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Marks with same first two letters and consonants held to be confusingly similar

**Examination/opposition
National procedures**

Turkey - Mehmet Gun and Partners

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The Court of Appeal has upheld a decision of a first instance court in which the latter had ruled that the application for GUECCA, which covered goods and services in Classes 18, 25 and 35 of the [Nice Classification](#), was confusingly similar to the well-known GUCCI marks.

On October 17 2007 Mehmet Gedikli filed an application to register the mark GUECCA with the [Turkish Patent Institute](#) (TPI) in Classes 18, 25 and 35. [Guccio Gucci Spa](#) filed an opposition to the application on the grounds that it was confusingly similar to its GUCCI marks for goods and services in Classes 18, 25 and 35. It also argued that its GUCCI marks were well known.

The Trademarks Department Directorate of the TPI rejected the opposition, stating that the application was not confusingly similar to any of the GUCCI marks.

Gucci appealed to the Re-examination and Evaluation Board of the TPI based on the same grounds. Gucci maintained that:

- the trademarks were confusingly similar;
- the well-known status of GUCCI trademarks should be considered when examining the similarity of the marks; and
- the applicant had filed the application in bad faith.

After examining the appeal, the board held that there was a likelihood of confusion on the part of the public in view of:

- the well-known status of the GUCCI marks;
- the fact that GUECCA and GUCCI shared the letters 'G-U-C-C'; and
- the fact that the applicant sought registration for the same goods and services as those covered by the GUCCI marks.

The applicant filed a court action before the competent Ankara IP court requesting the cancellation of the TPI's decision; after a full trial, the court rejected the action.

The Ankara Third IP Court, in reasoned decision 2010/143, referred to the expert report obtained during the court action process. It stated that the GUECCA mark was confusingly similar to Gucci's well-known GUCCI marks, since GUECCA and GUCCI include the letters 'G-U' and 'CC', which led to a visual and phonetic similarity. Further, the court stated that the word 'Guecca' has no meaning in Turkish and, since GUCCI is a well-known trademark in the textile and fashion sector, there was no doubt that the application was filed in bad faith and might create likelihood of confusion on the part of the public. The applicant filed an appeal against the court's decision, but the appeal was rejected and the first instance decision was affirmed by the Court of Appeal.

The decision illustrates how the TPI's decisions have improved within the last couple of years with regard to the assessment of confusing similarity. It also sets a precedent for opposition and cancellation cases in which the first two letters of the marks and the order of the consonants are identical, but the vowels are different and the mark applied for has no meaning in Turkish.

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