

Likelihood of association between bull device mark and RED BULL marks

Turkey - [Mehmet Gün & Partners](#)

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In a dispute involving the RED BULL mark, the Turkish Patent Institute (TPI) has provided guidance on how it will interpret the likelihood of association between a trademark application and an earlier trademark.

In December 2009 Kamal Khanbabaie General Trading Co LLC filed an application for the registration of the figurative trademark BULZAI ENERGY DRINK for “energy drinks” in Class 32 of the [Nice Classification](#):



[Red Bull GmbH](#) filed an opposition against the application on the grounds that the mark was confusingly similar to its word mark RED BULL and its figurative mark RED BULL ENERGY DRINK:



Red Bull also argued that its trademarks are well known in Turkey.

Red Bull expressly stated in the opposition that, based on a global assessment of the mark applied for, there was a significant likelihood of association with Red Bull's earlier trademarks, in particular due to the presence of the term 'bul', which is very similar to 'bull'. Similarly, the use of the bull device would directly evoke Red Bull in the public's mind when used for energy drinks, which were the only goods covered by the application.

The TPI held that:

- the mark applied for was confusingly similar to Red Bull's trademarks; and
- there was a likelihood of association between the mark applied for and the RED BULL marks.

In reaching the above conclusion, the TPI considered that Red Bull is very well known in the energy drinks sector and that its products are associated with the bull device in the public's mind.

Arguably, over the past two years, the TPI has improved the quality of its decisions and provided clear reasons for almost all of its rulings and findings. The present case is one of many decisions rendered during that period in which the TPI has considered all the relevant factors, including:

- a global assessment of the trademarks;
- earlier decisions of the TPI;
- precedents of the courts; and
- the well-known status of the opponent's trademarks.

Most importantly, the decision illustrates the principle of likelihood of association between a trademark application and an earlier mark, as set forth in Article 8(1)(b) of the Turkish Trademark Decree-Law, which is an exact translation of Article 8(1)(b) of the [Community Trademark Regulation \(207/2009\)](#).

Had the TPI considered only the main component of the mark applied for, there would have been a serious possibility that it would not have found the marks to be confusingly similar. However, when the bull device, the terms 'energy drink' and 'Bulzai', the identity of the goods and the well-known status of Red Bull's marks are considered together, it is clear that there is a likelihood of association between the marks.

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