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INTELLECTUAL
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changes in trademark, design, and patent laws in Turkey after new Industrial Property Law

*as from January 10,
2017*

TRADEMARKS

1 Non-Traditional Trademarks

Non-traditional trademarks such as color, motion and sound marks are allowed for registration. On the other hand, signs that contain geographical indications are not allowed for registration.

2 Co-Existence

With the consent of the earlier registered trademark owner, identical marks may be registered in the name of another party.

3 Bad Faith Applications

Applications filed in bad faith may be rejected upon opposition. Court and Office practices have gained legal ground.

4 Exhaustion of Rights

International exhaustion of rights adopted; any trademark which has

been put in use abroad will be deemed to have been put in use in Turkey.

5 Opposition Period

Opposition period for applications filed on or after 10 January 2017 was reduced from 3 months to 2 months.

6 Oppositions relying on not-used marks

Oppositions relying on a trademark registered in Turkey will not be accepted if the applicant demands the proof of use and if such use in 5 years is not proven by the opponent.

7 Amicable Settlement in Opposition Proceedings

The Office may call the parties for an amicable settlement in opposition proceedings in case the Office finds it useful.

8 Non-use defense

Infringer or defendant of an invalidation action may rely on non-use counter claim.

12 Pre-emptive right

Joint owners of registered trademarks are obliged to offer their shares first to joint owners if they wish to sell off their shares.

9 Fair Use

Use of registered trademark by third parties for comparative advertisement, identification or description purposes cannot be prevented by registered trademark owner.

13 Well-known trademark argument

Well-known trademark argument was reintroduced as ground of an opposition to application or registration.

10 Defenses relying on registered marks

Registered trademark owner is not allowed to use its registered trademark as defense in infringement actions.

11 Fast and simplified destruction

Counterfeit products may be destructed in a simplified destruction procedure if storage of counterfeit products is costly and if value of counterfeit products will decrease.

INDUSTRIAL DESIGNS

1 Opposition Period

Opposition period for applications filed on or after 10 January 2017 was reduced to 3 months from 6 months.

2 Only Novel Designs Registrable

Office will conduct novelty search in design applications. Applications lacking novelty requirement will not be registered.

3 Unregistered Designs Protected

Designs without registration will be granted protection for 3 years starting from their use in trade so long as they are novel and have an individual character.

4 Invisible designs not protected anymore

Designs that are not visible and are part of a joint/set product are not granted protection anymore.

5 Broader Protection for Multiple Applications

Designs that fall in same class may become subject to same application. Earlier regulation would allow the registration of multiple designs in single application only if they fell in same sub-class.

PATENTS

1 Post-registration Opposition

Oppositions can be lodged against granted patent after its publication in Official Patent Bulletin.

2 True Patent System

Patent without substantive examination is no longer possible. All applications will be examined through recognized patent offices.

3 No criminal penalty

Patent owners will not be able to initiate criminal action against infringers. However, civil law actions including cessation of infringement and compensation actions is still possible.

4 Exhaustion of Rights

International exhaustion of rights adopted; any patent which has been

put in use abroad will be deemed to have put in use in Turkey.

5 Novelty Requirement for Utility Model Applications

Utility model applications will be examined on novelty requirement. Any application lacking novelty requirement will be rejected.

6 Narrowed Utility Model Protection

Chemical and biological materials or methods, pharmaceutical materials, biotechnological inventions, and methods or products acquired through these methods cannot be subject to utility model protection.