

**TURKISH PATENT INSTITUTE
TRADEMARKS DEPARTMENT**



2009-O-355524
20/10/2009

**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: 2009/36686 HK

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:

681461

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

**OTKRYTOE AKTSIONERNOE OBCHTCHESTVO "NEFTYANAYA KOMPANIYA
"LUKOIL"**

**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) ;
2006 25307 luk(Int. Reg. No : 731625)**

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):

10-11-2009

IV- Signature by the Office:

TURKISH PATENT INSTITUTE
TRADEMARKS DEPARTMENT


Mekan Kiziltepe
Trademark Examiner

Number of continuation sheets: 6



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- (151) 17.11.1999 731625
(180) 17.11.2009
(171) 10
(732) LuK Lamellen und Kupplungsbau
Beteiligungs KG
Industriestrasse 3
77815 Bühl (DE)
(812) DE
(842) limited partnership Germany
(740) Haft, von Puttkamer
Berngruber, Czybulka
Patentanwälte
Franziskanerstrasse 38
81669 München (DE)
(540)



- (531) 26.04; 27.05; 29.01
(591) *Black and yellow.*
Noir et jaune.
Negro y amarillo.
(511)
04 *Oil and grease for technical purposes as well as lubricants (including gaseous and liquid fuels).*
Huile et graisse à usage technique ainsi que lubrifiants (notamment combustibles liquides et gazeux).
Aceites y grasas para uso técnico así como lubricantes (incluidos combustibles líquidos y gaseosos).
07 *Hydraulic pumps and motors, hydraulic accessories included in this class, including compensating reservoirs, hydraulic valves, bearings, tools concerning these machines included in this class and accessories included in this class for use in mechanic workshops and for all the goods included in this class.*
Pompes et moteurs hydrauliques, accessoires hydrauliques compris dans cette classe, en particulier réservoirs de compensation, clapets hydrauliques, coussinets, outils en liaison avec ces machines compris dans cette classe et accessoires compris dans cette classe utilisés dans les ateliers mécaniques et pour les tous les produits compris dans cette classe.
Bombas y motores hidráulicos, accesorios hidráulicos comprendidos en esta clase, incluidos embalses secundarios, válvulas hidráulicas, cojinetes,

herramientas correspondientes a estas máquinas comprendidas en esta clase, accesorios comprendidos en esta clase destinados a talleres mecánicos y accesorios correspondientes a los productos antes mencionados.

08 *Tools.*

Outils.

Herramientas.

09 *Control units, control systems with electronic units for vehicles, apparatus and devices included in this class for use in or in connection with land vehicles.*

Unités de commande, systèmes de commande munies de blocs électroniques pour véhicules, appareils et dispositifs compris dans cette classe conçus pour ou associés à des véhicules terrestres.

Dispositivos de control, sistemas de control con elementos electrónicos para vehículos, aparatos y dispositivos comprendidos en esta clase para vehículos terrestres o relacionados con éstos.

12 *Parts of on and off-road vehicles.*

Éléments destinés à des véhicules et à des véhicules tous terrains.

Partes de vehículos de carretera o de vehículos todo terreno.

25 *Clothing.*

Vêtements.

Prendas de vestir.

37 *Repair of motor vehicles and parts for on and off-road vehicles.*

Réparation de véhicules à moteur et éléments de véhicules et de véhicules tous terrains.

Reparación de vehículos de motor y de partes de vehículos de carretera o vehículos todo terreno.

40 *Recycling of motor vehicles and parts for on and off-road vehicles.*

Recyclage de véhicules à moteur et pièces de véhicules et de véhicules tous terrains.

Reciclaje de vehículos de motor y partes de vehículos de carretera o de vehículos todo terreno.

41 *Training of staff for the measuring, checking and repairing of parts of vehicles.*

Formation de personnel pour les techniques de mesure, de vérification et de réparation de pièces de véhicules.

Formación de personal para medir, supervisar y reparar partes de vehículos.

(821) DE, 17.05.1999, 399 28 179.7/07

(822) DE, 07.11.2000, 399 28 179.7/07

(300) DE, 17.05.1999, 399 28 179.7/07

(831) DZ, KZ, LR, SD, TJ

(832) DK, FI, GB, IS, KR, LT, NO, SE, TR, UZ

(834) AL, AM, AZ, BA, BG, BY, CH, CN, CU, CZ, HR, HU, KG, KP, LI, LS, MC,
MD, ME, MK, MN, PL, RO, RS, RU, SI, SK, SY, SZ, UA, VN

(527) GB

**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 (a), (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.