

**TURKISH PATENT INSTITUTE
TRADEMARKS DEPARTMENT**



2009-O-70149
26/02/2009

**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: 2008/66775 CA

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 the subject of the refusal:
816733**

**III- Name and address of the holder of the international registration which is the subject of the refusal:
CHIESI FARMACEUTICI S.P.A.**

**IV- Provisions of the Decree-Law No:556 pertaining to the Protection of Trademarks:7/1(b)
(The relevant provisions of the Turkish Trademarks Act are enclosed.)**

V- Grounds for provisional refusal:

**7/1(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.**

**National registration/application number(s) ;
2005 02192 clipper**

VI- Provisional refusal for all of goods and services

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 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):

10-03-2009

IV- Signature by the Office:

TURKISH PATENT INSTITUTE
TRADEMARKS DEPARTMENT


Cahit Ayvaz
Trademark Examiner

Number of continuation sheets: 4

TURKISH PATENT INSTITUTE
Detailed Trademark Information

National Application Number	: 2005/02192	Date of National Application	: 27/01/2005
National Registration Number	: 2005 02192	Protection Date	: 27/01/2005
Mark	: clipper		

Clipper

Holders :

Name : SAFA TARIM ANONİM ŞİRKETİ
Address : Kayacık Mah. 3.Organize Sanayi Bölgesi İhsandede Cad. 20.Sk. No:35 SELÇUKLU
KONYA

Nice Classification :

01 , 03 , 05

List of goods and/or services :

Bilim sahasında kullanılan kimyasal ürünler: Bilimsel amaçlı teşhis maddeleri/araçları, deney kağıtları, bilimsel amaçlı radyoaktif maddeler, reaktifler...

Fotoğrafçılıkta kullanılan kimyasal ürünler: Işığa karşı hassas kağıtlar, folyolar ve filmler; pozlanmamış sinema ve fotoğraf filmleri, pozlanmamış röntgen filmleri, film işlemede kullanılan kimyasallar ...

Tarım, bahçecilik ve ormancılıkta kullanılan kimyasal ürünler: Gübreler, deniz yosunları (gübreler), humus, kültür toprağı, kimyasal toprak ıslah (iyileştirme) maddeleri, bitki gelişimini düzenleyiciler; aşılama macunu ve ağaç oyuklarını doldurmaya yarayan macunlar gibi özel macunlar, gübrelik turbalar, bitkiler için küf ve mantar önleyici maddeler...

Yangın söndürücü maddeler,

Çimento ve beton için katkı maddeleri, sıvı izolasyonu için maddeler...

Derz dolgu ve fayans/mermer yapıştırma maddeleri,

Ev ve kırtasiye amaçlı olmayan tutkallar...

Kimyasal yakıt, katkı ve tasarruf maddeleri (motor yakıtları için olanlar da dahil), fren sıvıları, antifrizler, motor koruyucu sentetik maddeler, araç motorları için soğutucu maddeler ve bunların kaynamasını önleyici kimyasallar...

Kimyasal filtre malzemeleri; kireç ve yosun önleyiciler, kireç ve yosun gidericiler; kimyasal baca temizleyicileri....

Sondaj makinaları için sondaj çamurları,

Deterjanlar (sanayi ve tıbbi amaçlı olanlar hariç), çamaşırsuyu, çamaşır kolası, çivit, arap sabunu, yumuşatıcılar, kireçlenmeyi önleyiciler, granül sabun, cam silme maddeleri, ağartma ve parlatma maddeleri...

Parfümler; uçucu yağlar (esans yağları), kolonyalar, losyonlar, deodorantlar, gülsuyu, traş losyonları, ter önleyici deodorantlar...

Ojeler, rujlar, rimeller, kremler, saç boyaları, şampuanlar, saç bakımı ile ilgili maddeler; kaş kalemleri (eyeliner), pudralar; kozmetik amaçlı aseton; traş kremleri, duş jelleri, petrolyum jeli, epilasyon ürünleri, kınalar; zayıflatıcı kozmetik ürünler; dolu kozmetik çantaları (kozmetik setleri)...

Kozmetik maddeleri emdirilmiş kağıt mendiller; kulak temizleme çubukları; kozmetik amaçlı pamuk; ıslak mendiller...

Sabunlar: Tıbbi amaçlı ve koku giderici olanlar da dahil kişisel kullanım için sabunlar, dezenfekte edici sabunlar, terlemeye karşı sabunlar...

Diş bakımı ürünleri: Diş macunları, diş pastaları, tıbbi diş temizleme maddeleri, diş temizleme tozları, diş suları , diş protezleri için temizleme maddeleri, tıbbi amaçlı olmayan ağız gargaraları, anti tartar diş macunları...

Aşındırıcı ürünler: Zımpara bezleri, zımpara kağıtları, zımpara tozları ve macunları, pomza taşları, pastalar...

Cilalar: Deri eşyalar için cilalar; madeni eşyalar için cilalar; ahşap eşyalar için cilalar, zeminler için cilalar...

Kozmetik ve parfümeri ürünleri ile sabunların üretiminde kullanılan doğal ürünler...

İnsan ve hayvan sağlığı için ilaçlar, tıbbi amaçlı kimyasal ürünler: İlaçlar, doğum kontrol hapları, aşılar,

serumlar, vitaminler, teşhis maddeleri, tıbbi amaçlı radyoaktif maddeler, bakteriyolojik kültür ortamları, tıpta ve veterinerlikte kullanılan bakteriyolojik preparatlar, tıbbi amaçlı alçı, eczacılık amaçlı alkol, tıbbi amaçlı alkol, hayvan spermleri...

Tıbbi amaçlı diyet maddeleri, diyet gıdaları, bebek mamaları...

Diş hekimliği için ürünler (aletler/cihazlar hariç): Diş dolgu maddeleri; diş kalıbı çıkarma maddeleri (alçı, diş mumu vb.); diş protezi için tutturucu malzemeler, diş kalıbı macunları, dişilikte kullanılan kıymetli maden alaşımları...

Tıbbi amaçlı gazlar,

Hijyenik ürünler: Altını tutamayanlar için kullanılan ve adet günlerinde kullanılanlar da dahil olmak üzere vücut akıntılarına karşı kullanılan hijyenik ürünler yani pedler, tamponlar, bezler, külotlar; tıbbi amaçlı yakılar, flasterler, bandajlar, pansuman malzemeleri...

Tıbbi amaçlı bitkiler ve bitkisel içecekler; bitki karışımları ve konsantreleri; şifalı bitki çayları, zayıflatıcı çaylar, ginseng çayı ...

Zararlı bitkileri, hayvanları ve mantarları imha edici maddeler: Fungisitler (mantar öldürücüler), herbisitler; haşereleri yakalayıcı, öldürücü veya kovucu maddeler, hayvan banyo maddeleri (parazitleri öldürmek için); küf giderici ürünler, güve önleyici preparatlar; fare zehirleri...

Odalar, taşıt araçları ve diğer mekanlar için koku gidericiler, koku vericiler, kişisel kullanım dışındaki deodorantlar...

Dezenfektanlar, antiseptikler (mikrop öldürücüler), tıbbi amaçlı deterjanlar...

Eczacılık, tıp ve veterinerlikte kullanılan kimyasal elementler ve doğal ürünler...

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 similarly descriptive means capable of being published and reproduced by printing.

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

Means Whereby a Trademark Right is Obtained

Article 6 - Protection for a trademark under this Decree Having the Power of Law is obtained by registration.

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 date of application 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 authorised 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 authorised by the competent authorities and are of particular historical and cultural public interest,
- i) trademarks which have not been authorised by their owners, well known marks according to 6bis of the Paris Convention,
- j) trademarks which contain religious symbols,
- k) trademarks which 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.