

Intellectual Property Rights in Türkiye: Overview

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A Q&A guide to intellectual property rights law in Turkey.

The Q&A gives a high-level overview of the protection, maintenance, and enforcement of patents, utility models, trade marks, copyright, registered designs, unregistered designs, trade secrets and confidential information, domain names, and database rights.

Any references to Turkey in this resource or on our site are referring to Türkiye, the official name of the jurisdiction as recognised and implemented by the UN on 3 June 2022. We are in the process of implementing that change in our resources.

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Patents

Requirements to Obtain a Patent

1. Provide a brief definition of a patent, the key legal requirements to obtain it and the law that applies.

Conditions for a Patent

A patent is an industrial property right that gives the patent owner the right to prevent third parties from certain activities such as producing, using, selling, or importing the product or process that is the subject of the invention for a 20-year period.

The applicant must prove the following to obtain a patent:

- Novelty.
- Inventive step.
- Industrial application.

(Article 82/1, Intellectual Property Law No. 6769 (IP Law).)

Turkey is party to almost all international IP treaties. At national level, the main sources of patent law are as follows:

- IP Law.
- Regulation on the Implementation of the IP Law.
- Regulation on Employee Inventions, Inventions Realised in Higher Education Institutions, and Inventions Realised as a Result of Publicly Funded Projects.
- Regulation on the Implementation of the European Patent Convention Regarding the Grant of European Patents in Turkey.

The above legislation applies to all patents in Turkey, including pharmaceutical patents and software patents (Article 82/3, IP Law).

Types of Patent

Product patents and process patents are both available.

Main Categories Excluded from Patent Protection

The following are not considered inventions and therefore cannot be patented:

- Discoveries, scientific theories, and mathematical methods.
- Plans, methods, and rules in relation to mental acts, business, and game activities.
- Computer programs.
- Literary and artistic works, scientific works, and creations with an aesthetic characteristic.
- Delivery of information.

(Article 82/2, IP Law.)

The following are inventions but cannot be protected by a patent:

- Inventions violating public order or morality.
- Methods of treatment, including diagnosis and surgical methods practised on the human or animal body.

- Plant and animal varieties or species or biological processes for producing or breeding plants and animals (except microbiological processes or products of them).
- A simple discovery of an element of the human body, including a gene sequence.
- Human cloning processes, the use of human embryos for industrial or commercial purposes, and certain processes to modify the human genetic code.

Registering a Patent

2. Which authority registers patents? Briefly outline the key stages and timing in obtaining a patent.

Patent Registration Authority

Patent applications are examined and granted by the *Turkish Patent and Trademark Office (TPTO)*. Its website provides guidance on the *application requirements and procedure*.

The documents and information required for a patent application are as follows:

- Application form.
- Description explaining the subject of the invention.
- Claim or claims covering technical features of the invention claimed to be novel.
- Technical drawings referred to in the specification, claim, or claims.
- Abstract.
- Document showing that the application fee has been paid.

Patent Search and Information Facilities

There are TPTO portals for patent:

- *Searches*.
- *File tracking*.
- *Advanced searches*.

Process and Timing

When all the minimum information is submitted to the TPTO, a patent application filing date is allocated and the application is processed. All other required documents can be completed within two months from the application filing date. The minimum requirements to allocate a filing date are as follows:

- Request to grant a patent.
- Identity and contact information of the applicant.
- A description written in Turkish or in one of the specified foreign languages or a reference to a previous application.

Details of patent application fees are available at [TPTO: Patent Fees](#).

Turkey recognises foreign priority for patent applications.

After the patent application is filed, the TPTO conducts an examination for compliance with formal requirements. If there is no deficiency in the application, the TPTO prepares a search report on the applicant's request by paying the required fee.

To prepare a search report, the TPTO carries out a detailed search on the patent application in terms of novelty, inventive step, and industrial applicability. The TPTO examines patent/non-patent technical literature around the world and evaluates documents closest to the invention made available before the application date.

During the examination phase, the TPTO examines whether the patent application is suitable for registration according to the IP Law. If the patent application does not comply with the IP Law, the applicant is notified to make changes to the application, provided that these changes do not exceed the scope of the application. These notifications can be repeated, if necessary, up to three times.

If no early publication request is made with the application, the patent application is published in the *Patent Bulletin* at the end of 18 months following the application date. All Official Bulletins are published online at [TPTO: Bültenler](#).

Third parties can oppose a patent before the TPTO within six months of publication of the patent grant decision in the *Patent Bulletin* (post-grant opposition procedure). The grounds of opposition are as follows:

- The object of the patent does not fulfil the patentability requirements.
- The invention has not been sufficiently disclosed.
- The object of the patent exceeds the scope of the application.

A patent registration process including the above stages typically takes about two to three years.

Enforceable Patent Protection Term



3. When does patent protection start and how long does it last?

Patent protection starts from the application filing date, subject to payment of maintenance fees. The term of protection is 20 years.

The term of patent protection cannot be extended.

Supplementary protection certificates (SPCs) or equivalent are not available in Turkey for patents protecting pharmaceutical and agricultural products.

Maintaining Patents

4. What steps must a patent owner take to maintain the registration and legally protectable status of its patents?

Patent Fees

To maintain patent protection, annual fees must be paid to the TPTO, starting from the end of the second year from the application filing date.

Details of maintenance fees are available at [TPTO: Patent Fees](#).

If Patent Fees Are Not Paid

Annual fees not paid by the due date can be paid within six months following the due date, with an additional fee. If not, the patent will expire. Under the IP Law, the patent can be restored by paying a fee within two months following notification by the TPTO to the applicant that the patent has expired.

Must a Patent be Used?

The patent owner or person authorised by the owner must use the invention protected by the patent. Otherwise, the patent may be subject to a compulsory licence under the IP Law. A declaration of use must be filed with the TPTO within three years from publication of the decision to grant the patent in the *Patent Bulletin* or four years from the date of the patent application, whichever is later.

Patent Infringement

5. What rights does a patent give to its owner? On what grounds can a patent infringement action be brought? What are the main defences to a patent infringement action?

Rights Granted by a Patent

The patent owner has the following rights:

- Preventing and removing consequences of infringing acts (see below, *Grounds for Patent Infringement*) (Article 141, IP Law).
- Preventing third parties from supplying a person not entitled to perform/execute the patented invention with means or tools that make it possible to perform or execute the patented invention, if they relate to an essential element of that invention (Article 86, IP Law).
- Licensing its patent rights to third parties.

Grounds for Patent Infringement

Any of the following acts are grounds for bringing a patent infringement action:

- Imitating a patented product by manufacturing it fully or in part without the patent owner's permission.
- Selling, distributing, or trading in any other way products manufactured in violation of ownership rights, or importing, keeping for sale, or using such products or suggesting a contract about such products, with knowledge that the products are complete or partial imitations or while in a position to know they are such imitations.
- Using an invented method without the patent owner's permission or selling, distributing, or trading in any other way products manufactured with a direct use of the invented method without permission, or importing, keeping for sale, or using or suggesting a contract about such products with knowledge that they were manufactured with the invented method without permission or while in a position to know they were manufactured in this way.
- Registering the patent right on behalf of an unauthorised person.
- Extending contractual or compulsory licensing rights or transferring such rights to third parties.

(Article 141, IP Law.)

Defences to a Patent Infringement Action

The most common defences to patent infringement actions include:

- Invalidity of the patent.

- The product or process does not fall within the scope of the patent, for example, another process has been used in the manufacture of the patented product or another formulation or technical system has been used.
- The patent owner's right has expired.
- Prior user's right.
- "Bolar" exemption (Article 85/3(c), IP Law). This is the most frequent defence in pharmaceutical patent infringement claims. Experimental activities, including involving an invention subject to a patent, pharmaceutical licensing, and all necessary tests and experiments, are outside the scope of the rights conferred by a patent.
- Experimental acts involving the patented invention (Article 85/3(b), IP Code).
- Exhaustion of patent rights. Release of a product bearing an IPR anywhere in the world is sufficient for exhaustion of the IPR in Turkey (Article 152, IP Law).
- Farmer's privilege defence (Article 85, IP Law).
- Prosecution history estoppel if the patent owner invokes the doctrine of equivalents (Article 89/6, IP Law).

6. Which courts have jurisdiction over patent infringement actions? Is there a fast-track and/or a small-claims procedure?

Specialised IP courts in Istanbul, Ankara, and Izmir deal with patent infringement actions. In other cities, the third chamber of the civil courts of first instance (or the first chamber, if there are fewer than three chambers) deals with IP infringement actions.

There is no fast-track or small-claims procedure for patent infringement actions.

7. What are the remedies in patent infringement actions?

The following remedies are available in a patent infringement action:

- Prevention of infringing acts, including the manufacturing, sale, import, and export of the infringing products.
- Removal and destruction of infringing materials.
- Claim for pecuniary and non-pecuniary damages (in the case of intentional infringement).
- Publication of the court's decision.

- Preliminary injunction, for a party filing or intending to file an infringement action under Article 141 of the IP Law, if there is evidence of use or intention to use the patent which would infringe the claimant's right. A request for a preliminary injunction can be filed before, after, or at the same time as the main action and is examined on an urgent basis and separately from the infringement proceedings.

A permanent injunction is not generally available. A permanent injunction may be the outcome of an infringement action where the court acknowledges that the defendant's acts are infringing and decides to stop them entirely.

Patent Revocation

8. On what grounds can third parties challenge a patent through invalidation, cancellation, or revocation proceedings?

A patent can be declared invalid by a court on any of the following grounds:

- The invention does not meet the patentability requirements.
- The invention has not been described in a sufficiently explicit and comprehensive manner to enable a person skilled in the technical field to implement it.
- The patent exceeds the scope of the application or is based on a divisional application and exceeds its scope.
- The patent holder does not have the right to the patent.
- The patent exceeds the scope of its protection.

(Article 138, IP Law.)

Apart from filing an opposition against the granted patent before the TPTO (see [Question 2, Process and Timing](#)), the validity of a patent can only be challenged before an IP court or the civil courts (if there is no IP court in the jurisdiction) (see [Question 6](#)).

Utility Models

9. Is utility model protection available in your jurisdiction?

Legal Conditions for Utility Model Protection

Utility models are protected in Turkey as industrial property rights under the IP Law.

To obtain a utility model, the applicant must prove novelty and industrial application.

Registration Authority

Utility model applications are examined and granted by the TPTO. Guidance is available at [TPTO: Patents](#) and the TPTO's official YouTube channel (accessible from the official website) provides visual guidance.

The documents and information required for a utility model application are similar to those for patents (see [Question 2](#)).

Utility models can be searched from the TPTO patent portals:

- [Searches](#).
- [File tracking](#).
- [Advanced searches](#).

Process and Timing

A utility model application in Turkey goes through the following stages during registration, which takes about one to two years:

- After the utility model application is filed, the TPTO conducts an examination for compliance with formal requirements. If there is no deficiency in the application, the TPTO prepares a search report on the applicant's request.
- To prepare a search report, the TPTO carries out a detailed search on the utility model application in terms of novelty and industrial applicability. The TPTO examines all patent/non-patent technical literature around the world and evaluates documents closest to the invention made before the application date. However, there is no substantive examination for utility models.
- If no early publication request is made with the application, the utility model application is published in the *Official Bulletin* at the end of 18 months following the application date.

Details of utility model application fees are available at [TPTO: Patent Fees](#).

Foreign priority is recognised for utility model applications in Turkey.

Third parties cannot oppose a utility model application (Article 143/11, IP Law). However, third parties can file statements against the content of the search report within three months from publication of the search report in the *Official Bulletin*.

Enforceable Utility Model Protection Term

The term of protection is ten years from the application date.

Maintaining Utility Models

To maintain utility model protection, annual fees must be paid to the TPTO, starting at the end of the second year from the application filing date. Details of utility model maintenance fees are available at [TPTO: Patent Fees](#).

Annual fees not paid by the due date can be paid within six months following the due date, with an additional fee. If not, the utility model will expire. Under the IP Law, the utility model can be restored by paying a fee within two months following notification by the TPTO to the applicant that the utility model has expired.

The utility model owner or person authorised by the owner must use the invention protected by the utility model. Otherwise, the utility model may be subject to a compulsory licence under the IP Law. A declaration of use must be filed with the TPTO within three years from publication of the decision to grant the utility model in the *Official Bulletin* or four years from the date of the utility model application, whichever is later.

Utility Model Infringement

The same principles apply as for patents (see [Question 5](#)).

Trade Marks

Legal Requirements to Obtain a Trade Mark

10. Provide a brief definition of a trade mark, the key legal requirements to obtain it, and the law that applies.

Conditions for a Trade Mark

A trade mark is a sign capable of distinguishing the goods or services of one undertaking from those of other undertakings and of being represented on the register in a manner to determine the clear and precise subject matter of the protection afforded to its proprietor (Article 4, IP Law).

Subject Matter Protected by a Trade Mark

A trade mark can consist of letters, words, numbers, figures, colours, sounds, and the shape of goods or their packaging.

Unregistered Trade Marks

11. Is there protection for unregistered trade marks?

In Turkey, it is generally necessary and highly advisable to register trade marks, since the substantial protection provided under the IP Law is in principle gained by registration. For example, trade mark infringement can only be claimed by an owner of a valid trade mark registration. In the case of infringement, unregistered trade marks are mostly protected under unfair competition provisions instead of the IP Law.

If a right to an unregistered trade mark or to another sign used in the course of trade is acquired before the date of application or priority claimed for an application to register a trade mark, the trade mark application will be refused on opposition of the proprietor of that prior sign (Article 6(3), IP Law).

The IP Law provides an exception to the registration requirement for prior and "genuine" ownership of unregistered trade marks and unregistered well-known marks within the meaning of Article 6bis of the Paris Convention for the Protection of Industrial Property 1883 (Paris Convention).

However, "genuine" ownership is debatable, and the latest Court of Cassation precedents do not recognise genuine right ownership if it is not obtained in Turkey. The TPTO/IP courts require comprehensive evidence to support a genuine ownership claim and well-known status claim under the Paris Convention. Further, the genuine ownership and well-known status exceptions mainly apply in cancellation or opposition proceedings. They help to prevent or annul registration of an identical or similar mark but are not grounds for a trade mark infringement claim.

Registering a Trade Mark

12. Which authority registers trade marks? Briefly outline the key stages and timing to obtain a registered trade mark.

Trade Mark Registration Authority

Trade marks are registered by the TPTO. For guidance on the application procedure, see [TPTO: Trade Marks: How to Apply](#).

Trade Mark Search and Information Facilities

[TURKSMD](#), an affiliated company of the TPTO, conducts a clearance search in the online database for possible obstacles to trade mark registration.

Trade mark applicants can also conduct their own research in the [online database](#) of the TPTO.

Process and Timing

In Turkey, trade mark protection can be applied for by a direct application to the TPTO and an international application through the *Madrid System*. Foreign priority for trade mark applications is recognised.

The TPTO provides search reports on request.

When a trade mark application is filed with the TPTO, the TPTO carries out a procedural examination for absolute grounds for refusal (see *Question 13, Grounds for an Authority Refusing to Register a Trade Mark*) and formal requirements. If there is no deficiency or absolute ground for refusal, it publishes the application in the *Official Bulletin*. Third parties can oppose the application during the two months from the publication date.

If an opposition is filed, the TPTO examines the opposition. The applicant or the opponent can appeal against the TPTO's decision on the opposition within two months of notification of the decision. Appeals are assessed by the Higher Board of the TPTO. For these procedures, an online system called *EPATS* is used.

Details of trade mark application fees are available at *TPTO: Trade Marks: How to Apply*.

13. On what grounds can the authority refuse to register a trade mark? On what grounds can third parties challenge a trade mark application?

Grounds for an Authority Refusing to Register a Trade Mark

TPTO can reject a trade mark application on absolute grounds after an ex officio examination (Article 5, IP Law) and relative grounds if raised by third parties as an opposition ground (Article 6, IP Law). The absolute grounds for refusal are:

- Non-compliance with the legal requirements of the IP Law (see *Question 10*).
- An identical or indistinguishably similar earlier trade mark or trade mark application, for the same or a similar type of goods or services (this can be overcome by submitting a notarised letter of consent from the owner of the senior trade mark).
- Descriptiveness (indicating the kind, type, characteristics, quality, quantity, intended purpose, value, geographical origin, and so on).
- The mark has become customary in current and established trade practices.
- The mark consists of a shape resulting from the nature of the goods or is necessary to obtain a technical result, or which gives substantial value to the goods.
- Deceptiveness.
- No authorisation from the relevant authorities to use the mark.
- The mark involves armorial bearings, emblems, or hallmarks with historical and cultural value that are of public concern, the registration of which is not authorised by the relevant authorities.
- The mark involves religious values or symbols.

- The mark is contrary to public policy and public morals.
- The mark is composed of or contains a registered geographical indication.

Third Party Grounds for Challenging a Trade Mark Application before Registration

Third parties can oppose an application for registration of a trade mark based on absolute grounds (if the TPTO has missed these) and relative grounds for refusal (on opposition). The relative grounds for refusal are:

- The application is identical or similar to an earlier trade mark registration or application for identical or similar goods or services, and there is a likelihood of confusion among the relevant consumers, including a likelihood of association.
- Unauthorised application for an identical or indistinguishably similar trade mark by the agent or representative of the trade mark owner in their own name, without justification.
- Prior and genuine ownership of the mark by a third party.
- A well-known mark under Article 6bis of the Paris Convention (the application is identical or similar to an unregistered well-known mark for identical or similar goods and services).
- An earlier trade mark registration or application well known in Turkey and the later application would take unfair advantage of, or be detrimental to, the distinctive character or well-known status of the earlier trade mark.
- The application contains the name, trade name, photograph, copyright, or industrial property right of a third party.
- The application is identical or similar to a trade mark registration the protection period of which has ended due to non-renewal, for identical or similar goods or services, and the application is filed within two years of the end of the protection period of the earlier registration and the earlier registration is put to use within this two-year period.
- The application is filed in bad faith.

Enforceable Trade Mark Protection Term

14. When does trade mark protection start and how long does it last?

The term of protection of a registered trade mark is ten years from the filing date of the application. It is renewable every ten years indefinitely on payment of renewal fees.

Maintaining Trade Marks

15. What steps must a trade mark registrant take to maintain the registration and legally protectable status of its trade marks?

Renewing a Trade Mark

A trade mark registration is renewable every ten years indefinitely on payment of renewal fees.

A request for renewal must be made by the trade mark owner to the TPTO within six months before the expiry of the protection date, with details of payment of the renewal fee. If not, a renewal request can be made within six months after the expiry of the protection date, on payment of an additional fee. If the fee and the additional fee are still not paid in this six-month period, the trade mark registration will lapse.

Must a Trade Mark be Used?

To maintain the validity of a trade mark registration, the trade mark must be put to genuine use by the owner or an authorised third party. If, within five years following the registration date, the trade mark has not been put to genuine use in Turkey by the trade mark owner in connection with the goods or services for which it is registered, or if this use has been suspended for an uninterrupted period of five years, the trade mark will be revoked unless there are justified reasons for non-use (Article 26, IP Law).

The TPTO does not investigate genuine use on its own motion. A request for revocation for non-use must be filed with the TPTO. Before 10 January 2024, revocation requests were submitted to the courts.

The following are deemed proper use of a registered trade mark:

- Use of the trade mark with different elements that do not alter the distinctive character of the mark.
- Use of the trade mark on goods or packaging solely for export purposes.
- Use of the trade mark with the consent of the trade mark owner.

Monitoring Trade Mark Infringement

There is no official or specific method to monitor possible third-party infringements. Trade mark owners can subscribe to watch services or perform online and on-site investigations themselves or through their legal representatives.

Trade mark owners should take necessary measures to prevent infringing acts within a reasonable time, and preferably within five years of the date they become aware of an infringement, to avoid the defence of loss of right due to silence (see *Question 16, Defences to Trade Mark Claims*).

Under the IP Law, trade mark owners are not obliged to inform their licensees of third-party infringements unless they agree otherwise in their licences.

Trade Mark Violations

16. What rights does a trade mark give to its owner? Identify and describe the available claims for trade mark violations? What are the main defences to trade mark actions?

Rights Granted by a Trade Mark

A trade mark owner can prevent the use of a sign without their consent that is any of the following:

- Identical to the trade mark for the same goods or services for which the trade mark is registered.
- Identical or similar to the registered trade mark for identical or similar goods or services and there is a likelihood of confusion among the public, including a likelihood of association between the sign and the trade mark.
- Identical or similar to the registered trade mark, where use of that sign without due cause takes unfair advantage of, or is detrimental to, the distinctive character or repute of the trade mark due to the reputation it has in Turkey.

(Article 7(2), IP Law.)

If the above signs are used in trade, the following can also be prevented:

- Affixing the sign to the goods or their packaging.
- Putting the goods on the market, offering them as deliverable, or stocking them for these purposes under the sign, or offering or supplying services under the sign.
- Importing or exporting the goods under the sign.
- Using the sign on business papers and adverts of the undertaking.
- Using an identical or similar sign on internet media as a domain name, router code, keyword, or in similar manner with a commercial impression, if the person using the sign has no legal affiliation or right to use that sign.
- Using the sign as a trade or company name.
- Using the sign in comparative advertising in a manner that is against the law.

As an exception, the trade mark owner cannot prevent honest use of a trade mark by a third party in trade if:

- Real persons indicate their own name or address.

- They indicate the kind, quality, quantity, intended purpose, value, geographical origin, time of production of the goods or rendering of the service, or other characteristics of them. In certain situations, it is necessary to indicate the intended purpose of a product or service, in particular as accessories or spare parts or equivalent products.

Grounds for and Elements of Trade Mark Infringement Claims

A trade mark infringement action can be brought on the following grounds:

- Using a sign identical to a registered trade mark for identical goods or services for which the trade mark is registered, without authorisation.
- Using a sign identical or similar to a registered trade mark for identical or similar goods or services for which the trade mark is registered, which creates a likelihood of confusion, without authorisation.
- Using a sign identical or similar to a well-known registered trade mark for goods or services not covered by the trade mark, which would take unfair advantage of, or be detrimental to, the distinctive character or well-known status of the trade mark, without authorisation.
- Imitating a trade mark by using an identical or indistinguishably similar trade mark.
- Selling, distributing, or releasing onto the market products with an infringing trade mark and the party knows or should know that the trade mark is infringing, or importing, exporting, possessing for commercial purposes, or offering the products for sale.
- Expansion or assignment of the rights granted by the trade mark owner through licensing.

(Article 29(1), IP Law.)

The claimant should show with reliable evidence that a third party is violating its registered trade mark, in the context of the above grounds.

If the defendant raises a non-use defence in the infringement proceedings, the claimant must prove its genuine use of the trade mark (see [Question 15, *Must a Trade Mark be Used?*](#)).

In addition to possible non-use, courts will evaluate whether the claimant has lost its right to sue due to long-term silence, if it is raised as a defence (see below, [Defences to Trade Mark Claims](#)).

Other Trade Mark Causes of Action

For actions to protect well-known marks, see above, [Grounds for and Elements of Trade Mark Infringement Claims](#).

For actions available to protect unregistered trade marks, see [Question 11](#).

Defences to Trade Mark Claims

The main defences to trade mark claims are:

- Non-use of the trade mark (see [Question 15, *Must a Trade Mark be Used?*](#)).

- Invalidity claim against the trade mark (see [Question 19](#)).
- The trade mark owner was aware of the use of the trade mark by the other party or co-existence of the trade marks for a long period of time. Where a trade mark owner has acquiesced to the use of a later trade mark for a period of five successive years while being aware, or when they should have been aware of the situation, the trade mark owner cannot use their trade mark as an invalidation ground unless the registration of the later trade mark is in bad faith (Article 25/6, IP Law).
- Exhaustion of the trade mark owner's right.
- Fair use.
- Descriptive use.
- Private or non-commercial use.

17. Which courts have jurisdiction over trade mark infringement actions? Is there a fast-track and/or a small-claims procedure?

See [Question 6](#).

The criminal IP courts in Istanbul, Ankara, Izmir, and Antalya deal with criminal actions. In other cities, the third chamber of the criminal courts of first instance (or the first chamber, if there are fewer than three chambers) deals with criminal actions.

There is no fast-track or small claims procedure.

18. What are the remedies in trade mark infringement actions?

The remedies available in trade mark infringement actions are:

- Preliminary injunctions. The claimant must prove that the act that is the subject of the legal proceedings violates the trade mark in Turkey or serious and effective engagements are performed to that end. In practice, preliminary injunctions are requested at the beginning of an infringement action or can be requested ex parte without bringing a court action.
- Prevention and prohibition of infringing acts.
- Compensation for material and moral damages (where the infringer is at fault and there is damage).

- Confiscation of infringing products and equipment (the trade mark right owner can also request ownership of the confiscated products and equipment).
- Removal and destruction of infringing products and equipment (if essential to stop the infringing acts).
- Publication of the court's decision.
- Criminal remedies.
- If the infringer also holds a trade mark registration in violation of the claimant's earlier rights, invalidity of that registration.

Challenging a Trade Mark After Registration

19. On what grounds can third parties challenge a registered trade mark through invalidation, cancellation or revocation proceedings (after registration)?

Third parties can challenge a registered trade mark through invalidation and revocation proceedings.

Invalidity of a registered trade mark can be requested before the courts if there are absolute or relative grounds for non-registration (Articles 5 and 6, IP Law) (see [Question 13](#)).

Revocation of a trade mark can be requested before the TPTO on the following grounds:

- The trade mark is not put to genuine use by the proprietor or an authorised third party within five years following the date of registration, or if such use has been suspended for an uninterrupted period of five years.
- The trade mark becomes generic for the registered goods or services due to the owner's actions or the owner not taking necessary measures.
- The trade mark is misleading the public about the nature, quality, or geographic origin of the goods or services for which it is registered, due to use by the trade mark owner or with the trade mark owner's consent.
- A guarantee mark or a collective mark is not properly used in accordance with the relevant laws.

Copyright

Categories of Subject Matter Eligible for Copyright Protection

20. What categories of subject matter are eligible for copyright protection?

A work is eligible for copyright protection if it is an intellectual or artistic work bearing a characteristic of its author and is a scientific or literary work, a musical work, a work of fine art, or a cinematographic work (Law on Intellectual and Artistic Works No. 5846 (Copyright Law)).

Legal Requirements to Obtain Copyright Protection

21. What are the legal requirements for a work to be protected by copyright?

Copyright arises automatically on creation of an intellectual or artistic work bearing a characteristic of its author. Copyright protection period starts from the first communication of the work to the public.

Copyright Registration

22. Can copyright be registered?

Copyright Registration

Registration is not required to establish copyright in Turkey. Copyright registration is voluntary.

Cinematographic and musical works must be registered to exploit rights and facilitate proof of ownership but not to create the rights. Copies for sale of a cinematographic, musical, and literary work (except for periodicals) must carry a label from the Ministry of Tourism and Culture to prove their authenticity.

The rules and procedures for recording and registration, fees, and other issues are set out in Regulation 26171 on the Recording and Registration of Intellectual and Artistic Works.

The registration authority is the General Directorate of Copyright, which is part of the Ministry of Culture and Tourism.

An application for registration must be made to the General Directorate of Copyright on an application form with relevant documentation, including a declaration acknowledging ownership of the copyright and accepting criminal and other liability if proved otherwise.

Registration of copyright is voluntary and provides evidence to determine the person or persons who created the work. Registration is declaration-based and does not constitute a right.

If it is determined that the owner of the copyright registration is not the owner of the copyright work, the registration will be invalidated.

Copyright Search and Information Facilities

For information purposes, the General Directorate of Copyright has a searchable *database of works*.

Enforceable Copyright Protection Term

23. When does copyright protection start and how long does it last?

Copyright protection arises automatically on creation of the work. The copyright protection period starts from the first time it is made available to the public and lasts for 70 years after the author's death. For legal entities, the duration of protection is 70 years from the date of publication.

The length of copyright protection does not vary depending on the type of work.

Copyright is not renewable.

Copyright Infringement

24. What rights does copyright grant? On what grounds can a copyright infringement action be brought? What are the defences to copyright infringement actions?

Rights Granted by Copyright

Copyright owners have economic and moral rights (see *Question 27*).

Economic rights include the rights of adaptation, reproduction, distribution, performance, and to communicate the work to the public by devices enabling the transmission of signs, sounds, or images.

Grounds for and Elements of Copyright Infringement Claims

Under the Copyright Law, an infringement action can be brought where the moral or economic rights of the author are infringed by:

- Unauthorised reproduction, distribution, or communication of the work.
- Unauthorised adaptation of the work (derivative works).
- Breach of the author's moral rights to disclose the work, of attribution to the work, to the integrity of the work, or to access the work.

To succeed in a copyright infringement claim, the claimant must be able to show its ownership of the copyright and prove that the defendant breaches the claimant's moral or economic rights, as applicable.

When assessing damages in copyright infringement cases, the courts also consider a number of factors such as the parties' situations, the duration and degree of the violation, and the goodwill or bad faith of the defendant.

Defences to a Copyright Infringement Action

The most common defences are:

- Personal use.
- Use for educational purposes in schools or other educational institutions.
- Use within "freedom of quotations."
- Expiration of copyright (the work is in the public domain).
- Influential use to create an original and independent work.
- Use for public order purposes or in the interests of the community.

25. Which courts have jurisdiction over copyright infringement actions? Is there a fast-track or a small-claims procedure?

The same applies as for trade mark infringement actions (see [Question 17](#)).

26. What are the remedies in copyright infringement actions?

The following remedies are available in a civil action for copyright infringement:

- Preliminary injunction for seizure of the infringing products. A party filing or intending to file an infringement action can ask the court to issue a preliminary injunction if there is evidence of use or intention to use the copyright which would infringe the claimant's right. A request for a preliminary injunction, which can be filed before, after, or at the same time as the main action, is examined separately from the infringement proceedings.
- Prevention of manufacturing, sale, import, and export of the infringing products.
- Removal and destruction of infringing materials.
- Claim for pecuniary and non-pecuniary damages (in the case of intentional infringement).
- Publication of the court's decision.

Criminal remedies, such as dawn raids and penalties including imprisonment and fines, are also available.

Moral Rights

27. Are moral rights protected?

Recognition of Moral Rights

Moral rights are protected and arise automatically on creation of the copyright work. The author's moral rights include the following:

- To exclusively determine whether their work is disclosed to the public and the time and manner of disclosure.
- To decide whether the work is disclosed to the public or published with or without the author's name or under a pseudonym.
- To consent to abbreviations, additions, or other modifications to the work.
- Where necessary, to demand the owner or possessor to temporarily allow the author to access an original of a work of fine art.

(Section 3/A(II), Articles 14, 15, 16, and 17, Copyright Law.)

How Moral Rights Arise

Moral rights arise automatically on creation of the copyright work.

Under Turkish law, civil rights must be asserted to be enforced. Therefore, moral rights, which are civil rights, need to be asserted to take effect against third parties.

Transfer of Moral Rights

The right to use moral rights can be transferred. The moral rights themselves cannot be transferred or waived.

If an author has not determined the manner in which the authority to disclose the work to the public and to designate the name are to be exercised after their death or has not left this matter to another person, these rights can be exercised after the author's death by the executor or, if no executor has been appointed, successively by the author's surviving spouse, children, testamentary heirs, parents, and siblings.

After the author's death, these persons can exercise the rights to disclose the work to the public, to designate the name, and to prohibit modifications in their own name for a period of 70 years after the author's death. If there are no such persons or if they do not exercise their rights or the term of 70 years has expired, the Ministry of Culture and Tourism can exercise in its own name the rights to disclose the work to the public, to designate the name, and to prohibit modifications if the work is deemed to be important for national culture.

Registered Design Rights

Basis of Registered Design Protection

28. Is design right protection available through registration? What are the legal conditions to obtain a registered design?

Basis of Design Protection

Legal protection is available for registered designs in Turkey.

Conditions for Design Right Protection

The conditions to obtain a registered design right are novelty and distinctive character (Article 56, IP Law).

Exclusions from Design Right Protection

The following are excluded from protection:

- Designs that do not comply with public morality or public order.
- Visual characteristics of products that are required by a technical function.
- Visual characteristics of products that must be manufactured in a certain form and dimension so that the product can be mechanically assembled or connected to another product.
- Use of armorial/heraldic bearings, within the meaning of Article 6ter of the Paris Convention, and the inappropriate use of religious, historical, and cultural value emblems, hallmarks, and so on.

Registering a Design

29. Which authority registers designs? Briefly outline the key stages and timing in obtaining a registered design.

Design Registration Authority

The TPTO registers designs. Registration is not mandatory for protection. Unregistered designs are protected under certain conditions (see [Question 35](#)). However, registration has many advantages, such as a longer protection period and a wider scope of protection against similar designs.

For guidance on design right applications, see [TPTO: Design](#).

Design Search and Information Facilities

Online search facilities are available at [TPTO: Design Search](#).

Process and Timing

The applicant must file a form including the following:

- Details of the applicant.
- A representation of the design showing it visually and suitable for reproduction.
- The name of the product in which the design is intended to be incorporated or to which it is intended to be applied.
- The identity of the designer(s).
- Information about how the right to apply has been obtained from the designer(s).
- If applicable, a postponing request.

- If available, the attorney's details.

A single application can be filed for multiple designs.

Turkey recognises foreign priority for design applications for applicants benefiting from the Paris Convention or the Agreement Establishing the World Trade Organization (WTO).

The TPTO examines whether the formal conditions are met and the design's compliance with public morality and public order. The TPTO conducts an examination to determine whether the design is novel and distinctive under the IP Law. If there is no obstacle, registration is granted.

The TPTO does not provide a search report.

Details of registered design application fees are available at [TPTO: Design](#).

Registration based on the initial examination is subject to opposition by third parties within three months of publication of the registration of the design in the *Official Bulletin*.

Third parties can oppose a registered design application on the following grounds:

- Failure to meet the legal conditions to obtain a registered design right (novelty or individual character).
- Exclusion from protection.
- Unauthorised filing against the owner's will.
- Bad faith.
- Infringement of another IPR.

Turkey is a party to the [Hague System for the International Registration of Industrial Designs](#). Applicants can register designs in more than one country with lower costs through a single application.

Enforceable Registered Design Right Protection Term

30. When does registered design protection start and how long does it last?

Registered design protection starts from the application filing date and lasts for five years. It can be renewed for four consecutive periods of five years, up to 25 years in total.

Maintaining Design Rights

31. What steps must a registered design right owner take to maintain the registration and legally protectable status of its design rights?

Registered Design Fees

A design right registration can be renewed for four consecutive periods of five years, up to 25 years in total, on payment of renewal fees.

The design right owner must make a request for renewal to the TPTO within six months before the expiry of the protection date, with details of payment of the renewal fee.

Details of renewal fees for registered designs are available at [TPTO: Design](#).

If Registered Design Fees Are Not Paid

If renewal fees are not paid, a renewal request can be made within six months after the expiry of the protection date, on payment of an additional fee. If the renewal fee and additional fee are not paid in this six-month period, the design right registration will lapse.

Must a Registered Design Right be Used?

There is no requirement for use to maintain the validity of a design registration.

Registered Design Right Infringement

32. What rights does a registered design give to its owner? On what grounds can a registered design infringement action be brought? What are the defences to design infringement actions?

Rights Granted by Registered Design Rights

The owner of a registered design has an exclusive right to use the design.

Third parties cannot, without the design right owner's consent, produce, put on the market, sell, import, use for commercial purposes, or keep in stock for these purposes the product in which the design is incorporated or to which it is applied, and cannot make a recommendation for contract (Article 59(1), IP Law).

Grounds for Registered Design Right Infringement

A registered design infringement action can be brought on the following grounds (among others):

- Making, producing, putting on the market, selling, using, offering, keeping for commercial purposes, or importing an identical or significantly similar version of the registered design without the design right owner's consent.
- Transferring to third parties or expanding rights acquired by a licence.
- Disseizing the design right.

(Article 81(1), IP Law.)

Defences to a Registered Design Right Infringement Action

The most common defences are:

- Cancellation claim against the registered design (counterclaim).
- Use of the design as a technical necessity.
- Personal use.
- Use for experimental, educational, or repairing purposes.

33. Which courts have jurisdiction over registered design infringement actions? Is there a fast-track and/or a small-claims procedure?

The same applies as for trade mark infringement actions (see [Question 17](#)).

34. What are the remedies in registered design infringement actions?

The remedies in registered design infringement actions are:

- Preliminary injunctions (see [Question 18](#)).
- Prevention and prohibition of infringing acts.

- Compensation for material and moral damage (where the infringer is at fault and there is damage).
- Confiscation of infringing products and equipment (the design right owner can also request ownership of the confiscated products and equipment).
- Removal and destruction of infringing products and equipment (if essential to stop the infringing acts).
- Publication of the court's decision.

Criminal remedies are not available for design infringement.

Unregistered Designs

35. Is there protection for unregistered designs in your jurisdiction?

Basis for Protection

There is specific protection for unregistered designs under the IP Law.

Legal Conditions for Unregistered Design Rights

Unregistered design protection requires the design to be made available to the public anywhere in Turkey.

An unregistered design right does not protect different aspects of a design compared with a registered design right and the legal conditions for protection are the same (that is, novelty and distinctive character). There are no particular features or types of design excluded from protection under the registered design right regime that would instead be protected under the unregistered design right regime.

Duration of Unregistered Design Protection

The term of unregistered design protection is three years from when the design is first made available to the public.

Unregistered Design Infringement

The owner of an unregistered design right can:

- Bring legal proceedings for violation of the unregistered design right. The grounds, defences, courts, remedies, and procedures the same as for registered designs (see [Question 32](#)).
- Bring court proceedings to be entitled as the owner of the design or to the assignment of a registered design.

Trade Secrets and Confidential Information

36. Is there specific protection for trade secrets and confidential information in your jurisdiction?

While there are proposals for the adoption of a new law on this issue, there is currently no specific protection for trade secrets and confidential information in Turkey. Relevant provisions are in the Constitution, Commercial Code No. 6102, Criminal Code No. 5237, Code of Obligations No. 6098, Right to Information Act No. 4982, and employment laws, among others.

In practice, trade secrets and confidential information are generally protected under the unfair competition provisions of the Commercial Code, which state that disclosing such information causes unfair competition.

The terms "trade secret" and "confidential information" are not defined by law but are generally understood to be any information or documents that are (based on case law and doctrine):

- Generally unknown. The information must be confidential. For example, a trade secret is expected to be unknown and not disclosed to other colleagues or enterprises in the same sector.
- Difficult to acquire with the possibility of being damaged if acquired by competitors. The owner is expected to make reasonable efforts to preserve the secrecy of the information. Obtaining that information is expected to be difficult and it should not be accessible through lawful means.
- Providing economic benefit to their owner. The information must have an economic value in itself, independent of the value of the enterprise or company. This can be determined through the availability and willingness of third parties to pay the owner to acquire and use the information.

There is no system for the registration of trade secrets and confidential information in Turkey.

Maintaining Trade Secrets and Confidential Information

37. What steps must an owner of trade secrets and confidential information take to maintain the legally protectable status of their trade secrets and confidential information?

Maintaining Trade Secrets and Confidential Information

The owner of trade secrets and confidential information must make reasonable efforts to keep the information unknown.

Monitoring Infringement of Trade Secrets and Confidential Information

There is no official or specific method to monitor possible third-party disclosure or use. The owner of confidential information and trade secrets can:

- Perform online and on-site investigations themselves or through their legal representatives.
- Create effective systems in their organisation to prevent disclosure or unauthorised use.

38. What rights do trade secrets and confidential information provide? On what grounds can an action for unauthorised disclosure or use of confidential information or trade secrets be brought? What are the defences to such actions?

Rights Granted

In practice, trade secrets and confidential information are generally protected by unfair competition provisions of the Commercial Code, which state that disclosing such information causes unfair competition.

In addition, depending on the nature of the unauthorised use, the Constitution, Criminal Code, Code of Obligations, Right to Information Act, and employment laws, may also provide grounds for protecting trade secrets or confidential information.

Grounds for Unauthorised Use

An action to protect trade secrets or confidential information can be based on the following:

- Benefiting from another's work or products without authorisation.
- Unfairly disclosing production or trade secrets, for example, by using or transmitting trade secrets obtained in bad faith and without permission, or through other unlawful means.
- Non-compliance with legal or contractual rules for employees or competitors relating to trade secrets.

Defences

Defences include:

- Compulsory disclosure of the information in the public interest.
- The information is not confidential.
- Prior disclosure of the information by the owner.

It is debatable whether ex-employees can use confidential information they acquired through their employment after the employment ends. This use is commonly prevented by non-competition agreements between employers and employees and most actions for unauthorised use arise from a breach of those agreements. A common defence is to assert that there is no breach of the agreement.

39. Which courts have jurisdiction over actions for unauthorised disclosure or use of confidential information or trade secrets? Is there a fast-track and/or a small-claims procedure? What are the remedies in such actions?

Courts

Most trade secret and confidential information disputes relate to unfair competition and non-compliance with an agreement (confidentiality agreement). These actions are filed with the civil commercial courts of first instance.

Criminal actions based on Article 239 of the Criminal Code are brought before the criminal courts of first instance if a public prosecutor decides, after an investigation, that an offence has been committed.

Remedies

Anyone whose clients, credit rating, professional reputation, commercial activities, or other economic interests are damaged by unfair competition can apply to a court for:

- A ruling of unfairness.
- Prevention of the unfair competition.
- Removal of the financial situation resulting from the unfair competition.
- Correction of incorrect or misleading statements that have caused the unfair competition.
- Compensation of damage if there is fault.
- A precautionary injunction, if the court decides that the matter is urgent.

Fines or imprisonment can also be imposed for criminal liability under the Commercial Code.

Domain Names

40. Is there a domain name registration regime? Can an action be brought to protect a domain name?

Basis of Domain Name Protection

The *TRAB#S* system was activated on 14 September 2022 to manage the registration of domain names with ".tr" extension. This is the central online system for domain names of the Information and Communication Technologies Authority, under the Domain Names Regulation.

Registration of a domain name does not confer any right to register a trade mark. However, registration along with the active use of a website under that domain name can be used as evidence to establish prior use of a sign or business name.

Domain Name Registration

A registry agency authorised by the Information and Communication Technologies Authority deals with applications, renewals, cancellations, and transfers of domain names and provides templates for this on its website.

A local presence or residence is not required to obtain domain name registration.

In principle, domain names are allocated on a first come first serve basis. However, the initial allocation of domain names was carried out to prioritise earlier rightholders.

Domain names are registered for at least one year and up to five years.

Owners can renew their domain name and must comply with the Domain Names Regulation, co-operate with the registry agency, and not violate third-party rights.

Protecting a Domain Name

Disputes over domain names are heard by arbitrators appointed by the Information and Communication Technologies Authority. It is also possible to file a court action.

The grounds/elements to bring a claim to protect a domain name are:

- The disputed domain name is similar or identical to a trade mark, trade name, business name, or other identifying signs owned or used in commerce.
- The party registering the domain name has no legal right or connection with this domain name.
- Malicious allocation or use of the domain name by the registrant.

(Article 25, Domain Names Regulation.)

Although the Domain Names Regulation does not expressly refer to defences, these can include the following:

- The disputed domain name is not similar or identical to the claimant's trade mark, trade name, business name, or other identifying marks owned or used in commerce.
- The owner of the disputed domain name has a legal right or connection with the domain name.
- The owner of the disputed domain name has not acted in bad faith when registering or using the domain name.

If the complaint is successful, the domain name can be cancelled or transferred to the complainant.

Database Rights

41. Is there protection for database rights?

Basis of Database Protection

Databases are mainly protected under the Copyright Law. Turkish law provides:

- Protection for original databases, under general copyright law principles (see [Question 20](#)).
- A sui generis database right for databases that are not an original creation.

Copyright protection for a database requires the database to be made available to the public. As with other copyrighted works, it must bear the characteristics of the author and be original.

A database is defined as a selection and compilation of data and materials according to a specific purpose and a specific plan, in a form that can be read by a device or in any other form (Article 6/11, Copyright Law). Therefore, databases are defined and protected as a compilation, a type of copyrighted work within the meaning of the Copyright Law. Compilations are considered a copyrighted work created by benefiting from another copyrighted work but that are not independent of such a work.

Duration of Database Protection

An original database bearing the characteristics of its author is protected for 70 years from the date it is first made available to the public and lasts for 70 years after the author's death. For legal entities, the duration of protection is 70 years from the date of publication.

The sui generis protection period is 15 years from the date the database first made available to the public.

Database Rights Granted

The scope of copyright protection for an original database is the same as for copyright generally (see [Question 21](#)).

The producer of a non-original database who has made qualitatively or quantitatively a substantial investment in the creation, verification, or presentation of the contents of the database has the right to permit or prohibit:

- A permanent or temporary transfer to another medium by any means and in any form.

- Distribution or sale, rental, or communication to the public in any way of all or a substantial part of the database contents, subject to the exceptions in the Copyright Law and if required for the purposes of public security and administrative and judicial procedures.

Registration of Database Rights

Copyright can be registered (see [Question 22](#)). The Copyright Law does not provide for the registration of databases.

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