

client alert

INTELLECTUAL PROPERTY | TURKEY |

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DESIGN REGULATION UNDER NEW INDUSTRIAL PROPERTY LAW

As announced in our previous Client Alerts, the new Industrial Property Law No. 6769 (the “IP Law”) came into effect by repealing Decree Law No. 556 on the Protection of Trademarks, Decree Law No. 551 on the Protection of Patents and Utility Models (the “Decree Law”), Decree Law No. 554 on the Protection of Industrial Designs, and Decree Law No. 555 on the Protection of Geographical Indications (they will hereinafter be jointly referred to as the “Decree Laws”).

In our previous Client Alerts, we detailed the new developments in relation to [Trademarks](#) (January issue), and [Patents and Utility Models](#) (March issue). This Client Alert focuses on changes in relation to **designs**, which are, in line with European legislation, no longer collectively referred to as ‘industrial designs’. Please note that most provisions of the Decree Law have been upheld in the IP Law, with some amendments as described below.

NOVELTY EXAMINATION

Previously, under the Decree Laws, design applications were not examined ex-officio before publication. Pursuant to the new IP Law, the Turkish Patent and Trademark Institute will be examining design applications with respect to their novelty, and refusing applications that do not meet the criteria.

DESCRIPTION OF A DESIGN AND MULTIPLE DESIGN SUBMISSIONS

Under the new IP Law, submitting a description of a design during the application is no longer mandatory, and such description will not affect the scope of the protection granted. In addition, the IP Law makes it possible to submit multiple new designs in a sole application, so long as the designs are in the same LOCARNO class (previously, only designs in the same sub-class could be applied for together).

CHANGE IN OPPOSITION PERIOD

The period of publication (and therefore, the third party opposition period) for design applications have been shortened to three months, as opposed to the previous six months prescribed by the Decree Law. The Institute thus hopes to encourage investors by reducing the total registration time of designs.

NON-REGISTERED DESIGN RIGHTS

Under the new IP Law, designs that are first made available to the public in Turkey shall be protected as non-registered designs for a period of three years. Considered to be particularly useful in sectors that use designs for shorter periods, such as the fashion industry, holders of non-registered designs will be able to prevent the use of identical or similar designs by third parties.

SPARE PARTS OF COMPLEX PRODUCTS AND EQUIVALENT SPARE PARTS

As with trademarks, the IP Law provides regulation as regards spare parts of complex products and equivalent spare parts. The IP Law states that where parts are connected to the appearance of the complex products (such as automotive vehicles), using the design of such parts will not be considered as infringing after three years from the launch of such design to the market, if subject parts are to be used for repair purposes in order to restore a complex product to its original appearance, and provided that subject parts are not misleading with regards to their origin.

The IP Law further specifies that third parties may use a design of a spare part for automotive vehicles even within 3 years from the launch of the design to the market, if such part is on the list of 'equivalent spare parts' to be issued by Ministry of Science, Industry and Technology.

DESIGNS OF EMPLOYERS, STUDENTS AND FACULTIES

The IP Law has specified that employers are the lawful owners of any designs created by their employees throughout their employment relationship during the course of their work or depending on the experience and work of the business operation. Such provisions apply to students and interns as well as teachers in higher education institutions.

The IP Law states that an employee may demand suitable compensation from the employer as regards the design, in accordance with the importance of the design. For their part, teachers in higher education institutions shall receive at least 50% of income gained from their design.

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

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