

Aural similarity with VİGOSS sees off BİGOS application

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The Re-Examination and Evaluation Board of the Turkish Patent Institute (TPI) has upheld a decision finding the marks BİGOS and VİGOSS aurally confusingly similar.

Bigo Tekstil Sanayi ve Ticaret Ltd Şti, a local manufacturer, filed an application to register BİGOS as a trademark in Class 25 of the Nice Classification. Bulur Giyim Sanayi ve Ticaret Limited Şti filed an opposition on the grounds that the application is confusingly similar to its senior trademark VİGOSS under Article 8(1)(b) of the Decree Law Pertaining the Protection of Trademarks. Neither mark has a particular meaning in Turkish.

The Directorate of Trademarks upheld Bulur Giyim's opposition. On appeal, the TPI Re-Examination and Evaluation Board affirmed. The board found the marks confusingly similar, in particular aurally.

This is a rare example of a decision in which the TPI has clearly stated that its reason for reaching its decision is a likelihood of aural similarity. As per the precedents of the Court of Appeals and the current understanding in Turkish doctrine, similarity can be either visual or aural. However, because the TPI rarely expressly states its reasons for reaching a conclusion, it is usually not possible to ascertain on what grounds the TPI has established or rejected the similarity of the trademarks at issue.