infringement of the legitimate interests of third parties. In addition, the claimed mark is not subject to registration as a trademark, since a sign with the inscription 'The BAKE HOUSE' may mislead consumers about the nature of services by providing specific information about the nature of the services provided.

Decision N 2023-3-4-A
'ARAR'

Trademark registration was refused on the following grounds:

The claimed mark for Class 33 goods specified in the application is not subject to registration as a trademark, since according to subparagraph 2 of paragraph 1 of Article 10 of the Law 'On Trademarks', a mark identical or similar to an earlier trademark and identical or identical goods marked by it are not subject to registration as a trademark and (or) services may cause confusion among the public, including their pairing with an earlier trademark.

The declared symbol is not subject to registration for goods of the above class, as it is confusingly similar to the 'ARARE WINEPARK ARMENIA' and 'Արարէ', 'Arare', 'Արար՞' protected on the territory of the Republic of Armenia ('Winepark Armenia' LLC, Norakert, 4 str., 7 AM, N29202, 22.07.2019 and N 31272, 12.08.2020) trademarks.

Decision N 2023-4-4-A
'TUDOR'

Trademark registration was refused on the following grounds:

The trademark declared in accordance with paragraph 4 of Part 8 of Article 45 of the RA Law 'On Trademarks' is not subject to registration, since in response to the notification of refusal of the application for the exclusive right to an element that does not have a corresponding distinctive feature, according to Part 7 of Article 45 of the Law, the applicant submitted an unacceptable objection.

Decision N 2023-4-2-A
'Aregi'

Trademark registration was refused on the following grounds:

According to paragraph 2 of Part 1 of Article 10 and subparagraph 'a' of paragraph 1 of Part 2 of the RA Law 'On Trademarks', the trademark that is identical or similar to an earlier trademark, and the identity or analogy of the goods marked by it and (or) services carries the risk of confusion of the public, including pairing with an earlier trademark.

Trademark registration was refused on the following grounds: According to paragraph 2 of Part 1 of Article

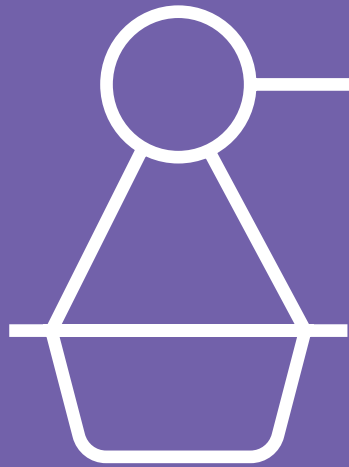
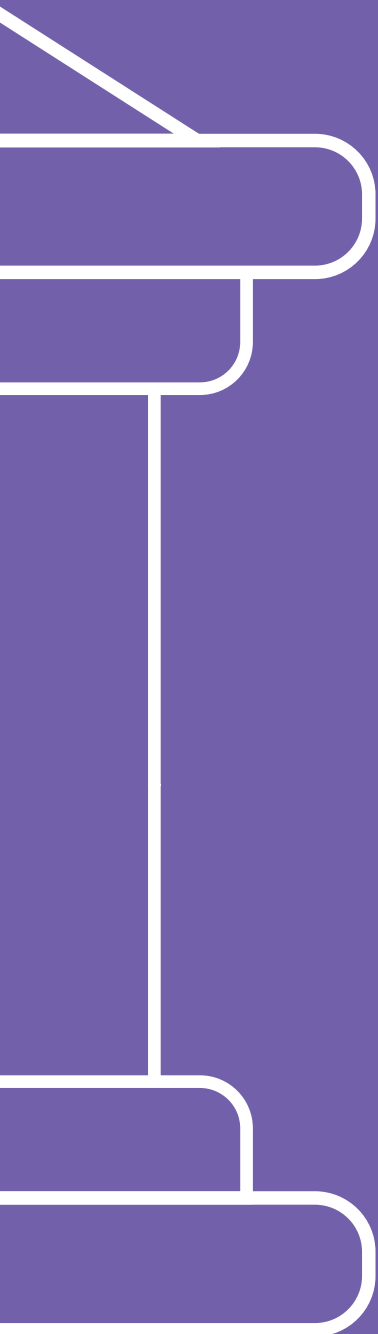
10 and subparagraph 'a' of paragraph 1 of Part 2 of the RA Law 'On Trademarks', the trademark that is identical or similar to an earlier trademark, and the identity or analogy of the goods marked by it and (or) services carries the risk of confusion of the public, including pairing with an earlier trademark.

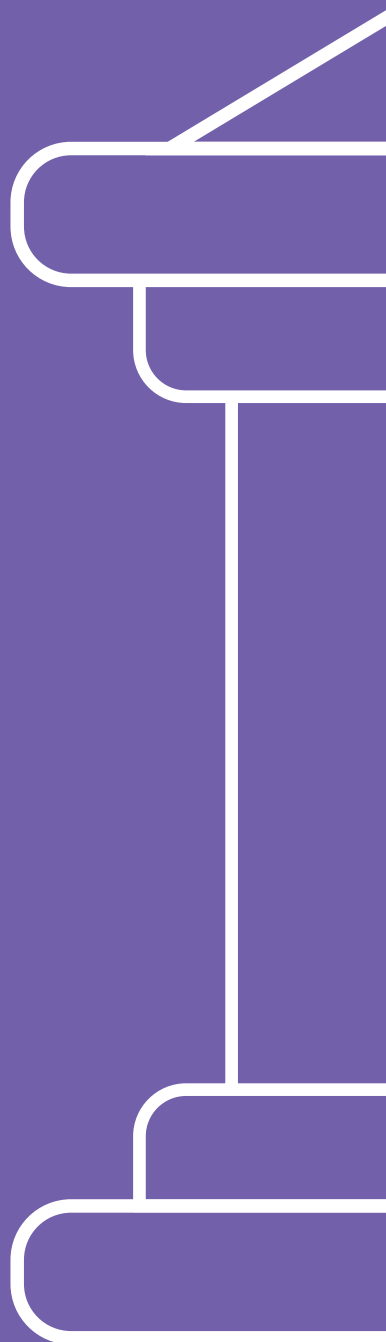
Decision N 2023-4-3-A
'D'Arte ItalYana'

Trademark registration was refused on the following grounds:

In the application, the claimed trademark for Class 30 goods is not subject to registration, since according to paragraph 7 of Part 1 of Article 9 of the RA Law 'On Trademarks' and subparagraph 7 of paragraph 93 of the procedure for 'filling in, submitting and reviewing trademark applications' approved by the decree of the RA Government N 1017-N dated August 10, 2017, registration as a trademark is not subject to a mark that may mislead consumers about the geographical origin of goods and services, their quality, character or manufacturer.

Registration of the claimed mark is subject to refusal in respect of goods of the above class, since the entry 'D'ARTE ITALYANA' on the trademark (Italian art) may mislead the consumer in matters concerning the geographical origin and manufacturer of the goods. That is, the average consumer may get the impression that Nshan belongs to an Italian company or is produced in Italy, since Italian pasta is known all over the world, while Nshan is represented by the Armenian company 'Փրոսպերիթ'.





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