

## AMENDMENT IN CLASS 35

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The Turkish Patent Institute (TPI) has recently amended the Regulation on the Classification of Goods and Services with Regard to Trademark Applications (BİK/TPE 2007/2). With the amendment, subclass 6 of class 35, that covers retail services, was changed as follows:

*“Services for bringing together “...”\* to enable costumers conveniently to view and purchase them (these services provided through retail store, whole sale store, electronic area, catalogue and the other similar ways)*

*\*Specify the “specific goods” or “sector” that the services will be given. In case the services cover the whole good or sector, use the phrase “variety of goods”*

On the other hand, Art. 5 of the same regulation contains an indication with regard to conflict that may arise between the retail services within class 35. With the amendment, the retail services of specific goods will **not** be considered as similar with the retail services of other goods. Additionally, the retail services of specific goods will not be considered similar with the retails services of various goods (the retail services that are not limited with the sale of specific goods). On the other hand, the trademarks which cover the retail services of all goods, according to the revoked regulation, will not be obstacles in registering new trademarks that cover the retail services of specific goods according to the new arrangement. However, if the prior right owners oppose the new applications, the TPI will evaluate each case on the circumstances involved.

Following the amendment, the TPI has issued guidelines with regard to implementation of the amendment in class 35. According to these guidelines, the TPI states that the services in subclass 6 of class 35 cannot be described as “sale services.” The mentioned services can be considered as services for the supply of consumer goods and the main character of this service is bringing together goods/ different types of goods. According to the guidelines, the Institute provides examples of definitions that will not be accepted:

- Sale services
- Retail sale services
- Retail sale services of “...” (goods or sector)
- Retail services of the goods within classes 09 and 11
- Retail services of all goods
- Services bringing together the goods in classes 24 and 25, to enable customers to view and purchase them conveniently in hypermarkets

This amendment was put into force as of 19 October 2011. Up until now, the Turkish Patent Institute (TPI) has objected to the specifications that cover the retail services of a limited group of goods. Instead the TPI had preferred the general description as “retail services of various goods.” For this reason, international applications that covered retail services of specific goods were rejected based on the prior trademarks that cover the retail services of various goods. With this amendment, the applicants will have the chance to register their trademarks for the retail services of their own goods.

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