

Jurisprudență**Detalii privind cazul**

ID național: Court of Appeal, Targu Mures, Judgment 46 A

Statul membru: România

Denumire comună: N/A

Tipul de decizie: Decizie a Curții care face obiectul unui recurs

Data deciziei: 27/01/2017

Instanța: Court of Appeal, Targu Mures

Obiect:

Reclamantul:

Pârâtul:

Cuvinte-cheie: misleading advertising

Articole din directivă

Misleading and Comparative Advertising Directive, [Article 2, \(b\)](#) Misleading and Comparative Advertising Directive, [Article 3](#) Misleading and Comparative Advertising Directive, [Article 3](#)

Notă preliminară

A dispute between the holder of a registered trademark in Romania and two of its competitors, related to the alleged infringements of the rights of the claimant. The court in the first instance admitted the claim. The defendants lodged an appeal, and the court discussed (alongside with the question of infringement) the incidence of the Law 367/2003 on the unfair commercial practices and of the Law 158/2008 (on the misleading advertising).

Fapte

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Chestiune juridică

Infringement of the rights of a registered trademark.

Hotărârea

After establishing the existence of the infringement based on the conceptual similarity of the signs used by the defendants with the registered trademark of the claimant, the court stated that the use of the disputed sign (an expression) in the distribution/sale of products identical to those produced and sold by the holder of the trademark enters into the scope of the Law 158/2008 and it reflects manifestly the intention of the defendants to mislead the consumers by creating a confusion between the characteristics of the products in discussion and suggesting that only one of them is produced following the traditional and authentic recipes; with this last suggestion the defendants realise an indirect comparison of the products, by transmitting implicitly the idea that the product created under the registered trademark would not be authentic or original.

The court also stated that it is under no relevance in the application of the provision of the Laws the fact that the possible misled consumers did not make corresponding complaints to the National Authority for the Protection of Consumers.

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Text integral: [Text integral](#)

Cazuri conexe

Nu există rezultate disponibile

Doctrină

Nu există rezultate disponibile

Rezultat

The Targu Mures County Court upheld the decision in the first instance and dismissed the appeal.