

**Parallel registration of two GALILEE WINERY marks allowed** Examination/Opposition  
**Israel - Gilat, Bareket & Co, Reinhold Cohn Group** National procedures  
September 24 2008

In cross-opposition proceedings, the deputy registrar of trademarks has dismissed oppositions to the registration of the marks GALILEE WINERY and GALILEE MOUNTAINS WINERY for goods in the same class, holding that both marks could coexist on the register (August 13 2008).

In February 2001 the Galilee Mountains Winery Partnership filed an application for the registration of the word mark GALILEE MOUNTAINS WINERY (in Hebrew) for wine and alcoholic beverages in Class 33 of the [Nice Classification](#) (Application 146938). Galilee Mountains Winery, which is located in the Galilee region, has been engaged in the production of wine since 2001.

In June 2002 Galilee Winery Joseph Gold and Sons Ltd applied for the registration of the word mark GALILEE WINERY (in Hebrew) for alcoholic beverages (except beer) in Class 33 (Application 157792). The company, which was originally located in the Galilee region and engaged in the production of wine, moved to the Haifa area in 1956. It still produces alcoholic beverages, but no longer produces wine.

Both Galilee Mountains Winery and Galilee Winery Joseph Gold filed an opposition to the other party's application. The registrar was called upon to decide the following issues:

- whether GALILEE WINERY was eligible for registration;
- whether GALILEE MOUNTAINS WINERY was eligible for registration; and
- if both marks were eligible for registration, whether they could coexist under Section 30 of the [Trademarks Ordinance 1972](#).

With regard to the registrability of GALILEE WINERY, the registrar held that although the mark contained the geographical name Galilee, the mark was not automatically ineligible for registration under Section 11(11) of the ordinance (which prohibits the registration of a mark whose ordinary meaning is a geographical location, unless it is distinctive). The registrar stated that the geographical name Galilee in the GALILEE WINERY mark was not descriptive of the goods and did not imply a connection with them (unlike for wine, the origin of the ingredients has no significance for other alcoholic beverages). Therefore, the mark's ordinary meaning was not geographical (eg, see "[Use of DARJEELING mark for lingerie allowed by Supreme Court](#)").

The registrar also dismissed the opposition under Section 11(6) of the ordinance, which prohibits the registration of "a mark which contains a false indication of origin". The registrar held that the use of the geographical name Galilee was not misleading on the following grounds:

- Galilee Winery Joseph Gold was originally established in the Galilee region and some of the raw materials used to produce its alcoholic beverages originate from this region;

- Its products (alcoholic beverages excluding wine) are not characterized by a specific geographical area; and
- The use of the word 'winery' (in respect of a factory that does not produce wine) further reduced the likelihood of confusion.

Moreover, Section 11(12) of the ordinance (which prohibits the registration of a mark containing a geographical indication for wine or alcoholic beverages if the goods do not originate from the geographical area in question) does not, under Section 52A of the ordinance, apply to trademark rights acquired before 2000.

Therefore, the registrar concluded that the mark GALILEE WINERY was registrable, provided that Galilee Winery Joseph Gold did not use it in respect of wine.

With regard to the registrability of the mark GALILEE MOUNTAINS WINERY, the registrar held as follows:

- Because the area where grapes are grown affects the quality of wine, a mark containing a geographical name is descriptive and ineligible for registration under Section 11(11) of the ordinance where it is used in respect of wine. However, a mark which includes a geographical name in a creative way is not descriptive.
- 'Galilee mountains' is not the customary name of an area of Galilee. Therefore, the ordinary meaning of GALILEE MOUNTAINS WINERY is not geographical. Relying on Google search results for 'Galilee mountains', the registrar concluded that 'Galilee mountains' was not a specific geographical area and that the mark referred to the winery itself, rather than the area.
- Consequently, GALILEE MOUNTAINS WINERY was eligible for registration.

Having concluded that both GALILEE WINERY and GALILEE MOUNTAINS WINERY were eligible for registration, and satisfied that both parties had applied for registration in good faith, the registrar held that there was no likelihood of confusion between the marks, as the market for wine and that for other alcoholic beverages are clearly distinguishable. Therefore, the registrar approved the registration of both marks, subject to the description of the goods being narrowed to "alcoholic beverages other than wine" for the GALILEE WINERY mark, and "wines only" for the GALILEE MOUNTAINS WINERY mark.

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