

**“Barack Obama” and “Romano Prodi” as trademarks in Turkey, or
Adopting “Barack Obama” as a trademark is contrary to public policy or to
accepted principles of morality.**

Romano Prodi, Beatles, Nicole Kidman, Sophia Loren, Allen Iverson, Maradona, Maria Sharapova, Heidi Klum, Adriana Lima and David Bowie. All are registered trademarks in Turkey, and have been registered by either Turkish individuals or Turkish companies.

It may be said that vast majority of applications for such signs in Turkey, namely, signs consisting of the full name of world-famous political leaders, athletes and/or celebrities, are filed with expectation of gaining money or other compensations by selling it back to the right holder. The long running cancellation proceedings, and the interpretation and application of the current laws in Turkey (*i.e. that subsequent applications filed by registrants are registered during cancellation proceedings despite the right holders’ objections, so the right holders end up with another registration after a successful cancellation proceeding*), make it easier for bad faith registrants to force their demands on the right holders.

Although trademark Law is an area of law which is heavily regulated by International Treaties to promote free and fair trade, none of these treaties, including Paris Convention for the Protection of Industrial Property, impose *ex officio* rejection of applications, filed by unrelated applicants’, consisting of the full name of world-famous individuals. Similarly, none of these treaties oblige contracting states to question the links between the applicant and such signs in registration procedure.

Turkish Trademark Registry, Turkish Patent Institute, has lately seem to find her own solution, too controversial and too discretionary though, by far strained interpretation of Article 7/1 (k) of Turkish Trademark Law, Decree Law No. 556.

In June 2004, a Turkish individual filed a trademark application in Turkey for word mark “ROMANO PRODI” for goods/services in classes 25, 26 and 35. A third party observation was filed by putting forward the facts that Mr. Romano Prodi is the President of the European Commission and former Prime Minister of Italy. At the end, the application was registered, and still remains alive.

In December 2008, a Turkish textile firm filed a trademark application for the sign “B –stylized- & Barack Obama” for goods/services in classes 25 and 35. In the following month, January 2009, a Turkish individual has filed a trademark application for the word mark “BARACK OBAMA” (*which also covers another word part in smaller character in the second line, which reads “SAVASMA SEVIS”, meaning “do not fight, make love”*) for goods/services in classes 05 and 29. Both applications were accepted and published. None received third party objections. Even Notice of Allowance was issued for the former. Later on, both applications were rejected on absolute ground with *ex officio* decisions. Both decisions were based on Article 7/1 (k) of Turkish Trademark Law. The subject article reads that “*signs which are contrary to public policy or to accepted principles of morality shall not be registered as a trademark*”.

In short, Turkish PTO found that adopting “Barack Obama” as a trademark is contrary to public policy or to accepted principles of morality. The decision was perceived by some trademark practitioners as something more than interpretation of the relevant provision, more like making new law by the administration. The questions, as how come adopting “Barack Obama” as a trademark is contrary to public policy or to accepted principles of morality, or why “Barack Obama” can not be registered as a trademark while “Romano Prodi” can, still remain unanswered.

The names of world-famous individuals are attractive for some, and will continue to become so, to be adopted as trademarks for many reasons. Although such names may not actually be used commercially, they usually have potential for commercial use. There is no doubt that the owners of such names are given opportunity to bar registrations of bad faith applications by filing oppositions in many jurisdictions, including in Turkey. However, watching for registration attempts in all

jurisdictions, and filing oppositions against such attempts are almost impossible, since they are costly and time consuming.

Because the owners of such names do not prevent bad faith registrations, should bad faith registrations thereof be allowed? Should people, who have nothing to do with such names, be allowed to take unfair advantage of such names, and/or to enhance the profile of their product/services, and/or to have general public associated their products/services with the owner of such names?

Abdurrahim Ayaz
Trademark Attorney & Attorney at Law

Istanbul Patent & Trademark Consultancy Ltd.

Buyukdere cad., Plaza 33, No: 33/16

Sisli, Istanbul, 34381-TURKIYE

Tel: +90-212-241 7272

Fax: +90-212-241 7026

E-mail: ayaz@istanbulpatent.com, info@istanbulpatent.com

Web: <http://www.istanbulpatent.com>