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Turkey

INTELLECTUAL PROPERTY

Contributor

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This country-specific Q&A provides an overview of intellectual property laws and regulations applicable in Turkey.

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TURKEY

INTELLECTUAL PROPERTY



1. What different types of intellectual property rights exist to protect: (a) Inventions (e.g. patents, supplementary protection certificates, rights in trade secrets, confidential information and/or know-how); (b) Brands (e.g. trade marks, cause of action in passing off, rights to prevent unfair competition, association marks, certification marks, hallmarks, designations of origin, geographical indications, traditional speciality guarantees); (c) Other creations, technology and proprietary interests (e.g. copyright, design rights, semiconductor topography rights, plant varieties, database rights, rights in trade secrets, confidential information and/or know-how).

- a. **Inventions (e.g. patents, supplementary protection certificates, rights in trade secrets, confidential information and/or know-how); Patents**, are protected under the Turkish Industrial Property Law ("IPL"). For an invention to be registered as a patent, it must be novel, must contain an inventive step and must be applicable to industry. Process patents can also be filed under the IPL. **Utility models**, are similarly protected under the IPL. While the registration process shares many similarities, inventions that are novel and applicable to industry can be registered as utility models without having to contain an inventive step. Different from patents, chemical or biological materials, methods thereof, pharmaceutical materials and methods, the products of the same, biotechnological inventions and processes cannot be registered under utility models. **Trade secrets**, confidential information and know-how are not specifically regulated by Turkish laws. Trade secrets, confidential information, and know-how can

be protected under the provisions of unfair competition which has been regulated in the Turkish Commercial Code ("TCC") or contractual provisions.

- b. **Brands (e.g. trade marks, cause of action in passing off, rights to prevent unfair competition, association marks, certification marks, hallmarks, designations of origin, geographical indications, traditional speciality guarantees); Trademarks** are protected under the IPL. Signs having a distinctive character and being capable of being represented on the register in a manner that enables determination of the subject matter of protection clearly and precisely can be registered as trademarks. There are also various forms of trademarks including guarantee marks and collective marks. **Unregistered trademarks** are also protected under the IPL. The protection provided in the IPL for unregistered trademarks is limited and mainly aims protection of well-known trademarks. Real right ownership is also an exception to the registration requirement. Unregistered trademarks can also benefit from the unfair competition provisions of the TCC. **Tradenames and company names** are protected under the unfair competition provisions of the TCC. Tradenames are also protected under the IPL. Trademarks consist of a tradename shall be refused upon the opposition of the right owner. **Geographical indications and traditional speciality guarantees** are protected under the IPL. Food, agricultural, mining, handicraft and industrial products resulting from unification of natural and human factors, which comply with the provisions of the IPL, shall be entitled to geographical indication or traditional speciality guaranteed protection provided that they are registered.
- c. **Other creations, technology and**

proprietary interests (e.g. copyright, design rights, semiconductor topography rights, plant varieties, database rights, rights in trade secrets, confidential information and/or know-how).

Copyrights are protected under the Law of Intellectual and Artistic Works ("Copyright Law"). Any intellectual or artistic work bearing the characteristic of its author is eligible for protection. Types of intellectual and artistic works are musical works, works of fine arts, cinematographic works and literary and scientific works. Registration is not required for establishing copyrights. **Computer programs and databases** are protected under the Copyright Law. Computer programs are protected within the scope of literary and scientific works while databases are protected within the scope of adaptations and collections. **Industrial designs** are protected under the IPL provided that they are new and have an individual character. Design shall be the appearance of the whole or a part of a product resulting from the features of, the line, contour, colour, shape, material or texture of the product itself or its ornamentation. **Unregistered industrial designs** shall also be protected for 3 years from first presentation date to the public as non-registered designs in case they are presented to the public for the first time in Turkey.

Plant varieties which are distinctive, uniform and stable following repeated propagation can be protected under the Law no. 5042 on Protection of Breeder's Rights of New Plant Varieties.

Integrated circuit topographies with original quality are protected under the Law no. 5147 on Protection of Integrated Circuit Topographies.

2. What is the duration of each of these intellectual property rights? What procedures exist to extend the life of registered rights in appropriate circumstances?

Patents are protected for twenty years from the date of application and this duration cannot be extended.

Utility models are protected for ten years from the

date of application and this duration cannot be extended.

Trade secrets, confidential information and know-how are protected as long as they met the conditions of the relevant regulations.

Trademarks are protected for ten years from the date of the application. This term shall be renewed for periods of ten years.

Unregistered trademarks are protected as long as they met the conditions of the relevant regulations.

Tradenames and company names are protected as long as they met the conditions of the relevant regulations.

Geographical indications and traditional speciality guarantees are protected indefinitely. There is not a specific protection term for geographical indications and traditional speciality guarantees.

Copyright protection starts from creation of the work and lasts for 70 years after the author's death. For databases, term of protection granted to the maker of a database shall be 15 years from the date of being made public of the database.

Industrial designs are protected for 5 years from the application date. This period may be prolonged in total up to twenty five-year by means of renewing in five-year periods.

Unregistered industrial designs are protected for 3 years from first presentation date to the public of the design.

Plant breeder's rights are protected for 25 years from the registration of the right. Protection period is thirty years for trees, vines and potatoes.

Integrated circuit topographies are protected for 10 years starting from the application date or the date when it is launched on the market. Renewal of the rights is not possible.

3. Who is the first owner of each of these intellectual property rights and is this different for rights created in the course of employment or under a commission?

Patents: The inventor is considered the first owner of the patent by default as per the IPL. In the event that the invention in question was made in the course of employment and carries the conditions that define it as

an employee invention, the right to file and own the patent for the invention can transfer to the employer if the requirements are met and the procedural steps are duly completed.

Utility models: The inventor is considered the first owner of the utility model by default as per the IPL. In the event that the invention in question was made in the course of employment and carries the conditions that define it as an employee invention, the right to file and own the utility model for the invention can transfer to the employer if the requirements are met and the procedural steps are duly completed.

Trade secrets, confidential information and know-how: The first owner is the owner of the trade secret or information.

Trademarks and unregistered trademarks: The first owner of a registered trademark is the entity/person in whose name it is registered, in other words the first owner is the applicant. For unregistered trademarks, the first owner is the entity/person who uses the trademark for the first time and makes it known in the market.

Tradenames and company names: The first owner is the owner of the company or business.

Geographical indications and traditional speciality guarantees: The first owner could be producer groups, public institutions and organizations as well as professional organizations accepted as public institutions related with the product or geographical area of the product, associations, foundations and cooperatives operating for public interest in relation to the product or authorized to protect the economic interests of their members, the relevant producer in case the product is produced only by a single producer, provided that he proves this case.

Copyright: The owner of the work is the author who has created it. For cinematographic works, the director, the composer of original music, the scriptwriter and the dialogue writer are joint authors of the work.

For cinematographic works which are produced with the technique of animation, the animator is also among the joint authors of the work. If a work created jointly by more than one person can be divided into parts, each person shall be deemed the owner of the part he created.

The rights in works created by civil servants, employees and workers during the execution of their duties shall be exercised by the persons who employ or appoint them; provided that the contrary may not be deduced from a special contract between such persons or from the

nature of the work. This rule shall also apply to the organs of legal entities.

Moral rights cannot be waived or transferred. Only economic rights and the right to use the moral rights can be transferred.

Industrial designs and unregistered industrial designs: In principle, the first owner is the designer. The designer, if his/her name shall not be indicated in application form, has the right to request his/her name to be indicated as a designer. But the designer may request his/her name to be kept secret. If the designer has made a design for the employer within the scope of the employment contract, the owner of the design is the employer. However, in this case, the designer may request his/her name to be indicated as the owner of the design right. The right owner of designs that are carried out by employees outside the scope of the contract between the parties by means of benefitting from information and tools related to general activity in their business organization shall be the employer, upon request.

Plant breeder's rights: The first owner is the plant breeder. Unless otherwise agreed by the contract between the parties or the nature of the work, the plant varieties found or developed by the employees during their work belong to the employer. Although not required by the contract, the owner of the plant varieties found or developed by the employees by means of benefitting from information and tools in their business organization is the employer.

Integrated circuit topographies: The first owner is the designer of the integrated circuit topography. Unless otherwise agreed by the contract between the parties, the rights on integrated circuit topographies designed by civil servants and workers while performing their work belong to employer. Although not required by the contract, the owner of the integrated circuit topographies found by the employees by means of benefitting from information and tools in their business organization is the employer.

4. Which of the intellectual property rights described above are registered rights?

Patents, utility models, trademarks, tradenames, industrial designs, integrated circuit topography rights, geographical indications and plant breeder's rights.

5. Who can apply for registration of these intellectual property rights and, briefly,

what is the procedure for registration?

Patents: The right to apply for registration of a patent belongs by default to the inventor, which must be a natural person. This right can be assigned freely. This right can also be transferred to the employer automatically if the conditions surrounding employee inventions are met; in which case the employer has the right and obligation to apply for registration instead.

In order for successful registration to occur, an invention that is novel, contains an inventive step and is applicable to industry must be turned into the relevant application documents which contain a description, claims, abstract and drawings (if applicable). The application documents are then filed along with the relevant information regarding the inventor, applicant, classification etc. If the application is found procedurally sufficient, the application can either be immediately published in the official bulletin if so requested, or will be published 18 months after filing. Third parties have a right to file an opinion regarding the registrability of the patent application starting from the time of publishing.

After procedural suitability is determined (or at the time of filing) a search report as well as an examination report can be requested after the relevant fees are paid. A search report is first prepared and serves to determine prior documents that relate to the patentability of the invention. This is then followed by an examination report being prepared which elaborates on the application, the patentability thereof and its relation to prior documents which may relate to it. The search report as well as the final examination report are also published in the official bulletin.

Following each of the search and the examination reports, the applicant has the right to file responses, make certain changes in the patent documents or do nothing, depending on the content and outcome of the report. Up to two additional examination reports can be prepared after the first one if responses or changes are filed, with each one containing a decision on whether the patent is registered. The examination report against which no responses/changes are filed, or the third report at the latest, is considered final and the outcome determines whether or not the patent is registered. The ruling regarding registration of the patent is published in the official bulletin and third parties have the right to file an appeal against a decision to register within six months from publishing.

Utility models: The right to apply for registration of a utility belongs by default to the inventor, which must be a natural person. This right can be assigned freely. This right can also be transferred to the employer

automatically if the conditions surrounding employee inventions are met; in which case the employer has the right and obligation to apply for registration instead.

In order for successful registration to occur, an invention that is novel and applicable to industry must be turned into the relevant application documents which contain a description, claims, abstract and drawings (if applicable). The application documents are then filed along with the relevant information regarding the inventor, applicant, classification etc. If the application is found procedurally sufficient, the application can either be immediately published in the official bulletin if so requested, or will be published 18 months after filing. Third parties have a right to file an opinion regarding the registrability of the utility model application starting from the time of publishing.

After procedural suitability is determined (or at the time of filing) a search report can be requested after the relevant fees are paid. The search report determines relevant prior documents as well as registrability. The search report is also published.

Following the search report, the applicant has the right to file responses, make certain changes in the utility model documents or do nothing, depending on the content and outcome of the report. The ruling regarding registration of the utility model is published in the official bulletin no appeal period is granted to third persons; only the option of filing for invalidation before courts is available.

Trademarks: Citizens of Republic of Turkey, natural or legal entities domiciled or engaged in industrial or commercial activities within the borders of Republic of Turkey, persons who have the right of application according to the Paris Convention or Agreement Establishing the World Trade Organization, according to reciprocity principle, persons whose citizenships are in states that provide Turkish citizens the protection of industrial property rights are entitled to file trademark applications.

For filing a trademark application, the applicant must file an application through the online system of Turkish Patent and Trademark Office ("TPTO") containing the name of the trademark, the name and address of the applicant and the list of the goods and services which will be requested to be registered. Also, if the trademark will contain any logo or device element, a sample of the logo must be submitted. It is mandatory to submit a technical specification indicating the procedure and rules for use of the mark when filing an application for registration of a guarantee or a collective mark. Finally, an application fee must be paid.

Once the applicant files the trademark application through the online system of TPTO, the application goes under examination. During examination, the TPTO examiner investigates whether the trademark application meets the criteria, whether there is a similarity between the trademark application and the earlier registered trademarks in Turkey and the class/classes that are requested to register. After the expert confirms the trademark application, it is published in Trademark Bulletin. If there is no opposition against the trademark application within 2 months as of the publication date, the TPTO gives 2 months to the applicant to pay the registration fees. After the registration fee is paid, the certificate of registration is sent to the applicant and the trademark application process is completed.

Tradenames: Every trader can file applications for the registration of their tradename. Each trader shall register and announce its commercial enterprise and tradename in the trade registry of the place where the head office is located, within 15 days from the opening day of the commercial undertaking.

Industrial designs: The owner/owners of the industrial design are entitled to file an application. Persons who have obtained the right to apply from the designer can also file applications.

An application is made by filing a form including the details of the applicant, the visual representation that reflects the appearance of the design and that enables reproduction through publication, the name of the product in which the design is incorporated or to which it is applied, the identity/identities of the designer/s, the information as to how the right to apply have been obtained from the designer, if applicable, postponing request, if available, the information related to the attorney. In addition, an application fee must be paid.

TPTO examines whether the formal conditions have been met as well as the novelty of the design. If registration is granted based on the initial examination it is published on the Industrial Design Bulletin. Third parties can file oppositions against the industrial design registration within 3 months as of the publication date.

Geographical indications and traditional speciality guarantees: Producer groups, public institutions and organizations as well as professional organizations accepted as public institutions related with the product or geographical area of the product, associations, foundations and cooperatives operating for public interest in relation to the product or authorized to protect the economic interests of their members, the relevant producer in case the product is produced only by a single producer are entitled to file applications.

TPTO examines the application. Applications found eligible under the conditions of the IPL shall be published in the Bulletin.

Plant breeder's rights: Turkish citizens and the citizens of the member states of Union for the Protection of New Varieties of Plants (UPOV) can file applications and obtain registration for plant varieties in Turkey. Applications must be filed before General Directorate of Plant Production (BÜGEM) which is a unit of Ministry of Agriculture and Forestry.

The formal examination is conducted by the Office in view of whether the documents and information for the acceptance of the application have been duly provided. After the examination, applications are published within 30 days of being recorded. Third parties can file oppositions against the registration within 3 months as of the publication date.

Integrated circuit topography rights: Designer of the integrated circuit topography is entitled to file an application.

6. How long does the registration procedure usually take?

Patents: Registration process can vary greatly depending on whether any objections are filed as well as whether the prepared reports are favourable. If the process proceeds ideally, registration can take 1,5-3 years from filing. If there are objections or if the initial reports are unfavorable, registration can take up to 3-5 years from filing.

Utility models: Similarly to patents, registration process can vary quite a bit depending on whether any objections are filed as well as whether the prepared report is favourable. If the process proceeds ideally, registration can take 1-2 years from filing. If there are objections or if the report is unfavorable, registration can take up to 2-3 years from filing.

Trademarks: Registration process for trademarks takes approximately 5-7 months.

Tradenames: Registration will be concluded upon application and payment of the registration fee.

Industrial Designs: Registration process for industrial designs takes approximately 6-8 months.

Geographical indications and traditional speciality guarantees: Registration process for geographical indications and traditional speciality guarantees takes approximately 10-12 months.

Plant breeder's rights: Registration process for plant breeder's rights takes approximately 12-18 months.

Integrated circuit topography rights: Registration process for industrial designs takes approximately 10-12 months.

7. Do third parties have the right to take part in or comment on the registration process?

Patents: Third parties have the right to file opinions on registrability starting from when the patent is published. After the decision to grant is published, third parties also have the right to file an appeal against this decision.

Utility models: Third parties have the right to file opinions on registrability starting from when the utility model is published until the decision to grant.

Trademarks: Third parties may file oppositions against trademark application within two months of the publication date. After the publication of the trademark application, everyone may submit their observations that the trademark application should not be registered based on the absolute refusal grounds until the registration of the trademark. However, these persons may not be party to the proceedings before the Office.

Industrial Designs: Third parties may file oppositions against the issuing of registration certificate of the industrial design within three months from the publication date.

Geographical indications and traditional speciality guarantees: Third parties claiming that the registration request does not meet the conditions or the proprietor of an earlier trademark may file an opposition within three months of the publication date.

Plant breeder's rights: Third parties may file oppositions within three months of the publication date before the Ministry of Agriculture and Forestry.

8. What (if any) steps can the applicant take if registration is refused?

If the applications for trademarks, industrial designs and geographical indications and traditional speciality guarantees are rejected by the TPTO, the applicants are entitled to file appeals against the decision before the Re-examination and Evaluation Board ("Board") of the TPTO within two months as of the notification date of the decisions. If these appeals are rejected by the Board, the applicants are entitled to file lawsuit against the Board's

decision before Ankara IP Courts within two months as of the Board's decision.

For integrated circuit topography rights, the applicant is entitled to file an appeal before the Board against the rejection decision of the TPTO within two months as of the notification date of the decision. If the appeal is rejected by the Board, the applicant is entitled to file a lawsuit before Ankara IP Courts within 60 days as of the notification date of the decision.

For plant breeder's rights, the applicant is entitled to file a lawsuit against the rejection decision of the Ministry within 30 days as of the notification date of the decision.

9. What are the current application and renewal fees for each of these intellectual property rights?

Patents: The official fee for filing a patent application is 75 TRY, while the search fee and examination fees (both of which are mandatory steps for registration) are each 1100 TRY (540 TRY for natural persons and universities up to a certain number of applications). While there is no renewal for patents, the yearly annuity fees to maintain the patent right can vary from 530 TRY on the 2nd year up to 4590 TRY on the 20th year after filing.

Utility models: The official fee for filing a utility model application is 75 TRY, while the search fee (which is mandatory for registration) is 1100 TRY (540 TRY for natural persons and universities up to a certain number of applications). While there is no renewal for utility models, the yearly annuity fees to maintain the utility model right can vary from 410 TRY on the 2nd year up to 1220 TRY on the 10th year after filing.

Trademarks: Official fees for filing a trademark application in one class is 380 TRY and 380 TRY would be added for each additional class. Renewal fee is 1280 TRY and late renewal fee is 2505 TRY.

Industrial Designs: Official fees for filing an industrial design application is 270 TRY and 120 TRY would be added for each additional design in the same application. Renewal fee is 820 TRY and 110 TRY would be added for each additional design. Late renewal fee is 1570 TRY and 200 TRY would be added for each additional design.

Geographical indications and traditional speciality guarantees: Official fees for filing a geographical indication or traditional speciality guarantee application is 65 TRY.

Plant breeder's rights: Official fees for filing an

application is 1788 TRY.

Integrated circuit topography rights: Official fees for filing an integrated circuit topography application is 780 TRY.

10. What are the consequences of a failure to pay any renewal fees and what (if any) steps can be taken to remedy a failure to pay renewal fees?

For patents and utility models, while not technically a renewal fee, annuity fees must be paid each year until the deadline corresponding to the date of filing. A late payment with an extra fee of 25% may also be made until up to 6 months after the deadline. Failure to make said payment will result in the patent being rendered invalid. This will be notified to the applicant who can then pay a restoration fee that amounts to 1,5 times the original payment within two months if they wish to revitalize the patent. Lastly, if the late payment is missed due to force majeure and the patent is invalidated, the applicant may apply to the Office and explain the circumstances. If the force majeure is accepted as such, a corresponding fee can be made to revitalize the patent.

For trademarks and industrial designs request, for renewal needs to be made by the trademark proprietor within six months before the expiry of the protection date. In case no request is submitted to the Office within this period, renewal request may be made within six months after the expiry of the protection date, provided that an additional fee is paid. If the renewals are not made within this period, the rights become invalid.

11. What are the requirements to assign ownership of each of the intellectual property rights described above?

The rights over **geographical indications** and **traditional product names** may not be subject to assignment while the assignment of the **trademarks**, **patents** or **utility models** is possible as per the IPL. **Plant breeders' rights** and rights with regard to **integrated circuit topographies** may also be transferred according to their separate legislations. In all cases, the agreements should be in written form and signed before a notary public for their validity. If it is signed before a foreign notary, however, it does not need to be notarized again in Turkey. In this option, the sworn translation of the agreement which is notarized and Apostille legalized abroad would be sufficient.

As for the **copyrights**, material rights attached to the copyright as well as the authority to use can be assigned while moral rights attached to the copyright cannot be assigned under the Copyright Law. It is only possible to assign the authority to use in terms of moral rights. The material rights subject to the assignment must be individually and clearly indicated in the agreement.

Trade secrets, confidential information and know-how may be transferred, however, since there is no specific regulation regarding requirements as to the form of the assignment, the general provisions of contract law would be implemented on this matter.

Domain names can be assigned as well. In order for the transfer to take place regarding the domain names that have ".tr" extension, the relevant form on the website of the registry agency must be filled in completely and correctly according to the Regulation on Domain Names. In case of a domain name was obtained based on a trademark registration or application rather than the leading element of the tradename, then this trademark should also be assigned.

12. Is there a requirement to register an assignment of any of these intellectual property rights and, if so, what is the consequence of failing to register?

Record of the assignment only acts as explanatory information, not as a requirement for the validity of the assignment in terms of **trademarks**, **patents** and **utility models** as the rights are regulated in the IPL. On the other hand, the assignment only takes effect against bona fide third parties in case of a record.

As for the **integrated circuit topographies**, the assignment takes effect against the third parties as of the publication date of the assignment, not the date of the record.

In terms of **plant breeders' rights**, the right owner must notify the related General Directorate regarding the transfer within the period specified in the relevant legislation and by submitting the documents specified in the same.

13. What are the requirements to licence a third party to use each of the intellectual property rights described above?

Patents rights, utility model rights, trademark rights, industrial design rights, copyrights and integrated circuit topography rights may be subject

to a license. Trademarks may be subject to a license for a part or all of the goods or services for which it is registered. License agreements shall be in writing.

The rights over the **geographical sign and traditional speciality guarantees** may not be subject to license.

14. Is there a requirement to register a licence of any of these intellectual property rights and, if so, what is the consequence of failing to register?

Registration of license agreements in the registry is not a requirement of validity. Licensing a collective trademark shall only be valid when registered in the registry.

15. Are exclusive and non-exclusive licensees given different rights in respect of the enforcement of the licensed IP, and if so, how do those rights differ?

License may be granted as exclusive license or non-exclusive license. Unless otherwise agreed in the contract, the license shall not be exclusive. In the non-exclusive license contracts, licensor may use the **trademark, industrial design, patent or utility model** himself or may grant licenses to third parties. In the exclusive license contracts, licensor may not grant license to another person and unless the right has been apparently reserved, may not use the trademark or industrial design himself.

In case of the license of **copyrights**, the economic rights remain in the property of the right owner, and the licensee only has the authority to use economic rights. A license is non-exclusive, if it does not prohibit the owner of economic rights to grant the same license to others, and is exclusive, if it is granted only to one person.

16. Are there criminal sanctions for infringement of any intellectual property rights, and if so, what are they and how are they invoked?

There are no criminal sanctions for infringement of each intellectual property right including patent rights, utility models or designs. Criminal sanctions are provided for the infringement of copyright, registered trademark, or plant breeder's rights. Upon criminal complaint (except for the ex officio fines for those who falsely present themselves as the applicant or right of a plant variety name), an investigation is conducted by the public

prosecutors. Should the person who committed such an act be found guilty as a result of the criminal prosecution, this person is punished with imprisonment and/or a fine.

17. What other enforcement options are available for each of the intellectual property rights described above? For example, civil court proceedings, intellectual property office proceedings, administrative proceedings, alternative dispute resolution.

Intellectual Property Office Proceedings:

It is possible to oppose an application of an intellectual property right before the TPTO within the given periods as mentioned above. In addition, there is a seven-year term specified in the IPL regarding the use of the authority regarding cancellation due to non-use. As per the related provision, although the TPTO has the authority to cancel a trademark registration due to non-use upon request, the TPTO will be able to use this authority after 10 January 2024 and the courts will use the authority until this date. Therefore, the TPTO is now only entitled to handle office actions in principle.

Civil court proceedings:

Civil court proceedings are available for invalidation of intellectual property rights including deletion of a Turkish tradename or domain name that includes a trademark. The infringement-related claims are also available in civil court proceedings such as interim injunctions, determination of evidence process, declaration of non-infringement or determination, revocation and prevention of infringement. Cancellation of trademarks due to non-use as well as granting of a mandatory license for non-use of a patent can currently also be requested through civil court proceedings. On the other hand, the decisions of the TPTO can be canceled by the courts upon a lawsuit.

Alternative dispute resolution:

Alternative dispute resolution methods, such as specialized arbitration and mediation centers are also available.

Board measures:

Please see our answer to question 20 on board measures and customs seizures.

18. What is the length and cost of such procedures?

Office proceedings take between 4 to 8 months in general while patent and utility model cases tend to take longer compared to other cases. Total official fees and expenses are around 2.000-4.000 TRY.

As for the lawsuits, the procedures approximately take around 1-2 years before the First Instance Courts while each appeal procedure before both Regional Courts and Supreme Court takes around 2-3 years. Nonetheless, the length of the actions varies according to the subject of the case. For instance, in patent-related cases or other complex and technical cases, cases that include claims for material damages, cases in which international notification is required or cases where it is decided to wait for the finalization of a related case, this process may take 1-2 years longer.

Total official fees and expenses are around 15.000-30.000 TRY in civil cases while they are around 9.000 TRY in criminal cases. Professional attorney fees, guarantee payments for a preliminary injunction and costs regarding the enforcement of the preliminary injunction or search and seizure decisions such as trustee fee or transportation fee of the products are not included. In case of a claim for damages, there are also additional official costs varies depending on the amount of the demand.

19. Where court action is available, please provide details of which court(s) have jurisdiction, how to start proceedings, the basics of the procedure, the time to trial, the format of the trial, the time to judgment and award of relief and whether any appeal is available.

Competent court:

There are specialized IP courts in Istanbul, Ankara and Izmir. In other cities, the third chamber of the first-instance civil courts or if there are less than three chambers, the first chamber adjudicates intellectual property cases.

According to the IPL, if the right owner initiates a legal proceeding against the third parties, the competent court shall be the court where the claimant is domiciled or where the infringing action has taken place or where the impacts of this action are observed. If the third parties initiate a legal proceeding against the right owner, the competent court shall be the court where the defendant is domiciled. If the rights owner is not

domiciled in Turkey, the competent court is the court where, the business place of the registered attorney is located at the time the proceeding was initiated, and if the record of the attorney has been deleted, the competent court is the court where the headquarters of the TPTO is located, namely Ankara IP Courts. In the cancellation actions would be initiated against the decisions of the TPTO, the competent court shall be the Ankara IP Courts. Please see our answer to question 17 for the non-use cancellation actions. Although there is no concept called "forum shopping", it is indeed possible in the case of multiple component courts by preferring one of them but not between their chambers.

Civil proceedings, basics of the procedure and format of the trial:

There are two types of procedures for civil proceedings called "written procedure" and "simplified procedure" and the written procedure is applied in IP litigation. In the proceedings with regard to the interim remedies such as requesting a preliminary injunction or determination of evidence, the simplified procedure is applied.

In the written procedure, there is a stage called "exchange of petitions" in which the parties respectively submit their lawsuit petition (claimant), response petition (defendant), replication (claimant) and response against the replication (defendant). When this stage is completed, the preliminary proceeding phase is started and a hearing date is determined for the preliminary hearing. Each party has to submit its evidence within two weeks as from the notification regarding the preliminary hearing at the latest. The burden of proof is on the claimant while it is on the defendant in non-use cancellation actions exceptionally. However, further to the nature of the written procedure, it is important to document and support the defences and claims as well. After the preliminary proceeding, there is an examination phase and, in this phase, most of the time the expert examination takes place. At the end of the examination phase, there is an oral hearing where the judge hears the parties and renders the decision. Appeal is possible within two weeks as from the notification of the reasoned decision for the parties that that does not agree with the decision.

Criminal proceedings, basics of the procedure and format of the trial:

On the other hand, the criminal proceeding begins with the criminal complaint of the right owner filed before the public prosecutor. The right owner generally requests a search and seizure decision when filing the criminal complaint and this decision can be granted by the criminal courts upon the request of the public

prosecutor. The search and seizure decision is enforced by the police department. The suspects are questioned by the polices and an expert report is rendered upon the examination of the seized goods. Following this process, the public prosecutor may request the punishment of the suspect and the file is sent to a conciliator before the investigation turns into a criminal prosecution as described in detail our answer to question 20. If the parties do not settle, criminal prosecution starts and criminal action is initiated against the suspects, more precisely, the accused. The accused are heard at the criminal trial and if it is necessary, the file is sent again to an expert and hear witnesses. At the end of the trial, the court decides either to punish the accused or to acquit them. Irrespective of whether the accused were punished or not, the court decides the destruction of the seized goods if it is determined that the goods are counterfeit.

Time to judgement:

Please see our answer to question 17 for the time to judgment.

20. What customs procedures are available to stop the import and/or export of infringing goods?

Trademarks, designs, patents, utility models, geographical indications, plant breeders' rights, rights with regard to integrated circuit topographies, copyrights and related rights and other IP rights can be registered before the General Customs Directorate by filing an application via their e-filing system. If the nature of the goods is suspected as a result of the examination carried out at the customs, the import or export can be prevented by the civil or criminal actions to be taken according to the concrete case and as a result of the notification to be made to the right owner or representative by the customs. In detail, infringing goods might be detained by the customs if the right owner has a valid customs application. If the right owner has no valid customs application at the time of detention of these goods, the customs grants 3 business days to file a valid customs application. Once having a valid customs application, the customs authority grants 3 working days for perishable goods and 10 business days for non-perishable goods to the rights owners, to examine the detained products and provide a seizure decision obtained from the relevant courts. In addition, upon the request of the right owner, the customs may grant an extension of 10 additional business days. It is always at the customs' discretion whether to accept such a request. Apart from these, in case of the owner of the goods and the right owner settle the matter within the

detention period, a procedure called "simplified destruction" may take place.

21. Are any non-court enforcement options or dispute resolution mechanisms mandatory in respect of intellectual property disputes in any circumstances? If so, please provide details.

For the criminal proceeding initiated upon a complaint, there is a conciliation process at the end of the investigation phase and before the investigation turns into a criminal prosecution. In this process, an officially appointed conciliator contacts the parties separately and asks them whether they wish to settle the matter. If both parties would like to consider the settlement option, the conciliator assists the parties while they are conveying their request to the other party. As might be expected, the will of the complainant is crucial and decisive during the process.

On the other hand, there is a mandatory mediation process that must take place before initiating the civil actions for the commercial disputes and monetary claims with regard to intellectual property rights are also considered one of them. The party who will file the action must apply to the official mediation offices in the courthouses with an application form. Following the acceptance of the application, an officially appointed mediator contacts the parties, organizes the meetings and finalizes the process within the time specified in the legislation. If the parties reach an agreement at the end of the mediation process, a document is issued according to the parties' will and terms. It may be requested from the courts to add an annotation to this document regarding its enforceability. Thus, this document has the same effect as a court decision. It should also be noted that there are still unclear points in the practice concerning the implementation of the related provision. In detail, there are contradictory decisions as to whether applying the mediation process is mandatory if the case is filed with other claims such as determination or prevention of the infringement that is not subject to the mandatory mediation, in addition to the monetary claims. In the majority of decisions, it is stated that mediation is not mandatory in case of multiple claims.

Furthermore, in cases where the subject of the dispute is the amount owed to the employee by the employer in relation to an employee's invention, the relevant regulation requires the parties to pursue mandatory arbitration.

22. What options are available to settle intellectual property disputes?

In addition to the above-mentioned mandatory mechanisms, out-of-court settlements can always take place with the free will of the parties before or during a court action. For instance, one of the parties of a conflict may apply for voluntary mediation before initiating a lawsuit or during an ongoing court action without the intervention of the court. If the parties declare to the court that they will apply for the mediation together during an ongoing court action, the trial is postponed by the court. With or without mediation, if the parties of a civil lawsuit settle the matter, they can request from the court the confirmation of the settlement agreement that was executed between the parties, during the lawsuit process but out of the court by the judgment of the court. Sending a cease-and-desist letter before taking necessary legal steps is also a frequently used option.

23. What is required to establish infringement of each of the intellectual property rights described above? What evidence is necessary in this context?

The following actions are deemed as infringement of the patent/utility model:

- Partially or completely copying a product that is the subject of an invention without the consent of the patent or utility model owner,
- Selling, distributing or otherwise presenting to trade goods that are the subject of an invention and that are known or should have been known to be partially or entirely created through copying, as well as importing, keeping for commercial purposes, making use of or suggesting a contract on the same,
- Using a process patent without the consent of the patent owner or selling, distributing or otherwise presenting to trade goods that are known or should have been known to be the product of said process without consent, as well as importing, keeping for commercial purposes, making use of or suggesting a contract on the same,
- Usurping the right to a patent or utility model,
- Widening or transferring to third parties the rights given through contractual or mandatory license without the consent of the patent or utility model owner.

The following actions are deemed as infringement of the trademark:

- Using any sign which is identical to a registered trademark concerning goods and services which are identical to those for which the trademark is registered without the consent of the right owner,
- Using any sign which is identical or similar to a registered trademark for identical or similar goods or services for which the trademark is registered and creates a likelihood of confusion, without the consent of the right owner,
- Using any sign which is identical or similar to a well-known registered trademark for goods or services not covered by the trademark, which would take unfair advantage of or damage the distinctive character or well-known status of the trademark without the consent of the right owner,
- Copying a registered trademark by using a mark, which is identical or indistinguishably similar to the trademark, without the consent of the right owner,
- Selling, distributing or putting on the market in a different form, possessing for a commercial purpose, importing or exporting the products bearing an infringing trademark or offering for sale related to these products which are known or should have been known that the trademark was copied by using an identical or indistinguishably trademark,
- Widening the scope of rights acquired by a trademark license agreement or transferring them to third parties without the consent,

The following actions are deemed as infringement of the design:

- Producing, putting on the market, selling, offering, using or stocking for commercial purposes an identical or indistinguishably similar product in terms of their overall impression in which the design protected in accordance with the provision of the IPL is used or applied, without the consent of the right owner,
- Widening the rights granted by the design right owner, through licensing or transferring these rights to third parties without consent,
- Deforcing a design right.

If an unregistered design was offered to the public as per the related provision of the IPL, the right owner has the authority to initiate the legal proceeding due to the violations of the design right.

The following actions are deemed as infringement

of copyright:

- Reproducing or distributing a work or communicating a work to the public without authorization,
- Adapting a work without authorization,
- Breaching a copyright owner's moral rights.

The following actions are deemed as the infringement of the tradenames and company names:

- Using of a tradename against the principle of good faith.

The following actions are deemed as unfair competition and unauthorized use of trade secrets, confidential information and know-how, among others:

- Leading to breach or termination of the contract, in particular, leading workers, representatives or other assistant persons to disclose or seize the production and trade secrets of their employers or clients,
- Benefiting from a work and/or product belongs to another person without authorization,
- Unlawfully disclosing production or trade secrets, in particular, by using or transmitting trade secrets obtained secretly and without consent or through other unlawful means, against the principle of good faith,
- Non-compliance with legal or contractual rules for employees or competitors in relation to trade secrets and against the principle of good faith.

The following actions are deemed as infringement of the plant breeder's rights:

- Producing, reproducing, preparing for reproduction, offering for sale, sale or putting on the market in a different form, importing, exporting or stocking without the consent of the right owner,
- Preparing, reproducing, offer for sale, sale or to putting on the market in a different form, exporting, importing or storing the materials for reproduction that is related to a protected variety, which is known or should have been known that they were produced by violating the exclusive rights of a right owner,
- Widening the scope of the rights based on a license agreement or compulsory license or transferring these rights to the third parties without consent,
- Participating in, assisting or encouraging the

above-mentioned actions or facilitating the execution of these actions in any way or condition,

- Deforcing the right,
- Using the same or confusingly similar variety name used in Turkey or in a country party to the UPOV Convention, for another variety of the same or similar species,
- Omitting or failing the use of a protected variety name by the persons who sell or market in different ways,
- Refraining from declaring the source and manner of obtaining products found in a party's possession, which were unlawfully manufactured or commercialized.

The following actions are deemed as infringement of an integrated circuit topography rights:

- Reproducing the protected topography entirely or partially,
- Selling, importing or distributing (for commercial purposes) a protected integrated circuit topography or integrated circuit containing a protected integrated circuit topography or product containing illegally reproduced integrated circuit topography.

The evidence showing the presence of the infringement according to the occurrence of the infringement is necessary. In terms of patent or utility model infringement especially, evidence of infringement is often of a more technical nature and requires a comprehensive examination of the invention by the court through the aid of experts. For claims of infringement of a process patent wherein the process is protected rather than the product, the evidence may be limited to proving that the product can be manufactured through the patented process while the defendant will then be expected to prove that their process differs from the patent owner even if their final product does not.

24. How does the court acquire any necessary information (fact or technical) and in what circumstances does it do so? In particular a) Is there a technical judge, a judge with technical experience, a court appointed expert, an expert agreed by the parties, and/or parties' expert witness evidence? b) What mechanisms are available for compelling the obtaining and protecting of evidence? Is disclosure or discovery available?

a. **Is there a technical judge, a judge with technical experience, a court appointed expert, an expert agreed by the parties, and/or parties' expert witness evidence?**

As described in our answer to question 19, there are specialized IP courts in İstanbul, Ankara and İzmir and, the civil courts of the first instance handle IP-related disputes. However, judges of both courts cannot be called technical judges. In the vast majority of cases regarding intellectual property rights, Turkish Courts appoint either an expert or a panel of experts, who serve the purpose of providing technical expertise as well as summarizing or organizing the pertinent information in a case for the judges' review. Expert reports are considered as having a large impact on the ruling and while the parties may also put forth opinions of experts that they have themselves obtained, these are not considered with the same weight as the report prepared by the experts appointed by the court.

- b. **What mechanisms are available for compelling the obtaining and protecting of evidence? Is disclosure or discovery available?** There is no concept called "disclosure and discovery" in Turkish law, however, similar proceedings are available. For instance, an ex-parte legal action called "determination of evidence" is available in order to prevent the spoliation of evidence by the adverse parties before initiating a lawsuit. In general, a site visit can be conducted by the court-appointed experts with or without a judge at the premises of the adverse parties. During the site visit, the experts detect the existing situation, namely the scope and method of the unlawful use, by photographing and taking notes and submit a report to the court. This action can be also used to determine of the adverse parties' online use by the experts. Although this process does not result in the prevention of the adverse parties' unlawful actions, it can be useful when sending a cease-and-desist letter to them or requesting a preliminary injunction that most courts require to issue an injunction. Requesting a preliminary injunction is possible for obtaining and protecting evidence in cases such as infringement where evidence thereof may be swiftly and freely destroyed. In cases where the evidence in question is in the hands of a third party or government agency, the court can issue an order for said information to be provided to

the court, which will be binding to third parties. As another option, discovery during the lawsuit either upon the request of the parties or ex officio decision of the court is also possible for the observation of the existing situation of subject matter by the judge himself/herself with or without the help of the experts according to the nature of the conflict.

In criminal proceedings, similar to the function of the preliminary injunctions, with the seizure decisions granted by the criminal courts and enforced by the police department, infringing goods and/or their materials are kept until the end of the lawsuit.

25. How is information and evidence submitted to the court scrutinised? For example, is cross-examination available and if so, how frequently is it employed in practice?

In principle, the judges examine and evaluate the information and evidence submitted by the parties. However, as mentioned in our answer to question 24(a), the judges most of the time seek assistance from the court-appointed experts to evaluate their probative force in both civil and criminal actions. There is no concept called "cross-examination" in procedural law, however, it is possible to address a question to a witness, expert, or parties including the ones invited to the hearing through the judge or directly, depending on the party asking the question. In practice, calling a witness is not very common in civil cases due to its probative force while it is common in criminal cases.

26. What defences to infringement are available?

Many defenses to infringement can be alleged such as: defence of acquiescence or lapse of time, invalid or expired right, exhaustion of the right, lack of use, fair use in trade, legitimate use, permitted use, real ownership and prior use, personal use or non-commercial use, bolar exemption.

27. Who can challenge each of the intellectual property rights described above?

Anyone who has a legal interest in doing so and the prior

right owners can challenge intellectual property rights while this can vary by the subject of the case.

28. When may a challenge to these intellectual property rights be made (e.g. during any registration process or at any time during the subsistence of the right)?

Invalidation of a **patent or utility model** can be requested at any time during the subsistence of the right as well as up to five years after the right has lapsed. An appeal to the grant of a patent can be filed within 6 months after the grant decision while opinions, while not direct challenges, can be filed against patents and utility models during the application process before registration.

Invalidation of a **trademark** can be requested at any time during the subsistence of the right due to bad faith. For the other invalidation grounds, the trademark owner may not allege his/her trademark as an invalidation ground, if the trademark owner has acquiesced in the use of a latter trademark for five successive years while being aware or should have been aware of this situation. In practice, even if the trademark owner is not aware of the latter trademark, loss of right due to remaining silent is deemed to have taken place against the latter trademarks registered for more than 5 years.

Cancellation of the **trademark** registration due to non-use be requested at any time during the subsistence of the right as long as the necessary conditions are met.

Invalidation of a **design** registration can be requested at any time during the subsistence of the right as well as up to five years after the right has lapsed. Third parties can file oppositions against the industrial design registration within 3 months as of the publication date.

Anyone who has a legal interest can request the invalidity of the **plant breeder's right** and as long as the right to protection continues.

Invalidation of **integrated circuit topographies** can be requested at any time during the subsistence of the right.

As for the **tradenames**, they can also be canceled as long as they are registered.

29. Briefly, what is the forum and the procedure for challenging each of these intellectual property rights and what are the grounds for a finding of invalidity of

each of these intellectual property rights?

Most of the intellectual property rights can be challenged before their registration as mentioned above while it is also possible to request their invalidation and/or cancellation in the civil proceedings before the IP courts. In details:

Patent and utility model rights may be challenged first before the TPTO and then before the authorized courts depending on the nature of the dispute. Invalidation of a patent or utility model can occur for the following reasons:

- If the invention does not carry the conditions for patentability,
- If the invention is not sufficiently explained to obtain protection as a patent,
- If the subject of the patent surpasses the initial scope determined by the filing,
- If the patent owner is proven not to have the right to request a patent,
- If the scope of protection of the patent has been surpassed.

Trademarks may be challenged first before the TPTO and then before the authorized courts depending on the nature of the dispute. Invalidation of a trademark registration can occur for the following reasons:

- If there is a likelihood of confusion between the trademarks since the latter trademark is identical or similar to the earlier trademark, the trademarks cover identical or similar goods and/or services, and there is a likelihood of confusion among the relevant consumers,
- If the agents or representatives of the trademark owner file an identical or indistinguishably similar to the trademark in their own name, without the consent of the trademark owner and any valid ground,
- If a right to a non-registered trademark or another sign used in the course of trade was acquired before the date of application or the date of the priority claimed for the application for registration of a trademark,
- If the latter trademark is identical or similar to the well-known marks within the context of Article 6 bis of the Paris Convention and covers identical or similar goods and services,
- If the latter trademark is identical with or similar to an earlier trademark registration which has well-known status in Turkey irrespective of whether the goods or services is the same or similar without a valid reason,

and the latter trademark would take unfair advantage of or be detrimental to the distinctive character or reputation of the earlier trademark due to its well-known status,

- If the trademark contains the name, tradename, photograph, copyright or industrial property right of a third party,
- If the trademark is identical or similar to another trademark registration, the protection period of which has ended due to non-renewal, and covers identical or similar goods/services and if the latter is filed within two years following the expiration of the protection of the earlier registration and the earlier registration is used within this period.
- If the application was filed in bad faith.
- If the trademark does not meet the definition of a trademark specified in the IPL and cannot be considered a trademark therefore,
- If the trademark is devoid of any distinctive character,
- If the trademark exclusively consists or includes as an essential element of signs or indications which serve in trade to designate the kind, type, characteristics, quality, quantity, intended purpose, value, geographical origin, or the time of production of goods or of rendering of the services or other characteristics of goods and/or services,
- If the trademark exclusively consists or includes as an essential element of signs or indications used by everyone in trade or which serves to distinguish members of a particular professional, vocational or commercial group from others,
- If the trademark exclusively contains the shape or another characteristic of the goods resulting from the nature of the goods, or necessary to obtain a technical result or which gives substantial value to the goods.
- If the trademark would deceive the public, for instance, as to the nature, quality or geographical origin of the goods and/or service,
- If the trademark shall be refused pursuant to Article 6ter of the Paris Convention;
- If the trademark contains other signs of public interest, which have become public in terms of historical and cultural values, and armorial bearings, emblems or hallmarks for which registration permission has not been granted by the competent authorities, although it cannot be refused pursuant to Article 6ter of the Paris Convention,
- If the trademark is contrary to public policy

and public morality,

- If the trademark is composed of or contains a registered geographical indication.

Trademark registrations can be canceled for the following reasons:

- If the trademark has not been put to genuine use in Turkey by the trademark owner in connection with the goods and/or services it is registered for within five years following the date of registration, or if such use has been suspended during an uninterrupted period of five years, the trademark shall be revoked, unless there are proper reasons for non-use.
- If the trademark has become generic for the registered goods or services due to the trademark owner's actions or as a consequence of necessary measures not taken by the trademark owner,
- If the trademark misleads the public concerning the nature, quality or geographic origin of the goods or services for which it is registered, as a result of the use by the trademark owner himself/herself or with the trademark owner's consent.
- If the use of the trademark is contrary to the technical specifications for the guarantee mark or collective mark specified in the IPL.

Designs may be challenged first before the TPTO and then before the authorized courts depending on the nature of the dispute. Invalidation of a registered design can occur for the following reasons:

- If the design does not meet the definition of a design or product specified in the IPL and the legal conditions for obtaining a registered design right such as lack of novelty or individual character or, cannot be under protection or, was not filed by the person who can benefit from the design protection according to the IPL, or was filed in bad faith and contains the unauthorized use of an intellectual property right,
- If it is proven that right belongs to another person or other persons,
- If the filing date of an identical or similar design declared to the public later is before the filing date of a registered design.

Plant breeder's rights can be challenged first before the relevant Ministry and then before the authorized courts depending on the nature of the dispute. Invalidation of a registered design can occur for the following reasons:

- If, as of the date of application or priority right, it is understood that the variety lacks novelty and/or is distinctiveness, and does not meet the required conditions,
- If it is understood that the variety is not uniform and/or lacks stability,
- If the registration of the breeder's right is made on behalf of an unauthorized person,

Plant breeder's right can be canceled ex officio by the Ministry for the following reasons:

- If it is determined that the right owner does not fulfill the obligations that he/she has to fulfill or it is determined that the variety has lost its uniformity and/or stability features,
- If the information, documents and materials requested specified in the relevant provision are not provided by the right owner within the period determined by the Ministry,
- If the variety name is canceled by the court and a new name is not reported by the right owner within the period determined by the Ministry.

Integrated circuit topographies may be invalidated by the authorized courts and invalidation of a registered integrated circuit topography can occur for the following reasons:

- If it is proven that the integrated circuit topography is not original and does not meet the conditions for the protection,
- If it is proved that the right ownership of the integrated circuit topography belongs to another person or persons.
- If it is proven that the application for registration was not filed within two years from the first commercial release in Turkey and/or outside of Turkey by the right owner or a third party authorized by the right owner in the case of commercial use of the integrated circuit topography in Turkey and/or outside of Turkey before the application is filed for the integrated circuit topography registration.

30. Are there any other methods to remove or limit the effect of any of the intellectual property rights described above, for example, declaratory relief or licences of right?

There are several methods to remove or limit the effects of intellectual property rights. In this regard, exhaustion of rights internationally, declaratory non-infringement

actions, or licenses of a right are possible in addition to the mandatory license to be obtained due to non-use of the invention or with regard to the plant varieties, copyrights and integrated circuit topographies in addition to the patent and utility models. It is also possible for the protection period to expire, for the right to be withdrawn, and for the right to lapse through non-payment of required fees on time.

31. What remedies (both interim and final) are available for infringement of each of the intellectual property rights described above?

The remedies available in case of the infringement of the IP rights are as follows:

- Preliminary injunctions
- Prevention and determination of the infringement
- Cessation of the infringing actions
- Compensation of material and moral damages
- Seizing of the products causing infringement or requiring penalty, as well as instruments, such as devices and machines exclusively used in their production, without preventing the production of products other than infringing products
- In cases where infringement occurs as a result of the patent or utility model right being usurped, transferring of the right to the rightful owner by the courts
- Requesting property right on products, devices and machines seized
- To take measures to prevent the continuity of infringement, in particular at the expense of the infringer to change the shapes of products and instruments such as devices and machines seized, to erase the trademarks on them or to destroy them if it is inevitable for preventing the infringement of industrial property rights
- Announcement of the final judgment through the daily newspapers or other means or notification to relevant parties
- Criminal remedies such as penalties including imprisonment and fines

32. What are the costs of enforcement proceedings and is any kind of costs recovery available for successful parties? Is there a procedural mechanism enabling

or requiring security for costs?

Official court fees for enforcement proceedings would be approximately 15.000-30.000 TRY.

Professional attorney fees will be agreed upon by the Client and attorneys according to the specifics of each case.

According to the Turkish Civil Procedure Code, in principle, the cost of legal proceedings shall be borne by the party against whom the judgment has been rendered. If each of the two parties is partially right in the case, the Court will split the costs. For the avoidance of doubt, professional attorney fees who are agreed independently by the Client and the attorney are not reimbursed by the losing party.

In some cases, the Court may order the claimant to deposit a security to cover the costs of legal proceedings and possible damages of the defendant. If the security is not provided within the period determined by the Court,

the case will be rejected on the procedural grounds.

33. Has the COVID-19 pandemic caused any changes (temporary or permanent) to the protection or enforcement of intellectual property? For example, changes to deadlines, filing or evidence requirements or court processes.

Almost all of the measures such as suspension of deadlines and adjournment of court hearings taken due to Covid-19 in 2020 have been lifted. Both litigation processes and processes before the TPTO continue as usual. However, the pandemic also had some lasting impacts. For example, "e-hearings" held by video conferencing method have become quite common for the IP Courts. Since all transactions carried out before the TPTO are already carried out online, there has been no major change in this regard, except for the extension of the deadlines.

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