

Turkish Trade Mark Office protects New Zealand's famous rugby team's The Kiwis trade mark

The Turkish Trade Mark Office has allowed an opposition based on genuine rights obtained via prior use of the opponent's trade mark and worldwide registrations although that trade mark is not used in Turkey for the relevant goods and services.

The opponent is the owner of the New Zealand's famous rugby team (the New Zealand Kiwis), commonly known as "The Kiwis", and has trade mark registrations for "The Kiwis" in many countries. Turkey however is not one of them and the opponent's trade marks are never used in Turkey for the relevant goods and services.

Under Turkish Trade Mark Law, in an opposition based on the genuine rights of the unregistered trade mark, the opponent must show use of the unregistered trade mark for the relevant goods before the filing date of the applied-for trade mark. In recent decisions, the Office has asked for evidence of use of the unregistered trade marks in question within the territory of Turkey in order to grant the genuine rights in them.

In the present opposition, the applicant filed an application to register the "KIWIS" trade mark before the Office in classes 25 and 35 of the Nice Classification system. The opponent filed an opposition based on the genuine rights and the well-known status of its trade marks as well as its team's industrial property rights in the "The Kiwis" trade mark and filed extensive evidence proving the use of the trade mark worldwide.

Trade Marks Department Directorate of the Office allowed the opposition and rejected the application entirely due to the ground trade mark's recognition worldwide and the rights of the opponent on its rugby team's name.

This is a landmark decision with regard to oppositions based on genuine rights since the Trade Marks Department Directorate of the Office acknowledged the genuine rights in a trade mark even though this trade mark is never used in Turkey on the goods and services within the scope of the opposed application.

This blogpost has been kindly prepared for Class 46 by Mutlu Yıldırım Köse and Seda Gmbođlu, both of Gn+Partners.