

CLIENT ALERT

INTELLECTUAL PROPERTY LAW | TÜRKİYE

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New Trademark Revocation Procedure in Türkiye

Industrial Property Law No 6769 (the "IP Law"), which came into force on 10 January 2017, states that after a transition period of seven years, requests to revoke trademarks would no longer be heard by the Civil Courts for Intellectual and Industrial Property Rights ("IP Courts"), but will be requested from the Turkish Patent and Trademark Office ("TÜRKPATENT"). Seven years has passed and TURKPATENT now has the authority, to make decisions revoking trademarks, on the basis of Article 26 of the IP Law, effective as of 10 January 2024.

In the revised legal framework, TURKPATENT now holds the authority to revoke trademarks upon the application of concerned parties. Grounds for revocation include: a lack of genuine use or where the trademark has not been used for a continuous period of five years without justified reason; the transformation of the trademark into a generic name due to the trademark holder's actions; misleading the public concerning the nature, quality or geographical origin of the goods or services for which the trademark is registered; with the trademark owner's consent; and the use of a trademark in violation of the provisions of the IP Law.

The delegation of this authority to TURKPATENT is aimed at aligning national legislation with European Union regulations, though there is no consensus on the consequences of this practice. Despite TURKPATENT having the seven-year transition period, key questions regarding the regulatory framework for examining revocation requests, the criteria for such examinations, and the individuals responsible for overseeing these processes remain unanswered. Additionally, the process of objecting against revocation decisions is still uncertain, with the role of the Re-Examination and Evaluation Department and the potential involvement of courts yet to be clarified. Despite the need to clarify these issues, the draft Regulation Amending the Regulation on the Implementation of the Industrial Property Law (the "Draft"), designed to establish procedures and principles for implementing the revocation authority, was open for opinions until 3 November 2023, but the relevant legislation has not yet been published in the Official Gazette. The publication of the Draft, which is expected to provide comprehensive guidelines for the implementation of the revocation authority, is highly anticipated.

In addition, the "Communiqué on the Fee Tariff to be Applied in 2023" does not mention any fee regarding the evaluation of revocation requests by TURKPATENT and the "Communiqué on the Fee Tariff to be Applied in 2024" has not yet been published. Although TURKPATENT started receiving pre-applications for trademark revocation from 10 January 2024, it remains uncertain how applicants will be charged for these services. Despite these uncertainties, the shift of trademark revocation processes to TURKPATENT is expected to streamline procedures, potentially offering trademark owners a faster, more accessible and cost-effective resolution.

In conclusion, despite TURKPATENT maintaining its silence since 10 January, it is crucial to promptly address and clarify the lingering uncertainties. Announcing regulations and guidelines for managing the trademark revocation processes is necessary to avoid any potential loss of rights. In light of these changes, trademark owners are advised to closely monitor developments and stay abreast of forthcoming regulations.



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 Ak Avukatlık Ortaklığı, a Turkish law firm acting as correspondent firm of Gide Loyrette Nouel in Turkey.

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