

CLIENT ALERT

INTELLECTUAL PROPERTY | TURKEY |

MARCH 2020

SUSPENSION OF ADMINISTRATIVE AND JUDICIAL PERIODS DUE TO THE COVID-19 EPIDEMIC

"The Law on the Amendment of Some Acts" dated 25 March 2020 and numbered 7226 came into force with its publication in the 1st Bis Official Gazette No. 31080 on 26 March 2020. In the 1st provisional Article of the cited Law, various measures have been considered to prevent the Covid-19 epidemic, which has been on the global agenda for some time now, from causing loss of rights in terms of judicial and administrative proceedings.

In this regard, the periods regarding the birth, usage, and expiration of rights along with the law of procedure will stop retrospectively from 13 March 2020 to 30 April 2020. It has been specifically stated that the periods related to the birth, usage, and expiration of the rights include litigation, commencing execution proceedings, application, complaint, objection, warning, notification, submission and period of limitation, the period of prescription and a mandatory period of administrative applications. Therefore, in terms of Turkish Industrial Property Law No. 6769, the periods concerning the registration and post-registration procedures before Turkish Patent Office, the periods granted to the applicant and third parties concerning the oppositions, the periods concerning the renewals, the payments, the right of priority and finally the periods concerning the term of litigation and the mediation will be suspended between 13 March 2020 and 30 April 2020. In addition, the five-year period of prescription for trademark use will not continue during this cited period.

At this point, it is inevitable for confusion to arise in practice and the status of many trademarks to become uncertain. For instance; as the opposition periods that expired between 13 March 2020 and 30 April 2020 will not be processed, the appeal period of any application whose appeal period has expired will continue. Since the periods related to the birth of rights are also regulated under the above-mentioned Article, the procedures for complementary acts regarding the application for registration and regarding the payments will not operate between these dates. For this reason, the following matters should be taken into consideration regarding the operation of periods.

Three different circumstances/scenarios were taken into consideration based on the reprocessing of the above-mentioned periods:

- If there are 15 days or less to the deadline of a proceeding on 13 March 2020, which is the date of suspension, the cited transaction period shall be deemed extended by 15 days from the day following the expiration of the suspension period. In this case, the deadlines occurring within 15 days or less on the date 13 March 2020 will expire on 15 May 2020.
- As of 13 March 2020, if there are more than 15 days to the deadline, the period will resume from the day following the end of the suspension period, i.e. 30 April 2020.
- The periods whose start time is between 13 March 2020 and 30 April 2020 will start on 1 May 2020.

In the event that the epidemic continues, it has been decided that the afore-mentioned periods can be extended once for not more than six months upon decision of the President.

Some exceptions are also provided for in the 1st provisional Article of Law No. 7226. According to the Law, the periods of limitation concerning the criminal and administrative sanction, the periods regarding the protection measures stipulated in the Criminal Procedure Law No. 5271, along with the preliminary injunctions regulated in the Code of Civil Procedures No. 6100, are outside the scope of the Article.

The procedures and principles regarding the postponement of hearings to be held during the suspension period (i.e. 13 March 2020 to 30 April 2020) and other measures to be taken, will be operated by the Council of Ministers with regard to Supreme Court and the Conseil d'Etat, and by the Council of Judges and Prosecutors with regard to first instance and appeal proceedings. This authority has been given to the Ministry of Justice in terms of justice services. The Ministry of Justice has announced that hearings were suspended until 30 April 2020.

We will keep you informed of any further updates.

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In compliance with Turkish bar regulations, opinions relating to Turkish law matters that are included in this client alert have been issued by Özdirekcan Dündar Şenocak Avukatlık Ortaklığı, a Turkish law firm acting as correspondent firm of Gide Loyrette Nouel in Turkey.

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