

TPI relaxes approach to distinctiveness of marks consisting of descriptive foreign words Examination/opposition
National procedures

Turkey - Kenaroglu Intellectual Property

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The [Turkish Patent Institute](#) (TPI) has changed its approach to the distinctiveness of trademarks consisting of descriptive foreign words within the context of an examination based on absolute grounds.

In 2014 [UNOX SPA](#) - an Italian company that is a leader in the sector of professional ovens - filed an application to obtain an international registration designating Turkey for the trademark BAKERLUX for ovens and heating products, among others, in Class 11 of the [Nice Classification](#). The application was rejected by the Trademarks Department Directorate of the TPI following an *ex officio* examination on absolute grounds pursuant to Article 7/1(c) of the [Decree-Law No 556 on the Protection of Trademarks](#). The refusal was based on the finding that BAKERLUX has a descriptive meaning in English, as the terms 'baker' and 'lux' indicate the characteristics, quality and intended purpose of the goods applied for.

The applicant recognised that there was a connection between the meaning of 'baker' and the function of goods and that the term 'lux' defined the quality of those. However, it claimed that the combination of the cited terms, namely BAKERLUX, was sufficiently distinctive to be registered for the products at issue. Additionally, the descriptive meaning of the terms 'baker' and 'lux' was not known by the majority of Turkish consumers.

The applicant appealed the refusal decision to the Re-examination and Evaluation Board of the TPI on the basis of the abovementioned grounds. The board upheld the applicant's arguments and the refusal decision was cancelled accordingly.

The board's final decision shows that the TPI's approach to the distinctiveness and descriptiveness of trademarks has been relaxed and that the examination on such criteria will be more flexible where the trademark consists of words that have a descriptive meaning in a foreign language. Nevertheless, this position has been adopted only by the board, and the examiners handling the *ex officio* examination phase have not, so far, followed such approach.

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