

ORIGINAL No. / 2758 /

Dated 28/11/2015

Procter & Gamble / Karaan, Infringement of a Trademark

**Margin**

*Decision No. 245/ 2016*

In the session dated 4/10/2016, the litigants did not appear before the Court; accordingly, the following judgment was issued and made public after signature thereof by the Judge, and thereafter by the Clerk.

**The Clerk**

*(Signature)*

**The Judge (Hasan Hamdan)**

*(Signature)*

**Judgment**

**IN THE NAME OF THE LEBANESE PEOPLE**

**The Single Criminal Judge in Baabda,**

Upon examination,

It appears that, acting upon the public case No. /58685/ dated 28/11/2015, brought by the Appellate Prosecutor's Office in Mount Lebanon against the following two Defendants:

- **Mohammad Ahmad Karaan**, his mother Khlouda, born in 1993, Syrian; and
- **Ismail Ahmad Karaan**, his mother Khlouda, born in 1998, Syrian,

Said Defendants were committed for trial before the present Court to be tried out for the misdemeanors attributed to them under the provisions of Articles (702), (703) and (714) of the Penal Code; Article (85) of the Law on the Protection of Literary and Artistic Property; and pursuant to Law No. 422 of 2002 in respect of the Second Defendant for being a minor; and

As a result of the public and adversary trial;

It appears that:

**First - Merits:**

It appeared that the civil Plaintiff "Procter & Gamble Company" (P&G), deals, *inter alia*, with the manufacturing of and trading in cleaning agents and detergents, sanitary napkins, shampoos, hair color products, toothpaste, perfumes and other;

Furthermore, it appeared that, in the course of following up the spread of the Company's products in the Lebanese market, the Plaintiff Company has noticed that many persons, among whom the two aforementioned Defendants who run a shop in the region of Bir Hasan, are dealing in

counterfeit products bearing trade names it owns; moreover, in the wake of a raid on said shop, it appeared that it actually contains infringing items bearing the trade name of the Plaintiff Company's products; subsequently, the infringing goods were seized and the two aforesaid Defendants were appointed as judicial receivers thereon;

In the course of preliminary investigation, the existence of imitation was actually established, while the two Defendants stated that they have received the products sequentially from a person whose identity has not been determined;

### **Second - Evidence:**

The facts previously mentioned were substantiated and confirmed by the following evidence:

- The preliminary investigations; and
- All the documents and papers present in the case file;

### **Third - Legal Provisions:**

Whereas, upon perusal of all the documents of the case file, it was upheld to the Court, clearly and without any confusion, that the goods seized by virtue of the investigation report drafted by the Fighting Financial Crimes & Money Laundering Bureau, under No. 1092/302 dated 13/7/2015, and subject of trade in the shop of the two Defendants, were almost identical to the products owned by the civil Plaintiff Company;

Whereas the act of the two Defendants, as described earlier, constitutes the crime set forth the provisions of Article (702) of the Penal Code that provides for the punishment of whoever takes the initiative to counterfeit a trade mark or label of identification which belongs to others, even if this is one by adding thereto any other elements such as a similar, akin, a brand, a kind or type, or a description, said Defendants shall, thus, be convicted thereunder, and the first Defendant shall be imprisoned thereunder for a term of one month and shall be compelled to pay a fine of one million Lebanese Pounds (1,000,000 LP), while the second Defendant shall be referred to the Judge who looks into juvenile misdemeanor cases, in order to determine the sentence to be imposed upon him, pursuant to the provisions of Law No. 422 of 2002; and

Whereas, with regards to other matters included in the public proceedings, there are no facts establishing the materialization of their elements; prosecutions in respect thereof shall thereby be abated; and

Whereas, with regards to the civil lawsuit, and given the damages incurred by the Plaintiff Company as a result of the acts of the two Defendants, the Court deems it necessary to compel both Defendants to pay to the Plaintiff Company the amount of three million Lebanese Pounds (3,000,000 LP) as compensation for the entire damages it has suffered, and to deposit before the Court all goods seized, wherever they are, to be duly destroyed thereafter; and

Whereas, on the basis of the outcome reached by the Court, there is no longer a need to discuss other additional or contrary motives and demands, whether in the terms of the merits or the legal provisions sections, said motives and demands shall be rejected;

**Therefore,**

**ORDERS AS FOLLOWS:**

**First:** To convict the Defendants, whose full identities are here above shown, of the misdemeanor set forth in Article (702) of the Penal Code and to imprison the First Defendant thereunder for a term of three months and impose upon him a fine of one million Lebanese Pounds (1,000,000 L.P.), provided that in the event he fails to pay said fine, he shall be imprisoned one day for every ten thousand Lebanese Pounds (10,000 LP) pursuant to the provisions of Article (54) of the Penal Code; to refer the second Defendant to the Judge who looks into juvenile misdemeanor cases in Baabda, in order to render a judgment in his respect, in accordance with the provisions of Law No. 422 of 2002; to abate the prosecutions against each of the Defendants, with regards to other matters included in the public proceedings, and compel them to pay to the civil Plaintiff Company the amount of three million Lebanese Pounds (3,000,000 LP) as a compensation for the damage it has incurred; and to deposit before the Court all the goods seized, in accordance with the aforementioned investigation report, wherever they are, to be duly destroyed thereafter; and

**Second:** To reject other additional or contrary motives and demands, and impose upon the two Defendants all the court fees and expenses;

A judgment in presence against the Plaintiff and the two Defendants, was issued and made public on 4/10/2016,

**The Clerk/** (Signature)

**The Judge/** (Hasan Hamdan) (Signature)