TÜRK PATENT [redacted] ENSTİTÜSÜ

2005-0-132806
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Bsvr No: TM

TURKISH PATENT INSTITUTE
TRADEMARKS DEPARTMENT

PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

Notification of a refusal of protection not based on an opposition pursuant to Rule 17(2) of the Common Regulations.

Our reference : 2005/15592

I- Name and address of the Office making the notification:

TURKISH PATENT INSTITUTE
Trademarks Department
Hipodrom Caddesi No:115
06330 Yenimahalle ANKARA
TURKEY

Telephone:+90 312 3031000
Telefax :+90 312 3031333

II- The international registration which is subject to the refusal:

843663 **cleanstick**

III- Name and address of the holder of the international registration which is subject to the refusal:

JEMAKO INTERNATIONAL GMBH
Robert-Bosch-Strasse 4 46414 Rhede (GERMANY)

IV- Provisions of the Decree-Law No:556 pertaining to the Protection of Trademarks: **7/a,c**
(The relevant provisions of the Turkish Trademarks Act are enclosed.)

V- Grounds for provisional refusal:

-Lack of distinctive character.

-Trademarks which consist exclusively of signs or or indications which serve in trade to indicate the kind, characteristics, quality, intended purpose, value, geographical origin, or designate the time of production of the goods or of rendering of the service or other characteristics of goods or services.

VI- Provisional refusal for some of the goods and services:

Goods and services affected by the refusal :

All the goods in class 21.

VII- GENERAL INFORMATION:

Appeals may be lodged against the refusals of the Institute.

The holder of the international registration may lodge an appeal against this provisional refusal. The appeal has to be lodged through the intermediary of a representative who must be registered as a trademark agent at TPI and who is domiciled in Turkey. The appeal must be received by the Turkish Patent Institute no later than 2 months after the notification date of this provisional refusal by WIPO to the applicant or his representative. If no appeal is received within this time limit, the designation will be considered as refusal of protection in Turkey in accordance with this provisional refusal.

If the designation is accepted subsequent to an appeal, the designation will be published in the Turkish Official Trademark Bulletin. This allows -3 months from the date of publication - a party to file an opposition, which means that the designation may be the subject of a further refusal.

VIII- Notification Date of Refusal (ddmmyyyy): 07 -06- 2005

IX- Signature by the Office : **TURKISH PATENT INSTITUTE**
TRADEMARKS DEPARTMENT

Tülay İŞGÖR
Trademark Examiner

Number of continuation sheets: 1

RELEVANT SECTIONS OF THE DECREE-LAW NO.556 PERTAINING TO THE PROTECTION OF TRADEMARKS

SECTION TWO
Signs of Which a Trademark May Consist and Means Whereby a Trademark is Obtained

Signs of Which a Trademark May Consist

Article 5 - A trademark , provided that it is capable of distinguishing the goods and services of one undertaking from the goods and services of other undertakings, may consist of all kinds of signs being represented graphically such as words, including personal names, designs, letters, numerals, shape of the goods or their packaging and by similar descriptive means capable of being published and reproduced by printing.

Trademark may be registered along with the product or its packaging. However, the registration of the product or the packaging does not grant exclusive rights.

Absolute Grounds for Refusal for Registry of a Trademark

Article 7 - Following signs shall not be registered as a trademark:

a) signs which do not conform with the provisions of Article 5.

b) trademarks identical or confusingly similar with a trademark registered earlier or with an earlier filing date for registration in respect of an identical or same type of product or services,

c) trademarks which consist exclusively of signs or indications which serve in trade to indicate the kind, characteristics, quality, intended purpose, value, geographical origin, or designate the time of production of the goods or of rendering of the service or other characteristics of goods or services,

d) trademarks which consist exclusively of signs and names used to distinguish specific groups of craftsmen, professionals or tradesmen or have become customary in the current and established practices of the trade,

e) signs containing the shape of the product which results from the nature of the good, which is necessary to obtain a technical result or which gives substantial value to the good.

f) trademarks which are of such a nature as to deceive the public, such as to the nature, quality, place of production or geographical origin of the goods and services.

g) trademarks which have not been authorized by the competent authorities and are to be refused pursuant to Article 6ter of the Paris Convention,

h) trademarks containing badges, emblems or escutcheons other than those covered by Article 6ter of the Paris Convention which have not been authorized by the competent authorities and are of particular historical and cultural public interest,

i) well known marks according to 6bis of the Paris Convention, use of which are not permitted by their owners,

j) trademarks which contain religious symbols.

k) trademarks which are contrary to public policy and to accepted principles of morality.

The provisions of (b), (c) & (d) can not be invoked to refuse the registration of a trademark which has been used before the registration and has acquired through this usage distinctive character in respect of the goods and services for which it is to be registered.

PART SIX
Appeals Against the Decisions of the Institute

Appeals
Article 47 - Appeals may be placed against the decisions of the Institute.

Where an appeal is made for an interim decision, a separate appeal shall be allowed upon decision becoming final.

Persons Entitled to Appeal
Article 48 - Any party adversely affected by a decision of the Institute may appeal. Others party to the procedures with respect to the decisions shall have natural right of appeal

Form of Appeal
Article 49 - Notice of appeal must be filed in writing at the Institute within two months after the date of notification of the decision. The fee for appeal has to be paid when filing of the notice for the appeal to be examined. The grounds for appeal must be filed in a written statement within two months of the notification of the decision. Where the statement of grounds for appeal has not been submitted within this period the appeal shall be deemed not to have been filed.

Rectifying a Decision
Article 50 - The related department of the Institute upon deciding that the appeal is true and right may rectify its decision. This shall not apply where the appellant is opposed by another party to the proceedings.

If the appeal is not found acceptable by the related department, the appeal shall be forwarded to the Re-examination and Evaluation Board by the department without comment as to its merits.

Examination of Appeals
Article 51 - The Re-examination and Evaluation Board shall consider the appeal if the appeal is admissible.

The Re-examination and Evaluation Board shall invite the parties to submit their observations within the period prescribed by the Implementing Regulation, on the observations of the other parties or those of itself.

Decision in Respect of Appeal
Article 52 - After the examination, the Re-examination and Evaluation Board shall deliver its decision.

PART NINE
Persons Authorized to Act and Trademark Agents

Persons Authorized to Act
Article 80 - The following are authorised to act before the Institute with respect to trademarks:
a) natural or legal persons who have filed the application. Legal persons may only be represented by those duly empowered by their respective authorised bodies.
b) trademark agents.

Those who are domiciled outside the country can only be represented by trademark agents.

Where an agent has been appointed, all procedures are executed through the agent. All notices made to the agent shall be considered to have been made to the assignee.