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# Zara trademark saga: the Greek head comes to the surface

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**Manolis Metaxakis** October 11 2024



## **Manolis Metaxakis of Patrinos & Kilimiris reports on a notable judgment in the Zara trademark dispute, highlighting a radical provision in the relevant Greek legislation and the ruling's alignment with EU case law**

The dispute between Inditex, the Spanish fashion group, and Ffauf Italia SpA, the Italian food producer, has, not surprisingly, a Greek head as well. It is well known, after all, that the dispute resembles the Lernaean Hydra. In Greece, Inditex sought to have some of Ffauf's national trademark registrations, relating to 'Pasta Zara', revoked on the basis of non-use.

The specialised division on intellectual property matters of the Athens Court of Appeal delivered a judgment in this respect on July 11 2024. Setting aside the legacy of the dispute, this judgment is notable because it is the fruit of the most radical provision of the Greek Law on Trademarks, No. 4679/2020.

According to that provision, all decisions on invalidity and revocation actions (but not on oppositions) filed and decided at the administrative level – that is to say, before/by the Hellenic Industrial Property Organisation – shall be reviewed by the civil courts; i.e., by the specialised divisions on intellectual property matters of the first-instance court and the Athens Court of Appeal.

As regards the merits of the case, the court emphasised that when assessing whether use of the trademark is genuine, regard must be had to all the facts and circumstances to assess whether the commercial exploitation of the mark in the course of trade is real. The court also clarified that it is sufficient that a trademark has been used during a part of the five-year period applicable for the trademark not to be subject to the sanctions of revocation.

Finally, it was held that the use of a trademark by a company that is economically linked to the proprietor of the mark is presumed to be use of that mark with the consent of the proprietor and is therefore to be deemed to constitute use by the proprietor.

This is in full line with EU case law, which served as a basis for the court to provide a well-reasoned judgment, bearing in mind that the court had to consider several types of evidence to assess whether the use concerned amounts to genuine use of the trademark registrations challenged.

It seems that the Greek legislator had a point with the aforementioned reform, which is good news for all cases, either with a domestic or international flair.

### Topics

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