

HISTORY OF TURKISH TRADEMARK LAW



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Before the establishment of the Turkish Republic, there were two main pieces of legislature governing industrial rights, namely: *Alameti Farkia Nizamnamesi* (Trademark Law), dated July 20, 1871, and *İhtira Beratı Kanunu* (Patent Law), dated March 23, 1879.

The Trademark Law was based on the French Trademark Law dated 1857 and consisted of 25 articles regulating issues such as definitions, trademark samples, renewals, fees, multiple registration systems, the foreign applicants, applications, cases and penalties. This law, which was based on a non-examination system, was amended in 1872 and again in 1888. The examination-based system was accepted through Law no. 6591 dated May 27, 1955.

The Trademark Law was valid for 94 years until March 12, 1965, when Trademark Law no. 551 entered in force. This law, which remained valid for 30 years, was broader than the previous Trademark Law, with 56 articles mainly covering issues such as Nice classification, service marks, publication and opposition, and specialised courts. Although 'mark of origin' was also included in the Trademark Law at the draft stage, it was excluded from the Trademark Law that entered into force.

Trademark Law/Decree no. 556, which came into force on June 26, 1995, is a harmonised version and includes all the provisions that were not covered in the previous laws and regulations. There are ongoing studies and drafts for the replacement of the law/decree with a statute law.

Patents in detail

Similarly, the Regulation of Patent procedures, dated March 23, 1879, was also adapted from the French Patent Law dated 1844. However, one important difference between the French and Turkish laws was the provision that oversees the giving of medals to the inventors according to the degree of their inventions and the use of this medal as a trademark by the inventors. The Patent Law of 1897 was based on a non-examination system. The patentability criteria before the enactment of the Patent Law of 1879 were 'novelty' and 'being applicable to the industry'. Nowadays, patentability criteria are novelty, inventive step and being applicable to the industry.

The Patent Law of 1879 was similar to today's utility model system. The main differences between the two are the publication and opposition procedures. The non-examination system in the Patent Law was amended and converted into an examination-based system with Patent Law no. 6563, dated May 13, 1955. With this law, Turkey became a participant to the International Patent Institute in La Haye and therefore examination before the International Institute was initiated. The Patent Law dated 1879 was abolished by the Decree/Law no. 551, dated 1995, which is still in force today, and meets today's international requirements. The present system enables the obtaining of non-examined patent certificates for seven years, examined patent certificates for 20 years and utility models certificates for 10 years.

Turkey has recently started to prepare research and examination reports for patent applications, especially those regarding certain International Patent Classification classes in other European patent offices. In 1996, the PCT and in 2000, the European patent systems were accepted by Turkey.

The Turkish Patent Institute was established in 1994 to authorise intellectual property rights in Turkey, and to enable Turkey to follow developments in the international arena and contribute to the preparation of agreement and/or drafts in all of the international platforms to which it is a party.

Agreement	Enforcement date
Berne Convention	1 January 1952
Budapest Treaty	30 November 1998
Hague Agreement	1 January 2005
Locarno Agreement	30 November 1998
Madrid Agreement (Indications of Source)	21 August 1930
Madrid Protocol	1 January 1999
Nice Agreement	1 January 1996
Paris Convention	10 October 1925
Patent Cooperation Treaty	1 January 1996
Patent Law Treaty	Signed
Rome Convention	8 April 2004
Singapore Treaty	Signed
Strasbourg Agreement	1 October 1996
Trademark Law Treaty	1 January 2005
International Union for the Protection of New Varieties of Plants Convention	18 November 2007
Vienna Agreement	1 January 1996
World Intellectual Property Organization Convention	12 May 1976
European Patent Convention	11 November 2000
World Trade Organization	Member since 26 March 1995

Turkey continues to develop its intellectual property rights law, including incorporating the EU harmonisation initiatives. Since joining the EU Association Council in 1995, Turkey has accepted and ratified almost every international regulation in the area of industrial rights. Presently, the Patent Law and the Trademark Law are undergoing review, details of which will be examined in the next issue. In addition, Turkey has introduced some new practices, such as online application systems and e-signature.

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