

ARCOSTEEL for steel kitchenware is not similar to ARCOS for cutlery Examination/opposition
National procedures

Israel - Gilat, Bareket & Co, Reinhold Cohn Group

May 20 2009

An IP adjudicator at the Israeli Trademarks Office has dismissed an opposition against the registration of the trademark ARCOSTEEL on the grounds that there was no likelihood of confusion with the earlier registered trademark ARCOS (April 2 2009).

Millennium Marketing Intertrade (1999) Ltd applied for the registration of the figurative mark ARCOSTEEL for stainless steel kitchenware in Class 21 of the [Nice Classification](#) (Application 138568). [Arcos Hermanos SA](#), the owner of the figurative trademark ARCOS for cutlery in Class 8, opposed the application on the grounds that the mark applied for was confusingly similar to its registered mark.

The IP adjudicator first dismissed the parties' allegation of bad faith, finding that both Millennium and Arcos sought to extend their businesses legitimately. The IP adjudicator thus proceeded to consider whether there was a likelihood of confusion or association between the marks.

The IP adjudicator found that:

- the goods at issue were similar; and
- even though Arcos's target clientele consisted of professional chefs while that of Millennium consisted of private consumers, this difference could be disregarded.

Comparing the marks as a whole, the IP adjudicator found that they were different in length and pronunciation. Further, the IP adjudicator dismissed Arcos's argument that internet searches for the term 'Arcos' pointed to Millennium's products since, by definition, search engines look for parts of words.

Arcos also argued that the word 'steel' is generic and suggestive (if not descriptive) and, therefore, the first element of Millennium's mark ('Arcos') was dominant. Arcos thus reasoned that consumers would believe that the ARCOSTEEL mark referred to steel products produced by Arcos. However, the IP adjudicator found that consumers would read the mark as 'Arco Steel' and, consequently, would not consider that goods bearing the ARCOSTEEL mark are a range of steel products made by Arcos.

In an *obiter dictum*, the IP adjudicator noted that even if it had been demonstrated that the ARCOS mark is well known, such a finding would not have affected the outcome of the case. The IP adjudicator pointed out that the more notorious the mark, the less likely the public is to confuse it with a similar mark.

David Gilat and Sonia Shnyder, Gilat Bareket & Co, Reinhold Cohn Group, Tel Aviv

© Copyright 2003-2009 Globe Business Publishing Ltd