

New Industrial Property Law

Intellectual Property Law is in the process of a set of reforms following the legal amendments recently published in the Official Legal Gazette. The intellectual rights such as trademarks, patents, and designs, which are previously protected by different executive orders, are now regulated within the Industrial Property Law (“IPLAW”).

With this codification, the protection and regulation of IP rights and some other rules or provisions, which are set forth in secondary legislation, are united in a single Code. Below we would like to explain the new developments regarding intellectual property rights in general and specifically related to the trademark rights. One of the formal changes that the IPLaw has brought is that the name of the Turkish Patent Institute is modified to Turkish Patent and Trademark Institution (“TPTI”).

The IPLaw now stipulates that the lapse of time is two months for any application or legal procedure before the TPTI unless otherwise provided in the law. As part of infringement actions, an infringing party may not plead that the intellectual right is already registered if the counterparty has a priority right or filed an earlier application. The right of ownership of intellectual rights such as patents or designs that are invented by a university’s personnel will belong to that university after the enactment of the IPLaw.

There are some other specific amendments to trademark rights that is worth to mention. The IPLaw enables an applicant to register a trademark which is similar to an already registered trademark provided that a notarized letter of consent is obtained from the registered trademark right holder. Another innovation to the trademark system is that the TPTI may now ask, upon the request of the new trademark applicant, the proof of use in case a trademark right holder whose trademark is registered for five or more years, objects to a trademark application. This non-use defense might be raised as part of cancellation claims as well.