

THE OFFICIAL DIVISION

Infringers punished for the imitation of colors of packages of “Whiskas” and “Pedigree” pet foods

/Such behavior of the manufacturer – LLC “KSK BONO” and the Customer – LLC “BONO Ukraine” is characterized as “parasitizing competition”/

Good Name Protected

The Antimonopoly Committee of Ukraine adopted a decision to apply sanctions against companies imitating “Whiskas” and “Pedigree” pet food products manufactured by world-known “Mars Incorporated” (USA).

The investigation was initiated almost a year and a half ago upon an application of “MARS” corporation based on unfair acts of the manufacturer – LLC “KSK BONO” (Czech Republic) and the customer thereof – LLC “BONO Ukraine” (Kyiv).

It was discovered during the investigation that the Czech enterprise manufactured, under the order of LLC “BONO Ukraine”, cat and dog foods under “Super BALANCE” trademark in packages the background colors of which imitated the colors of the packages of “Whiskas” and “Pedigree” foods manufactured by enterprises of “Mars” corporation. That is, shades of colors on “Super BALANCE” products’ packages are confusingly similar to “Whiskas” and “Pedigree” foods’ packages the colors of which are legally protected as subjects of industrial property.

Such behavior of the manufacturer – LLC “KSK BONO” and the customer – LLC “BONO Ukraine” is characterized as “parasitizing competition”. Indeed,

these enterprises tried to unfairly win positions on the market imitating the packages without spending money on advertising and without making any marketing efforts.

The Committee declared the acts of the defendant enterprises illegal and imposed penalties: 1700 UAH – on LLC “KSK BONO” (Czech Republic) and 85000 UAH – on LLC “BONO Ukraine” (Kyiv). The infringers must also cease the manufacture and sale of foods under “Super BALANCE” trademark in disputable packages (packets, boxes and cans). The enterprises must destroy the remains of the packages and labels, i.e. to utilize them.

Oleksiy Kostusiev, the Chairman of the Antimonopoly Committee of Ukraine, pointed out: “We have conducted an intricate and complicated investigation which has ran far beyond the borders of our state. In combating unfair competition the Antimonopoly Committee used experience of foreign competition authorities, which helped us to complete the investigation successfully. So I strongly believe that this case will become a lesson for those who try to benefit not by using their own intellect but by taking advantage of market achievements of successful enterprises to which “MARS” corporation definitely belongs”.

“We made the right decision when we applied to the Antimonopoly Committee for help. We are satisfied with the fair consideration of the case and the Committee’s reasoned decision which will have positive consequences for the functioning of fair competitive environment in Ukraine” – indicated Tamara Lukanina, the authorized representative of “MARS Incorporated”.

