**Mount Lebanon Court of First**

**Instance, Third Chamber – De** **cision No 738/1999**

**William Grant & Sons LTD v/s Layal Co. L.L.C. and Nader Co. L.L.C.**

**President Antoine Daher and members Mzeihem and Assi - Decision No738 issued on 08/07/1999 - Mount Lebanon**

*Similarity of Trademarks - Consumer Protection - Imitation of a Mar - Unfair Competition.*

**Background Facts**

The Plaintiff, "William Grant & Sons LTD", is a renowned Scottish company dealing with high quality whisky, alcoholic and non-alcoholic beverages. It promotes its product under the mark "Grant's" since 1887.

In Lebanon, the Plaintiff has an exclusive commercial agent which was previously "Avel Company" and currently is "Royal Distributors SAL". The trademark is duly registered before the Industrial and Commercial Property Protection Bureau in the Ministry of Economy and Trade since 1950.

The Plaintiff discovered the existence of whisky bottles that are sold in the Lebanese market under the mark "Grand" showing an overall similarity with the mark "Grant".

The first defendant, Layal Co., owns the distinctive trademark "Grand Rare" and distributes bottles of whisky carrying the said mark. The second Defendant, Nader Co., is producing and filling the whisky carrying this same mark.

**Proceedings**

A complaint was presented to the summary judge in Metn who appointed an expert. This latter declared that by the first Defendant is distributing whisky under the trade name of "Grand" mark, and that the second defendant is producing and filling whisky carrying the said imitated mark. Moreover, the expert found imitated bottles of whisky in the first Defendant's headquarters and in the second Defendant's factory.

The Plaintiff filed a claim before the Mount Lebanon Court of First Instance and requested the Court to confiscate and destroy the said bottles, to order the Defendants to cease the imitation activities, to condemn them to pay penalties and indemnifications and to write off the imitated mark.

The Defendants declared that they are dealing under the name

"Grand Rare" and not "Grand" and that even the Plaintiff is known in the market under the trade name of "William Grant's" and not "Grant's", which shows a big difference between the marks.

Therefore, the Defendant requested the dismissal of the lawsuit in addition to the rejection of the Plaintiffs requests and the withdrawal of the second Defendant from the trial.

**Submissions**

Said facts were corroborated:

* by the public and civil claim, and direct complaint;
* by the expert's report;
* by the entire documents.

**Issues of Law**

The appraisal of the imitation is based in the existence of an overall similarity between the two marks and not to the partial differences brought by the additions made to the principal appellation and which are not important for the ordinary consumer.

In fact, it appeared in the present case that the word "Grand" imitates the word "Grant's" on a visual and phonetic level and creates a confusion in the ordinary consumer's mind despite the additional words and the other dissimilar elements. In accordance with article 98 of Decision No 2385/24, this imitation leads to an unfair competition.

Moreover, the producer of the imitated product should me incriminated on the same level than the distributor.

**Disposition**

First: the Court decided to incur upon the defendants to cease the imitation activities;

Second: the Court confiscated the etiquettes of "Grand" that the Defendants still have:

Third: the Court ordered the first Defendant to write off the mark "Grand";

Fourth: the Court incurred upon the Defendants the payment of indemnities;

Fifth: the Court ordered the publication of the judgment in two newspapers on the expenses of the Defendants;

Sixth: the Court incurred upon the Defendants the payment of all the expenses;

Seventh: the Court rejected the request of withdrawing of the second Defendant from the trial.

Decision issued in Mount Lebanon on 08/07/1999

Source: SADER Rany, SADER Courts’ Series:

 Intellectual Property in Lebanon, SADER Legal Piblishing,2017, P 60.