

World Trademark Review *Daily*

**Publication of fashion magazine allowed under new name
Israel - Gilat, Bareket & Co, Reinhold Cohn Group**

**Confusion
Passing off**

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In *Venos Fashion DR Ltd v Hachette Filipacchi Presse SA* (Leave of Appeal 4158/10, July 25 2010), the Supreme Court has upheld a decision of the Tel Aviv District Court in which the latter had issued an interim injunction preventing the defendant from publishing and distributing periodicals under the name Belle due to its similarity with *Elle* magazine.

Hachette Filipacchi Presse SA, which publishes the fashion magazine *Elle* and owns a registration for the ELLE mark, brought suit against the publisher of a new fashion magazine, the first issue of which was published in the Hebrew language in April 2010 under the name Belle. Hachette alleged trademark infringement and passing off, and sought a permanent injunction, accounting of profits and damages. An interim injunction was also sought.

The Tel Aviv District Court issued an interim injunction preventing the defendant from publishing periodicals under the name Belle or any other name confusingly similar to ELLE. The court found that ELLE and BELLE were confusingly similar both phonetically and visually (due to the similar fonts and the position of the name Belle on the front cover).

On a motion to stay the injunction, the Supreme Court allowed the publication of the second issue of the defendant's magazine under the name BelleMode in a redesigned format and stayed the injunction insofar as it allowed the publication of the second issue. However, it refused to stay the interim injunction against use of the name Belle (for further details please see "[Supreme Court refuses to stay injunction against use of 'Belle' for fashion magazine](#)").

Following a petition for leave to appeal, the Supreme Court upheld the interim injunction against use of the name Belle. However, it held that, based on a comparison of the front pages of the *Elle* and *BelleMode* magazines, as published, there was no likelihood of confusion between 'BelleMode' and the ELLE mark, or between the front pages of the two magazines. The court pointed out that the addition of 'Mode' reduced the phonetic similarity between ELLE and BELLE, and that changes in the fonts and the position of the name Belle on the front cover contributed to removing any confusion. The court further noted that any significant changes to the magazine's front page design were likely to warrant re-examination by the trial court, upon the plaintiff's motion.

Given the Supreme Court's decision to allow the publication of *BelleMode* in its new design, the plaintiff was instructed to notify the trial court as to whether it intended to pursue the main action (if so, the publication of *BelleMode* would be allowed to continue until the resolution of the main action).

No costs were awarded.

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