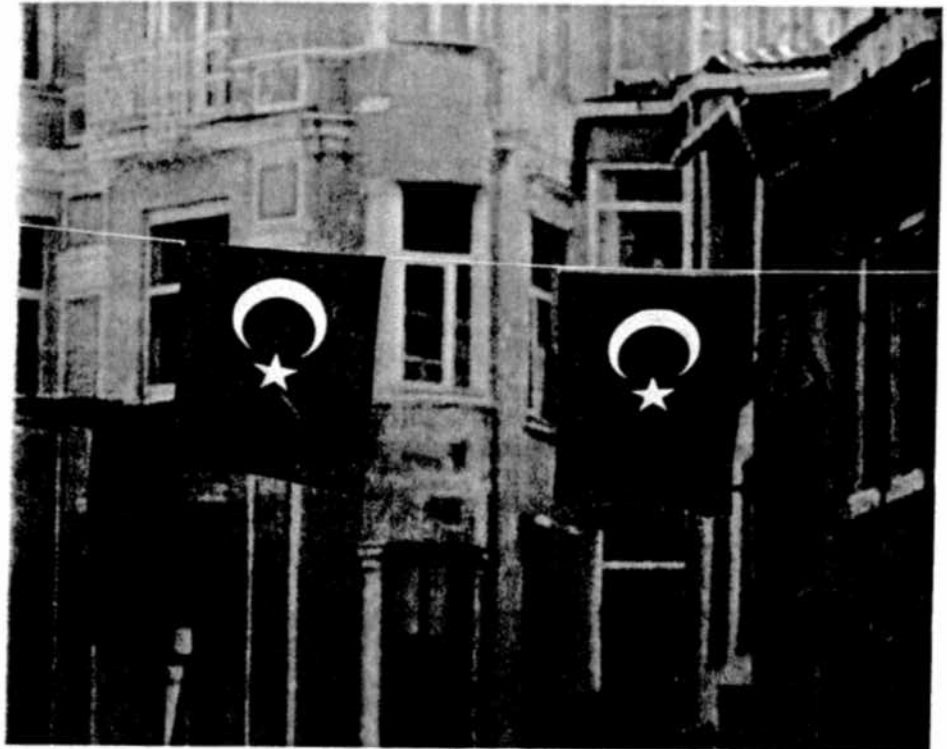


IN SUMMARY

- The Paris Convention, Trademark Law Treaty, Patent Law Treaty and TRIPS have revolutionised IP law
- WIPO, being one of the most important IP bodies, encourages all Member States to harmonise rules and practices by creating guidelines and providing international registration systems
- Turkey does not only apply the regulations but also tries to provide continuous improvement under the supervision of control bodies' reports
- Turkey has introduced some new practices, such as online application systems and e-signature
- Recently, Turkey has implemented some revisions in the IP regulations in accordance with international upgrades
- With the efforts of Turkish professionals and Government bodies improvements will continue to be made

AUTHOR

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# Creating an even playing field

## International standards in intellectual property

**Gözde Çolak** of Ankara Patent Bürosu Ltd provides an overview of the main treaties and agreements that have been instigated in the development of IP, and focuses on their application in Turkey

### Standards and IP

It is more than a century since the first major IP standards were created, and since that time IP law has expanded on both national and international levels. This article reviews the most important standards in the history of IP and then focuses on the implementation of regulations and standards in Turkey.

### The Paris Convention 1883

The first milestone of the international IP standards is the Paris Convention, which is

dated 1883. The Paris Convention is also remarkable since it is considered as the first recognition of the issues surrounding IP. The Convention covers trademarks, patents, industrial designs, unfair competition, company names and geographical indications. The Paris Convention only sets the framework rules and leads the national regulations within this perspective. As the Convention does not directly interfere with the national regulations, it does not foresee any enforcement. It does, however, envision an exception regarding company names as it introduces a minimum standard and effects the national regulations.

**Trademark and patent treaties**

The second important text is the 'Trademark Law Treaty', which is dated 1994. It was adopted at Geneva by the World Intellectual Property Organization (WIPO) on 27 October 1994 and is available in full on the WIPO website<sup>1</sup>. The main focus of the 'Trademark Law Treaty' is the harmonisation of trademark regulations, which vary in different countries. By setting certain rules, therefore the aim of the 'Treaty' is to provide standardisation and harmonisation of the national regulations and applications.

The Patent Law Treaty (PLT), dated 2000, similarly aims to provide harmonisation of the patent regulations throughout the world for the filing and maintenance of national or regional patent applications, and additional requirements, such as communications, representation or recording of changes to patents and patent applications. Its provisions refer to those of the Patent Cooperation Treaty (PCT) to avoid creating different international standards.

There are six main modules to the PLT. These are:

- *Module 1: Filing date requirements* – It sets up requirements for obtaining a filing date and procedures to avoid a loss of the filing date because of a failure to comply with other formality requirements.
- *Module 2: Standardised applications* – The PLT establishes a single internationally standardised set of formal requirements for national and regional applications, based on the requirements for international applications under the PCT.
- *Module 3: Standardised forms* – It establishes standardised forms that shall be accepted by all Offices.
- *Module 4: Simplified procedures before the Office* – The PLT simplifies a number of procedures before Offices, contributing to a reduction of costs for applicants as well as Offices.
- *Module 5: Avoiding loss of rights* – It avoids unintentional loss of substantive rights and reinstatement of rights as a result of failure to comply with formality requirements.
- *Module 6: Paper and electronic communications.*

**TRIPS**

One another important text in terms of standardisation is TRIPS, since it includes some very important rules as standards and it serves as a guideline for the national regulations of the member countries. There are three main issues in the text of TRIPS that are significantly different from the above-

mentioned treaties. First, there is an exception in the text, which focuses mainly on the US law, which is the use requirement in registration procedures. The second important issue in TRIPS is the 'application of the most distinguished country principle'. According to this principle, if a country bestows privilege to one country, then that country should provide the same privileges for the other member countries. The final issue is the emphasis on the depletion of the right.

**The role of WIPO**

As one of the most important institutions in the area of intellectual property, WIPO encourages all Member States to harmonise

- The Hague System for the International Deposit for Industrial Designs
- The Lisbon System for the International Registration of Appellations of Origin.

These standardise the registration procedures, as well as eliminating the differences between the systems. Hence, these systems enable inventors to file applications with a single application in multiple countries. Accordingly, the applicants are provided with standardised systems with a single language, single application fee and a single application.

Furthermore, the following agreements introduce classification systems for the organisation of information and creation of a

**“ WIPO encourages all Member States to harmonise their rules and practices by creating guidelines and providing international registration systems ”**

their rules and practices by creating guidelines and providing international registration systems, such as:

- The PCT for filing patent applications in multiple countries
- The Madrid System for the International Registration of Marks for trade and service marks

common index for different branches. These systems also enable the easy search of information, especially regarding the determination of novelty:

- Strasbourg Agreement Concerning the International Patent Classification
- Nice Agreement Concerning the International Classification of Goods and

**Table 1: The intellectual property agreements that Turkey is a party to**

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 Organisation	Became a member on 26 March 1995

- Services for the Purposes of the Registration of Marks
- Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks
- Locarno Agreement Establishing an International Classification for Industrial Designs.


### Focus on Turkish compliance to international IP standards

The recognition of IP in Turkey started following the period of the Ottoman Empire, however despite this it is generally thought that Turkey has been focusing on IP issues mainly by following the European Union (EU) accession process. As a matter of fact, with the EU harmonisation initiative, there are many important developments in the area of IP. It is also important to mention that Turkey does not only apply the regulations but also tries to provide continuous improvement under the supervision of the control bodies' reports, such as EU harmonisation reports, UN and World Bank reports. Turkey has signed up

to a number of IP agreements, which are listed in Table 1.

With rapid globalisation and the requirements of the changing environment, Turkey has also introduced some new practices, such as online application systems and e-signature. Recently, Turkey has implemented some revisions in the IP regulations in accordance with international upgrades. Moreover, the local branches of several international associations, such as the Association Internationale pour la Protection de la Propriété Intellectuelle, the International Chamber of Commerce and the Licensing Executives Society, are constructed in this regard. Besides this,

**“ Recognition of IP in Turkey started following the period of the Ottoman Empire, however despite this it is generally thought that Turkey has been...following the European Union accession process ”**

Turkish professionals try to keep abreast with the developments and new discussions in the area of IP by actively attending some international organisations' meetings, committees and seminars. We believe with the efforts of Turkish professionals and Government bodies improvements will continue to be made. 

#### Notes

1. Trademark Law Treaty, available at [www.wipo.int/treaties/en/ip/tlt/trtdocs\\_wo027.html](http://www.wipo.int/treaties/en/ip/tlt/trtdocs_wo027.html), accessed 30.7.08.
2. Patent Law Treaty, available at [www.wipo.int/patent-law/en/plt.htm](http://www.wipo.int/patent-law/en/plt.htm), accessed 30.7.08.

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