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Fenistil to Knistil: Greek ruling on pharmaceutical trademarks and likelihood of confusion

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Maria Kilimiris December 01 2025



Maria Kilimiris of Patrinos & Kilimiris explains how an interim ruling concerning the likelihood of confusion between Fenistil and Knistil highlights how pharmaceutical trademarks and product get-up are assessed under EU and national law

The Athens Single-Member Court of First Instance recently delivered a particularly noteworthy judgment, fully aligned with the principles of EU case law on trademarks.

The case concerned an application for interim measures seeking to prohibit the circulation of an over-the-counter (OTC) pharmaceutical product, marketed under the trademark 'Knistil', and its coloured packaging. The application was based, first, on the earlier national word mark 'Fenistil', which the applicant claimed to be a well-known mark, and, second, on the distinctive get-up of the applicant's own OTC Fenistil product. The defendant's Knistil product is a generic version of Fenistil, the protection of which had expired following the lapse of the statutory patent term and the period of market exclusivity.

The defendant's arguments

The defendant argued that no likelihood of confusion existed between the signs or the respective get-up of the products. Its principal points were the following:

- Distinctiveness in pharmaceutical trademarks lies primarily at the beginning of the sign, not at its ending, according to national case law (Athens Administrative Court of Appeal 1872/2022). There is no likelihood of confusion between two marks where their prefixes differ, even if they share the same ending. The suffix “-til” is commonly used in numerous trademarks and names of pharmaceutical products.
- Knistil is an OTC product sold exclusively in pharmacies and dispensed only by pharmacists, meaning consumers do not select it freely from online pharmacy catalogues or general retail shelves.
- The relevant public demonstrates an elevated level of attention when purchasing pharmaceutical products, whether prescription or OTC.
- Consumers seeking relief from itching will consult healthcare professionals (doctors or pharmacists), who will inform them that Fenistil is the originator and Knistil the corresponding generic version, or at least that they constitute different medicinal products.
- The orange colour of the Fenistil packaging is commonly used in the pharmaceutical industry for mild inflammation and pain products, and therefore lacks distinctive character.

On this basis, the defendant maintained that the differences between the signs and packaging were sufficient to preclude confusion.

The applicant’s arguments

The applicant asserted that both the sign Knistil and its packaging infringed its prior trademark and get-up rights, under Greek trademark law and the law of unfair competition. In particular:

- The significant number of identical letters and phonetic elements prevents the average consumer from clearly perceiving the differences between the two signs, thereby creating a likelihood of confusion in line with the case law of the Court of Justice of the European Union (CJEU).
- None of the competing products used for the treatment of skin irritations display the visual or structural similarities that characterise the Knistil packaging when compared to the distinctive get-up of Fenistil. This, in the applicant’s view, demonstrated the absence of any established commercial practice that would justify the arrangement of the visual elements adopted for the Knistil packaging.
- Consistent with the CJEU’s case law, a high level of attention does not automatically exclude the likelihood of confusion; rather, it is merely one of the factors to be assessed in the context of a global appreciation of the risk of confusion.

The court’s decision

In its judgment on August 22 2025, the court accepted all the applicant’s arguments and upheld the application for interim measures. It found that a likelihood of confusion existed between the two signs

and their respective packaging, both visually and phonetically, and in terms of their overall impression.

The applicant has already filed a main lawsuit before the civil courts, where a judgment is pending. It remains to be seen whether the findings of the interim measures ruling will be confirmed in the main action.

Topics

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Trademarks



Maria Kilimiris

PARTNER Patrinos & Kilimiris
