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No likelihood of confusion between SINA rice and SITA rice; the relevant public has a background in Islamic cultures

Friso Onderdelinden (NLO Shieldmark) · Monday, October 16th, 2017

Last month the Dutch District Court of The Hague decided in case C/09/520643 / HA ZA that there is no likelihood of confusion between SINA rice and SITA rice. This is somewhat remarkable considering earlier decisions on similar comparisons between four letter signs in relation to foodstuffs.

The reason for denying likelihood of confusion lies in the assumption that the relevant public will perceive a strong conceptual dissimilarity between the signs. The relevant public - according to the Court - has an Islamic background in parts of Africa and Asia, such as Afghanistan, Iran and Pakistan, and displays a high level of attention in relation to rice. SINA would refer to a male Islamic scholar, whereas SITA would be associated with a female name and the female mythical figure Sita.

High attention level

The Court held that the relevant public has a high level of attention regarding the goods in question. This is an interesting conclusion: a high degree of attention is usually connected with expensive, infrequent and potentially hazardous purchases. Typical examples are cars or diamonds. Not exactly similar products to rice. Rice is usually considered an inexpensive good, purchased on a regular basis. Nevertheless, the Court held that the relevant public in question has a high degree of attention, because the rice in question is only bought after obtaining advice and information from the seller and acquaintances. The rice in question is imported from countries such as Afghanistan, Pakistan and Iran and sold mainly in local specialty shops. Furthermore, poor-quality rice would be a shame in the Islamic culture in parts of Africa and Asia, such as Afghanistan, Iran and Pakistan.

Relevant public has Islamic background

It is interesting to learn that the Dutch District Court of The Hague holds the opinion that the relevant public for the specific rice has an Islamic background. One cannot help but wonder if the connection between religion and rice is a little far-fetched. Ultimately, Christians, Hindus and Buddhists eat rice as well, just like atheists, and they can easily purchase this product in exactly the same specialty shops. Contrary to

for example halal meat there is no clear religious connection to rice. If one follows the Court's ruling, the relevant public for pasta might be people with a Catholic background in parts of Europe, such as Italy?

The particular rice might be produced for a specialized public, however the religious - in particular Islamic - connection seems implausible. Especially because the Court contradicts itself by referring to the conceptual meaning of SITA as the female mythical figure for this public. Sita is in fact a Hindu goddess[1].

Conclusion

We learn from this decision that the relevant public in question can have a high degree of attention, even if the goods in question are not expensive or - at first sight - are not special purchases. However, the Court's argumentation in this case seems to be a bit shaky, at least. This author is not too sure if this decision would stand in higher instances.

[1] See for example <http://mythology.net/hindu/hindu-gods/sita/>

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