

# YAZICILEGAL

## NEWSLETTER

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### **Industrial Property Law**

The Industrial Property Law numbered 6769 (the “**Law**”) has been published in the Official Gazette dated 10 January 2017. The Law abolishes Decree Law on Protecting Patent Rights numbered 551 (“**DL/551**”), Decree Law on Protecting Industrial Designs numbered 554 (“**DL/554**”), Decree Law on Protecting Geographical Marks numbered 555 and Decree Law on Protecting Trademarks numbered 556 (“**DL/556**”). Additionally, The Regulation on the Application of the Industrial Property Law (the “**Regulation**”) has been published in the Official Gazette dated 24 April 2017 and entered into force on the same day.

The Law assembles regulations on trademark, geographical mark, design, patent, utility model and traditional product under the same roof. Most of the provisions of the Law have entered into force on the date of publication.

The Regulation sets forth procedures and principles to be applied to rights of the trademark, geographical mark, design, patent, utility model and traditional product.

### **Purpose and Scope**

The main purpose of the Law is to protect the rights on the specified industrial rights and to contribute to technological, economic and social improvement. The scope of the Law is applications, registration and transactions following the registration of the industrial property rights and legal and penal enforcement in case of violation of such rights.

The Law provides protection for:

- ✓ Citizens of Turkish Republic
- ✓ Civil and legal persons who have a residential address or engage in industrial or commercial activity within the boundaries of Turkish Republic
- ✓ Persons who have the right to apply under the provisions of Paris Convention or World Trade Organization Establishment Agreement
- ✓ In accordance with the principle of reciprocity, persons who are citizens of a country which provides industrial property rights to citizens of Turkish Republic

The Law also changes the name of Turkish Patent Institute to Turkish Patent and Trademark Institution.

Furthermore, it is specifically foreseen that unless otherwise stated under the Law or the Regulation, all periods related to all transactions including objections to be made before the Institution in relation with the industrial property right became 2 months starting from the date of notice. As a result, under the Law, the objection period has been shortened from 3 months to 2 months starting from the date of notice.

Below you may find some of the most important changes on trademark, geographical mark and traditional product, design and patent with enactment of the Law.

### **Trademark**

- ✓ The Law introduces some new trademark types such as sound trademarks and movement trademarks.
- ✓ The Law revives the clause on usage of the trademark, formerly struck out by the Constitutional Court decision. This clause allows the revocation of a trademark which has not been used substantially in Turkey by the trademark owner for 5 years or has not been used continuously for 5 years starting from the registration date.
- ✓ The Law has imposed the right to bring proceedings against the decisions of the Commission within the structure of the Department of Re-examination and Assessment.
- ✓ Cancellation conditions of the trademark are one of the innovations that the Law regulates. However, the clause regarding the cancellation conditions will enter into force on 10 January 2024.
- ✓ The Law does not include selling and renting in the penal provisions of violating the trademark right while DL/556 used to.
- ✓ Under the Regulation, the division request of trademark registration application shall no longer be made by the attorney of the applicant. Only the applicant shall be entitled to make such request.

**Geographical Mark and Traditional Product Name**

- ✓ The Law introduces and defines the traditional product name. It is set forth that the traditional product name will be protected through the way of registration.
- ✓ The usage of an emblem has become mandatory for geographical marks. However, respective provisions imposing such obligation will enter into force on 10 January 2018.

**Design**

- ✓ The Law recognizes the protection with no requirement of registration. In this regard, unregistered designs will be protected for 3 years starting from the date that the design was presented to the public.
- ✓ The number of proceedings that one can bring in case of violation of the design right has been limited by the Law. The Law only allows civil cases while DL/554 used to allow both penal and civil cases. At the same time, the Law limits the scope of actions deemed as violation.

**Patent and Utility Model**

- ✓ According to the Law, if the applicant does not request an examination within 3 months starting from the notification of the search report which is given by the Institution after the examination of the patent application, the application will be accepted as withdrawn.

- ✓ Under the Law, inventions made at work by scientific staff of the university, including students, are deemed to be employee inventions belonging to the university. DL/551 used to state that those inventions were free inventions and for this reason the inventor would directly own the invention, not the university.

**Regulation on Pledge and Security Transactions**

On 17 April 2017, Merkezi Kayıt İstanbul (“MKİ”) has published the Member Letter numbered 793 regarding Central Administration System application regulations. Under the Pledge/Security Transactions title, MKİ has announced that regulations will be made in order to allow changes in investor/account information without changing the pledge status and pledgee account. It has been announced with this Letter that interested members can make a written request after 15 May 2017 to make MKİ change such pledge records.

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This newsletter has been prepared only for information purposes. Please do not hesitate to contact us if you need assistance or more detailed information.

Yours faithfully,  
**YAZICI LEGAL**

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