

## **GUCCI opposition fights off GUJI application after appeal**

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The Turkish Court of Appeals has upheld a decision of the specialized IP First Instance Court of Ankara, which annulled the Turkish Patent Institute's (TPI) decision to refuse Guccio Gucci SpA's (Gucci) opposition against an application to register the mark GUJI (Case 2006/12097 E-2007/848 K, January 25 2007).

Gucci holds a number of GUCCI marks registered in Turkey since July 16 1982 for goods and service in Classes 3, 6, 18, 25, 34 and 35 of the Nice Classification. The TPI rejected its opposition against registration of the GUJI mark for goods and services in Classes 25 and 35 on the grounds that there was no similarity between the two signs. Gucci appealed to the IP Court.

The IP Court allowed the appeal and annulled the TPI's decision. It found that the two trademarks were similar visually and in terms of pronunciation so as to be almost indistinguishable in the minds of consumers.

Regarding goods in Class 25, the court stated that it was very likely that some consumers of such goods would buy products bearing the GUJI sign when in fact they intended to buy goods bearing Gucci's mark. The court ruled that even if consumers realized that the marks in question were different, they might still assume that these trademarks were owned by the same entity or that there was an administrative or economic relationship between the undertakings due to the visual and formal similarities between the signs.

Turning to the services in Class 35, the court stated that in order to prevent registration of the GUJI mark for these services, Gucci would have to prove that its mark is well known.

Having reviewed all the arguments and evidence submitted by Gucci, the court affirmed that to qualify as a well-known mark, a sign must be known to and easily remembered by the relevant sector of the public. The court also confirmed that well-known marks should enjoy a broader protection than other marks since they are more prone to abuse and confusion.

The court recognized the mark GUCCI to be known not only in the relevant sector, but also in other sectors of the public and stated that it had met the criteria to qualify as a well-known mark within the meaning of Articles 7/1-I and 8/1-IV of the Trademark Decree Law. Therefore, the GUCCI mark should be protected against registration for goods and services in different Nice Classification classes and ordered the annulment of the TPI's decision to reject Gucci's opposition.

The Court of Appeals has now affirmed this decision following the same reasoning as the IP Court.