

Registrability- Three Dimensional Marks

“Octagonal cigarette packages”

REEMTSMA CIGARETTENFABRIKEN GMBH. vs. TURKISH PATENT INSTITUTE

**(*) 8th Commercial Court of Ankara: Case no- 2002/229 – Decision no. 2002/660
(December 30, 2002)**

An action (*) was instituted against the Turkish Patent Institute for the withdrawal of the administrative decision refusing the registration of three dimensional International Trademark consisting of cigarette packaging on the ground that the packaging sought for registration does not have the characteristic of distinctiveness of a trademark as specified in the Article 5 of the Decree-Law No.556 on the Trade/Service Marks.

The plaintiff claimed that the trademark applied for consists of an octagonal packaging with a white and yellow color combination so as to render the mark distinctive from other cigarette packages that are rectangle and further drawn the attention of the Court that the octagonal package has been expressly chosen as it distinguishes over other packagings.

The Turkish Patent Institute contended without success that the trademarks are not to be considered as distinctive in the sense of the article 5 and 7/1(a) of the Decree Law no. 556.

The Court following the favorable conclusions of the expert’s report and considering the trademark in the sense of the Article 5 of the Decree Law no. 556 hold that the eight yellow lines going downwards by enlarging on the white ground of the octagonal shaped packaging render the designation distinctive and ordered for the withdrawal of the decision of refusal so as the packaging enjoys protection in Turkey as a trademark.