



TRADEMARK LAW IN TÜRKİYE
KEY DEVELOPMENTS AND PREDICTIONS

2026

Trademarks and Designs

We provide wide ranging and comprehensive legal services in relation to trademarks and designs. Our comprehensive services include advisory, prosecution, watch, opposition, appeals, enforcement, litigation and transactional services on all aspects of trademarks and designs including registration and enforcement strategies, IP due diligences as well as availability searches and clearance opinions.

We are authorised to represent clients before civil and criminal courts, and Court of Cassation as well as all administrative authorities such as Turkish Patent and Trademark Office ("TURKPATENT"), customs, domain name authorities. Some of our lawyers are also qualified as trademark and patent attorneys authorised to act before TURKPATENT.

We regularly handle nullity and invalidity, cancellation, well-known trademark protection, anti-dilution, passing off, unfair competition and trade dress actions and large scale damages claims before courts as well as customs seizure applications and criminal and civil searches and seizures.

Combining our litigation, transaction and industry knowledge we draft, negotiate trademark and design related agreements and transactions including, manufacturing, toll-manufacturing, co-existence, co-promotion settlement and licensing agreements.

Introduction

The year 2025 did not bring fundamental legislative amendments in Turkish intellectual property law. However, it can be considered a period in which the practical tendencies became clearer and certain long-standing discussions started to mature.

The administrative cancellation mechanism for trademarks has now become fully operational in practice. This development can be regarded as an important milestone for 2025.

In addition, the boundaries between intellectual property law and competition law were once again discussed in the context of three-dimensional trademarks. It can also be observed that the European Union practice regarding bad faith trademark applications has been followed more closely within Turkish practice.

Another noteworthy development has been, for the first time in practice, the settlement with the Turkish Patent and Trademark Office.

From a case law perspective, the approach of the Court of Cassation to short word marks attracted particular attention. Its holistic assessment concerning similarity between goods in different sectors also stood out during the year.

The relationship between artificial intelligence and trademark law has continued to remain on the agenda.

Within this framework, we have brought together in this publication our evaluations regarding the prominent developments throughout 2025.

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Intellectual Property Practice in Türkiye: Impressions for 2025

The year 2025 did not mark a fundamental transformation in the protection of intellectual property rights in Türkiye; however, it may be described as a period during which practice became more predictable in certain areas. It would be fair to say that judges appointed in recent years have gradually become more adapted to the dynamics of intellectual property law, and this has contributed to a more predictable approach in terms of the reasoning of decisions and the management of proceedings.

Throughout the year a significant number of preliminary injunction decisions were rendered, particularly in trademark infringement disputes across various sectors. Preliminary injunctions remain a crucial mechanism for preventing the expansion of infringements and for protecting the commercial position of rights holders without waiting for the outcome of the main proceedings. Compared to previous years, it can be considered that delays in granting such decisions have largely been overcome. Where the evidence is prepared in a strong and systematic manner, the preliminary injunction mechanism can be used effectively. Naturally, it would not be accurate to suggest that the practice has become fully consistent. It may still be seen that certain courts adopt different approaches when assessing the standard of proof and the conditions for granting preliminary injunctions. Nevertheless, it can be considered that the overall direction of practice remains positive.

The delays in expert examinations have continued throughout 2025. However, it can be observed that, before the Ankara and İzmir Intellectual and Industrial Property Courts, expert reports are often prepared within relatively short timeframes. In contrast, before the Istanbul Intellectual and Industrial Property Courts, the heavy caseload may create challenges in the effective management of experts' workload. Even so, it can be considered that close monitoring of the process through the courts helps ensure that the expert phase is completed within a reasonable time.

With respect to the monetary compensation actions, certain structural difficulties continue to exist in damages actions. It is frequently seen that defendants refrain from submitting financial and commercial data, which makes it difficult to calculate the exact amount of damage. In this respect, it may be considered that a more systematic use of sector-based royalty analyses and the development of precedent licensing practices would contribute to more predictable and balanced damage assessments. This area still has potential for further development.

As a separate note, it is frequently stated that bad faith trademark applications constitute a major concern in Türkiye. However, in our view, the approach developed against bad faith applications may now be considered well established. It may be observed that both the Turkish Patent and Trademark Office and the specialized IP courts assess bad faith

claims based on concrete criteria, considering factors such as the commercial relationship between the parties, the similarity of the marks, and the timing of the applications. In this respect, it can be considered that Türkiye holds a relatively strong position compared to many other jurisdictions in terms of protection against bad faith registrations.

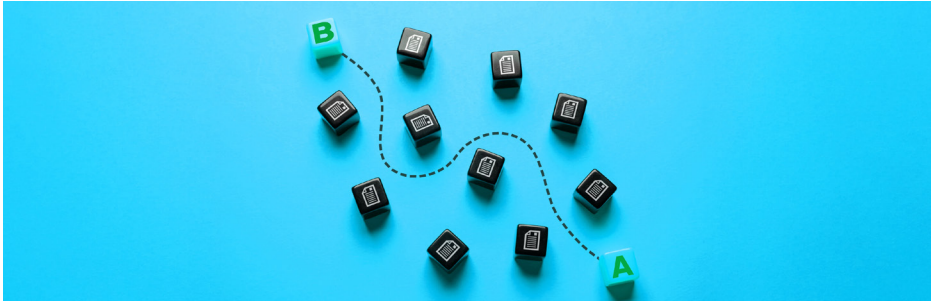
When it comes to the practice regarding revocation actions based on non-use before the Turkish Patent and Trademark Office, it is also possible to say that, as of 2025, the practise has become more settled. Following the entry into force of the mechanism in 2024, certain uncertainties arose pending the secondary legislation. However, as the number of decisions has increased, it may be observed that evidence of use is examined carefully and that genuine, serious and commercial use is assessed based on concrete criteria. This has contributed to the establishment of a clearer framework for the parties.

It must also be noted that challenges continue in the fight against counterfeiting. It is observed that search and seizure processes within criminal investigations, as well as enforcement stages, leads to major delays. Various trainings and coordination meetings continue to be organized in order to address the practical issues that cause such delays.

In conclusion, it can be considered that 2025 has not been a year of dramatic change in Turkish IP practice. However, it may be

observed that stability and predictability have strengthened in certain areas. The effective use of preliminary injunctions, the established approach to bad faith applications, and the increasing clarity in non-use revocation proceedings stand out as strong aspects of the system. At the same time, damages calculations and criminal enforcement processes remain areas open to further improvement.

Administrative Revocation of Trademarks is Now Fully in Effect!



In accordance with Article 26 of the Industrial Property Code (“IP Code”) no. 6769, interested persons may request the Turkish Patent and Trademark Office (“the Office”) to revoke a trademark.

The authority to revoke the trademarks had belonged to the IP Courts. However, with the entry into force of the IP Code on January 10, 2017, this authority has been granted to the Office. In order to provide a transition period, the entry into force of Article 26 had been postponed for 7 years. In the meantime, as per Provisional Article 4 of the IP Code, the authority remained with the IP Courts.

After the entry into force of Article 26 on January 10, 2024, although it was possible to file the revocation request – as pre-application – through the Office’s online system¹, the Office could not start examining revocation requests due to lack of an implementing regulation.

This waiting period ended on March 15, 2025, when the Regulation on Amendment of the Regulation on the Implementation of the IP Code (“Regulation”) was published.

Although certain provisions of the Regulation have been subject to criticism, it constituted an important step in initiating the examination of revocation requests.

Procedural framework for revocation applications:

Article 30/A-3 of the Regulation sets forth that a revocation request can be filed against the trademark proprietor or its legal successor.

As per Article 27/2 of the IP Code, the revocation decision is effective as of the filing date of the revocation request and if the revocation request owner believes that the revocation conditions have been fulfilled at an earlier date, it needs to be explicitly mentioned.

With the Regulation, in addition to the application fee, an escrow fee has been introduced for revocation requests filed after March 15, 2025, which will be held in the escrow account until the Office renders its final decision on the revocation request.

Upon the Office’s final decision if the

¹ Electronic Application System (“EPATS”).

revocation request is entirely rejected, the escrow fee will be paid to the trademark proprietor upon request. If the revocation request is entirely accepted, the escrow fee will be refunded to the revocation request owner upon request. If the revocation request is partially accepted no payment is made to either party and the escrow fee will be recorded as revenue for the Office.

For 2026, the escrow fee is determined as TRY 29,433.33 + VAT of 20% (TRY 35,319.996 including VAT, approx. EUR 690 based on the exchange rate as of January 26, 2026) that needs to be paid in addition to the application fee which is determined as TRY 29,433.33 + VAT of 20% (TRY 35,319.996 including VAT, approx. EUR 690 based on the exchange rate as of January 26, 2026).

It is only possible to direct a revocation request against one trademark at a time. Previously, it was possible to direct a revocation court action against several trademarks. We believe that filing separate requests against the same applicant's same/similar trademarks may cause inconsistency in the decisions and is a burden for the Office.

Post-application process:

After the revocation request is duly filed, the Office will ask the trademark proprietor to file evidence proving that the conditions set forth under relevant revocation claim are not met. The trademark proprietor will have 1 month (or upon request an additional 1 month) to file

its evidence against the revocation request. We noted in practice that the Office does not render an interim decision and/or notify the trademark proprietor granting time extension and the additional 1-month period starts as of the request date.

In practice, revocation request based on non-use is the most common revocation claim. In case of a non-use revocation request, the trademark proprietor shall file evidence proving genuine use of the trademark on the relevant goods/services or evidence showing the non-use relies on rightful grounds. Any use, upon the motive that a revocation request may be filed, within the period of 3 months prior to the submission of a request to the Office shall be disregarded.

A practical issue was observed due to a software deficiency in the Office's online system concerning trademark revocation requests, where documents submitted by the trademark proprietor, including the appeal petition, could not be accessed by the revocation request owner. However, the Office has recently updated its online system and remedied this shortcoming.

Decision and next steps:

If no evidence is filed in due time or if evidence submitted is not found sufficient, the Office will accept the revocation request.

As a substantial and unprecedented amendment with respect to the non-use

revocation requests, the Regulation provided that a revocation decision cannot be issued concerning “a trademark for identical or similar goods/services” – most likely added to ensure that a trademark is not revoked for goods/services for which use is proven, but this should not be extended to similar goods/services².

The Office has already faced a substantial workload with pre-applications. Nevertheless, the Office has begun to issue decisions on the pending revocation requests within a couple of months.

We noted from the decisions received so far that the Office examined revocation requests properly and meticulously. Below are some observations regarding the decisions rendered so far:

- It adopts a strict approach and mainly requires the existence of legitimate legal interest to decide that revocation has retroactive effect.
- It assesses whether the revocation request owner has legal interest in filing for the revocation request by referring to Article 26/2 of the IP Code.
- It takes into consideration 5 years prior to the revocation request in the examination of genuine and consecutive use and does not take evidence that fall outside this period, in line with the IP Code. The Office also noted in one of its decisions that it would not take the

evidence into consideration if it is proven that the trademark proprietor started using the trademark during this period as a result of the risk of revocation.

- It explores whether or not the trademark is used in the way it is registered.
- It does not decide for the revocation of the goods/services similar to the goods/services for which the use is proven. For instance, it did not decide for the revocation of the goods “axle bushing, connecting rod bushing, travel bearing, camshaft bushing, balance bushing, piston ring bushing, camshaft bearing, crankshaft bearing” by noting that the use is proven for “Motor mounts other than land vehicles or land vehicles”.
- It rejects the defense that the revocation request was made in bad faith and their trademark was not similar to the requesting party’s trademark, as the relevant provisions do not address bad faith or an examination of similarity in relation to trademark revocation.
- As per the effectiveness of the evidence, the Office noted that invoices are considered strong evidence as they are official documents and direct indications of commercial activity.

Although it is not explicitly mentioned in the Regulation, revocation requests are examined by the Trademarks Department and it is possible to appeal its decision before the Re-Examination and Evaluation Board (“Higher

² <https://gun.av.tr/insights/updates/turkpatent-issues-long-awaited-amendments-on-implementing-regulations-of-ip-code-regarding-administrative-revocation-of-trademarks>

Board”) within 2 months. It is also possible to file a cancellation action against the Higher Board’s decision before the competent Ankara IP Courts within 2 months.

The Office’s final revocation decision will be recorded in the registry and published in the bulletin with immediate effect. In other words, a cancellation action filed against the Higher Board’s decision does not prevent the execution of the Office’s revocation decision. Therefore, the proper examination of the revocation request is important. Indeed, in case of a revocation decision, the trademark proprietor will lose protection until the finalization of the court decision cancelling the Higher Board’s decision.

Remarks:

We expect administrative revocation requests to be a common counterattack strategy due to its cost and time effectiveness. Applicants can strategically request revocation of basis trademarks as a counterattack to oppositions filed and of obstacle trademarks in terms of Article 5/1(ç)³ of the IP Code and ask the Office to hold off examining the opposition and/or appeal until a final decision is rendered on the revocation request. Similarly, trademark squatters or infringers may target trademarks of the genuine trademark proprietors by abusing the administrative revocation system.

Accordingly, we are of the opinion that the Office introduced the escrow fee to dissuade unnecessary and unjust revocation requests by making the costs of the administrative revocation parallel to that of revocation court action. Nevertheless, considering the time effectiveness and practicality of the administrative revocation, we think that it will still be a preferred procedure.

For this reason, we believe that it will be advisable for trademark proprietors to ensure that their trademarks are stated on invoices, products, catalogues, etc., and archive these together with any other available evidence such as advertisements, magazine or newspaper articles, or similar documentation.

³ Signs which are identical to or indistinguishably similar to a trademark, which has been registered or which has been applied for registration, relating to identical goods and services or to goods and services of the identical type.

3D Marks at the Intersection of Intellectual Property and Competition Law



With its decision dated 01.08.2024 and numbered 24-32/758-319, the Turkish Competition Authority (“TCA”) rendered a landmark ruling that will be debated in the literature for a long time to come with regard to the delicate balance between IP law and competition law. The TCA concluded that the relevant economic entity, by using three-dimensional (“3D”) marks owned by company under investigation (“The Right Owner”) had abused its dominant position, by excluding its competitors from the market and accordingly imposed a number of sanctions.

This decision has striking implications for trademark law practice, particularly in terms of the scope of protection afforded by device and 3D marks and whether such rights may be used as a means to circumvent competition rules. However, the most controversial aspect of the decision lies in the fact that the TCA did not limit itself to imposing an administrative fine but also ordered the withdrawal of a registered property right, despite the existence of a final court judgment upholding that right. Although the TCA could have

opted for behavioural remedies—such as prohibiting the enforcement of the registered rights against third parties—it instead moved beyond its role as a “market regulator” and assumed a position that directly interferes with the very essence of the property right.

Circumvention of the Law and the Limits of Property Rights

In the case at hand, the right owner had registered the packaging shape as both a trademark and a design before the Turkish Patent and Trademark Office (“TÜRKPATENT”). The TCA considered that registering the shape of a product whose patent or design protection is inherently time-limited as a trademark carries the potential to secure an indefinite monopoly through renewals and therefore assumed this a strategy “attempting monopolization”.

The TCA analysed the right owner’s conduct through the concept of circumvention of the law (*fraus legis*). According to the decision, trademark registrations were used not to indicate the commercial origin of the goods,

but rather to perpetuate exclusive rights over the shape indefinitely and to prevent competitors from entering the market. The observations that the entity had sent cease-and-desist letters to competitors even based on pending, unregistered applications, and imposed an obligation on customers to use only its own packaging (de facto tying), were characterized as an abuse of rights. The TCA concluded that a right acquired under the Industrial Property Code ("IP Code") had been used as a "tool" to circumvent Competition Law.

An Unprecedented Sanction: Withdrawal of Industrial Property Rights

Taking into account the gravity of the infringement, the TCA did not confine itself to imposing an administrative monetary fine but also ordered a radical structural remedy that strikes at the very foundation of IP rights with the purpose of "restoring" competition. Pursuant to the decision, the right owner was required, within a limited period, to withdraw the 3D trademark registration and the related design registration deemed to be subject of infringement, and to withdraw its other pending 3D mark applications that had not yet been registered.

To the best of current knowledge, this is the only instance in the history of Turkish competition law in which a registered IP right has been ordered to be withdrawn under the label of a "structural remedy". While general theory of competition law favours intervention

in the exercise of IP rights rather than their existence, in its decision the TCA regarded the registration itself as the main factor sustaining the violation and chose to eliminate the right altogether.

Jurisdictional Debate: Is the TCA a "Super Court of Cassation"?

The most controversial aspect of the decision is the TCA's positioning of itself above TÜRKPATENT and the specialised IP Courts. One of the subject 3D marks, dating back to 2014, had been definitively ruled registrable as a trademark by the Ankara 2nd IP Court and the 11th Civil Chamber of the Court of Cassation.

For an administrative authority to compel the cancellation of a trademark that has been conclusively held by specialised courts to meet the registration criteria, on the grounds that it "creates an unfair monopoly" undermines the principle of legal certainty. This approach gives rise to concerns that any 3D trademark could, someday, be stripped of its protection through a competition law investigation. Even in the case-law of the Court of Justice of the European Union, intervention has generally taken the form of "compulsory licensing in exceptional circumstances" rather than irreversible revocation of the right itself. In the present case, it is difficult to justify why the TCA, despite having the option to impose a comparable regulatory remedy, chose instead to directly interfere with the property right. In this respect, the decision constitutes

an unprecedented intervention with a questionable legal basis and far-reaching practical consequences.

Legal Uncertainty: The “Zombie Trademark” Problem

The enforcement of the decision, requiring the waiver of registered IP rights, entails the risk of “irreparable or irrecoverable damage”. The real legal chaos is likely to emerge at the stage of judicial review of this administrative act. If, in the coming years, the Council of State were to annul the TCA’s decision, the fate of the trademarks that were mandatorily withdrawn would remain an open and difficult question. Under Turkish trademark law, a mark or a design that has been withdrawn cannot automatically be revived and reinstated years later by virtue of an administrative court decision.

Moreover, during the period until the judicial proceedings are concluded, the distinctiveness of the mark may be seriously eroded, and the device may even become commonplace (generic). Furthermore, where similar shapes are used by third parties during the period in which the trademark is removed from the register and deprived of protection, it remains unclear whether—and against whom—the trademark owner could claim compensation for the resulting damages.

Accordingly, even if a future decision of the Council of State were to restore the trademark from a purely legal perspective, the

commercial and legal consequences in the interim would be irreversible.

Conclusion

The TCA decision serves as a serious warning for trademark owners. It clearly demonstrates that a trademark registration certificate is not an absolute shield which grants immunity from competition rules.

Although the stated objective of the TCA is to “restore distorted competition”, the chosen method of “cancellation of rights” directly interferes with the core of the right to property. Such radical interventions affecting the essence of property rights should, as a requirement of the rule of law, be carried out not through administrative decisions but only by final judicial rulings. Otherwise, a step taken today in the name of “protecting competition” risks becoming a precedent that tomorrow undermines confidence in the IP system and stifles innovation—the very driving force behind IP protection.

Trademark Applications Made in Bad Faith and the Assessment of Bad Faith in EU Law under the CP13 Common Practice*



In European Union (“EU”) legislation relating to trademark law, the concept of bad faith in trademark applications is not explicitly defined, nor are its boundaries clearly established. Although EU case-law provides significant guidance on the concept, it has been observed that there are different interpretations in practice and there are challenges in regard to achieving uniformity, making it difficult to foresee the manner in which assessment of claims of bad faith are undertaken.

With this in mind, the CP13 Common Practice titled “*Trademark Applications Made in Bad Faith*” prepared within the scope of the Convergence Programs carried out before the European Union Intellectual Property Office (EUIPO), was published on 22 March 2024. The CP13 Common Practice aims to establish a common understanding of the assessment of bad faith in trademark applications and to provide guiding principles for practitioners. In this context, the concepts and terminology related to bad faith have been clarified,

common evaluation methods have been developed for specific scenarios and common factors that may be taken into account in determining bad faith have been identified.

Nevertheless, the scope of CP13 has been deliberately kept limited. In particular, issues regarding the judicial or administrative proceedings in which bad faith may be invoked, as well as assessments relating to the merits of disputes have been excluded from the scope of the context.

In assessments conducted within the framework of CP13, it is emphasised that each case has its own unique circumstances and that the **mandatory factor** of bad faith is the **applicant’s dishonest intention**. This is regarded as an essential requirement that must be examined in every case where a bad faith claim is raised. In other words, in the absence of a dishonest intention, as a rule, the existence of bad faith cannot be established. However, since this subjective element is often not directly ascertainable, the assessment is based on objective and concrete criteria. In

* The extended Turkish version of this article was published by the Ankara Bar Association in its journal *Fikri Mülkiyet ve Rekabet Hukuku Dergisi* (IP and Competition Law Journal) on 2 May 2025 and is available via the following link: <https://gun.av.tr/insights/updates/trademark-applications-made-in-bad-faith-and-the-assessment-of-bad-faith-in-european-union-law-under-the-cp13-common-practice-in-comparison-with-turkish-trademark-law>

this context, not only the applicant's declared intent but also the **tangible indicators of this intent which are externally perceived**, as well as the conditions and context of the application, should be considered together.

The applicant's dishonest intention is not expected to manifest in the same way in every case. Within this framework, the Court of Justice of the European Union, in its rulings, has identified certain complementary factors that may assist in determining dishonest intention, which constitutes the mandatory factor of bad faith. These factors do not constitute a prerequisite for the existence of bad faith; they serve solely as a guiding tool in the assessment of bad faith. For this reason, these factors are referred to in doctrine and practice as **non-mandatory factors**.

In this framework, the complementary factors include: the applicant's awareness or presumed reasonable awareness of the existence of earlier rights; the level of protection and reputation enjoyed by the third party's rights; the similarity between the disputed trademark and the earlier rights; the goods and services covered by the application; any existing or past commercial or legal relationships between the parties; the origin and prior use of the trademark; whether the application is supported by an honest commercial rationale; speculative conduct aimed at obtaining financial gain and the applicant's pattern of systematic or repeated applications or actions.

The CP13 Common Practice acknowledges that the concept of bad faith in trademark applications cannot be treated as a uniform phenomenon; rather, it may emerge in different forms. In this regard, bad faith is examined under two different facets in a non-exhaustive manner. The first of these is **the misappropriation of the right/s of the third party**. In such cases, the applicant is perceived to target a specific third party, attempting to unjustly exploit their trademark rights, commercial activities or well-known status in the market for their own benefit. In these applications, the main objective is not to engage in honest commercial activity, but rather to intrude on a third party's rights or to gain an unfair advantage borne of those rights.

The second facet, namely **the abuse of the trademark system**, it is not necessary for the applicant to target a specific third party directly. Bad faith arises from applications made for purposes that are inconsistent with the fundamental functions of the trademark. Even if the application formally complies with the legal requirements, the use of the application in a manner contrary to the objectives of trademark law and the applicant's strategy aimed at deriving unfair benefit from the trademark system, are decisive in establishing bad faith. In the CP13 text, registrations made for defensive purposes against potential disputes, repetitive applications and applications of a speculative

nature are cited as examples within this scope. Within the framework of the principles set out in CP13, a comparison of EU legislation with Turkish trademark law demonstrates that the fundamental elements of the concept of bad faith and the approach to assessment largely overlap in both systems. However it appears that in certain aspects, such as the extent of rejection/cancellation due to bad faith, specific differences continue to exist.

To conclude, the CP13 Common Practice serves as a guiding document aimed at fostering a more systematic, consistent and predictable understanding of the concept of bad faith, rather than directly determining which legal consequences may directly be the case in specific disputes. Although Turkish trademark law largely aligns with EU law in terms of the assessment of bad faith, the absence of a clear and structured guideline in practice adversely affects the consistency of decisions.

Therefore, it is our view that, a guideline to be prepared by the Turkish Patent and Trademark Office, similar to the CP13 Common Practice and which systematically sets out the criteria for assessment of bad faith, would not only promote consistency in practice but also encourage a more cautious and accurate assertion of claims to bad faith.

Is Settlement With the Administration Possible?



As is known, pursuant to Article 2/1(a) of the Administrative Procedure Law No. 2577, it is possible for persons whose interests have been violated to file an action for annulment against administrative acts on the grounds that such acts are unlawful in terms of authority, form, cause, subject matter, or purpose.

In such a relevant case the claimant alleges that the administrative act established by the defendant administration is contrary to the law and seeks its annulment. In response, the administration will argue that the administrative act it has established is appropriate and in compliance with the law.

As a matter of fact, in a similar manner, the administration may also file a lawsuit for the elimination of the violation and/or compensation of damages in the event that it incurs damage as a result of the legal acts and transactions it has engaged with third parties. In certain situations, an administrative act may contain an obvious error of fact or be contrary to the law, or that the continuation of the dispute may create an unnecessary

burden for both parties. In such case, will the administration, nevertheless, strongly defend its act, or is it possible for the administration to resolve the matter through alternative methods if it is not in agreement with the act at the stage when an action is brought against the administrative act?

In essence, the relevant regulation¹ grants the administration the authority, and also encourages entering into a settlement.

Indeed, when the matter is considered from the perspective of industrial property rights, pursuant to the relevant regulation², the decisions of the Re-Examination and Evaluation Board ("Higher Board") of the Turkish Patent and Trademark Office ("the Office") constitute the final decisions of the Office, and cancellation actions against such decisions may be filed before the Ankara IP Court within two months as of the date of notification of the decision. In parallel and pursuant to Article 156/2 of the Industrial Property Code No. 6769 ("IP Code"), Ankara IP Courts are the competent and authorized

¹ Decree Law No. 659 on the Conduct of Legal Services in Public Administrations within the Scope of the General Budget and in Special Budget Administrations, Article 9(1) and (3): "(1) As a principle, administrations shall invite the opposing party to enter into a settlement before filing a lawsuit before judicial courts or initiating enforcement proceedings. Administrations may also invite the opposing party to enter into a settlement where they become aware that a lawsuit will be filed or enforcement proceedings will be initiated against them ... (3) In disputes that have been brought before the courts or referred to enforcement proceedings, the parties may likewise make a settlement offer."

² Law No. 5000 on Patent and Trademark Agency and Certain Regulations, Article 15/C titled "Presidency of the Re-Examination and Evaluation Board."

court in actions to be filed against the Office's final decisions taken under the provisions of the IP Code, as well as actions against the Office to be brought by third parties who have incurred damage as a result of the Office's decisions³. As is evident from both provisions, interested persons may file a cancellation action before Ankara IP Courts against the Higher Board's final decision rendered under the IP Code by designating the Office as a party.

Although there is no explicit provision in the IP Code regarding the Office's authority to enter into a settlement, the Office, as an administrative body, is included within the scope of the aforementioned regulation, and there is no need for an explicit provision in the IP Code in this regard.

Within this framework, particularly in cases such as obvious errors of fact, it is possible for the Office to contact the claimant/its attorney to propose a settlement instead of defending an obvious error, and even to accept the court action. Indeed, in a recent case filed against the Higher Board's decision which clearly includes an error of fact, the Office adopted this approach and thereby created the opportunity for a settlement with our client, by contacting us as the attorney. Within this context, a settlement was reached with the Office, on behalf of our claimant client, in terms of the cancellation of the Higher Board decision, and the Office accepted the court action in terms of the cancellation of the Higher Board decision.

³ Article 156/2 of the IP Code.

As stated above, in essence, the legislation grants the administration authority to enter a settlement in all disputes involving the administration. Within this framework, in disputes involving various institutions and bodies such as the General Directorate of Copyright, the Competition Authority, the Advertising Board, and even State Universities, it may be considered whether a settlement can be reached through mutual waivers by the parties. Indeed, a settlement to be achieved in similar cases would also be consistent with the principle of procedural economy, which shall be pursued by the parties.

However, it should be emphasized that it is very rare for the administration to accept a court action brought against it, there are certain conditions and specific circumstances arising from both its own interests and the public interest, as well as from statutory requirements that must be taken into consideration. In fact, in order to encourage the administration to enter into a settlement, proposals that also take public interest into account such as the claimant's attorney waiving the legal attorney fee or the claimant agreeing to bear the litigation costs incurred may be considered. Given the extent to which proceedings may be shortened in the event of a settlement with the administration, the amounts waived are of limited significance when compared to the procedural and time-related efficiencies achieved.

Within this framework, in disputes involving the Office, in cases where the case file contains obvious error of fact or unlawfulness and does not require technical analysis – such as a comparison of goods/services –, a subjective assessment – such as the similarity of trademarks –, or legal assessment – such as vested rights, etc. – the parties should, with due regard to the public interest and without causing damage to the Treasury, may contact the Office and consider the possibility of a settlement.

GSK Succeeds in Bad Faith Case in Türkiye



This article examines a lawsuit concerning the use of a trademark, after it was registered in Türkiye by a third party, with the aim of threatening infringement proceedings against the company that is the rightful owner of the mark and evaluates how the courts protect the genuine rights holder against bad faith registration.

Background

The dispute concerned the bad faith registration of a trademark that had previously been registered in Türkiye in the name of Stiefel Laboratoires, Inc., an affiliate of GlaxoSmithKline Plc, the global pharmaceutical group (GSK).

GSK had been commercially using the “Clindoxyl” trademark since 2010 in Türkiye, particularly in connection with acne treatment products, with a valid marketing authorisation from the Turkish Ministry of Health.

Although the trademark was applied for in 2006 by GSK and registered in Class 5 in 2007, the protection lapsed in 2016 due to an unintentional failure to renew.

In 2019, the defendant obtained registration for the “Clindoxyl” trademark in Class 5. Within 10 days of the registration, it sent a cease-and-desist letter to GSK Türkiye, accusing the company of trademark infringement with the threat of collecting its products on the market based on the recent trademark registration for “Clindoxyl”.

GSK immediately responded with a formal letter, reminding the defendant that it is the genuine right owner of the “Clindoxyl” trademark and demanding assignment of the trademark. However, the defendant asked for payment of a significant amount to assign the trademark to GSK.

As this is a clear indication of bad faith, GSK decided to initiate an invalidation action against the defendant and alleged that the defendant acted in bad faith by knowingly exploiting the lapse in registration to take advantage of GSK’s established brand reputation and commercial presence.

The defendant denied the bad faith claims, arguing that GSK did not have a valid

registration for this trademark and that the goods fall into different trademark classes as the defendant aims to use the trademark in terms of room fragrances in Class 5 while GSK's use should be accepted for goods in Class 3.

Decision

The first instance court ruled in favour of GSK and decided to invalidate the defendant's trademark, with satisfactory reasoning (Izmir IP Court, Merit No. 2020/80, Decision No. 2021/95, Dated 16.06.2021).

The Court concluded that GSK is the genuine right owner of the "Clindoxyl" trademark since it was understood from the evidence in the file that it has used the trade mark both in Türkiye and abroad long before the application date of the defendant's trade mark and it is not coincidental that the defendant chose to register the exact same "Clindoxyl" trademark, which is highly distinctive. Therefore, the defendant aimed to gain unfair benefit from this trademark although she was aware of the genuine right owner.

The defendant's appeal was rejected by the Regional Court (Izmir Regional Court, Merit No. 2021/1077, Decision No. 2024/421, Dated 13.03.2024). Upon the defendant's second appeal, the Court of Cassation upheld the decision, confirming the invalidation of the defendant's trademark (11th Civil Chamber of the Court of Cassation, Merit No. 2024/3134, Decision No. 2025/1450, Dated 04.03.2025).

As a result, GSK succeeded in the invalidity of the bad faith registration, which will no longer serve as the basis of a potential infringement case and was also creating an obstacle to the registration of its own trademark.

Following the finalised court decision, the trademark was declared entirely invalid with retroactive effect by the Turkish Patent and Trademark Office, which will enable GSK to register its own trademark.

Comments

This ruling sets a strong precedent for protecting trademark holders against bad faith registrations in Türkiye, especially in cases where a lapse or gap in registration is exploited by third parties. It affirms that trademark rights are rooted not only in formal registry entries but also in actual use, commercial recognition and ethical conduct in trade.

By citing earlier jurisprudence and reminding about the duties of a diligent trader before applying for a trademark registration, the court drew a clear line between opportunistic filings and legitimate registrations.

Recognising the importance of genuine and earlier use, this decision contributes to the development of trademark jurisprudence in Türkiye and serves as a robust legal tool for preventing misuse of the registration system through bad faith.


Energy Drink vs. Motor Oil: The Court of Cassation’s Holistic Analysis

In a recent decision of the Turkish Court of Cassation (Merit No. 2024/6138, Decision No. 2025/3800), the Court conducted a holistic comparison between a globally renowned energy drink brand and a motor oil brand, examining all aspects, from the similarity of the goods to the colors and figurative elements used in the disputed trademarks.

Background

The dispute involved, on the one side, the plaintiff’s well-known marks in the energy drinks sector – the word mark “MONSTER ENERGY”, a figurative mark “



depicting a lion and a color mark “” defined by pantone 6 c pantone 375 c registered in Class 32; and, on the other side,

the mark “



”sought to be

registered for motor oils in Class 04, which employed similar color tones and figurative components. The plaintiff claimed that the defendant’s trademark application registered in Class 04 was similar to its well-known trademark and had been filed in bad faith, and therefore requested the invalidation of the mark.

Decision

Although at first glance, energy drinks and motor oils may appear to be entirely different goods, the Court, in its decision, noted that the plaintiff’s energy drinks have sponsored numerous motorsports teams, races and events, providing promotional support. The Court also took into account the plaintiff’s substantial and intensive advertising and promotional expenditures related to its marks in this sector. In addition, the Court highlighted that the products are commonly offered side by side in convenience stores at gas stations. While establishing the connection between the goods covered by the disputed marks through detailed and comprehensive reasoning, the Court examined the similarity between the trademarks and concluded that, in terms of overall impression, the contested mark is similar to the plaintiff’s registered marks. This decision of the Court not only sets out the factors to be considered in assessing the similarity between goods but also addresses the similarity of a later trademark which, although in a different combination, incorporates the essential elements of the plaintiff’s registered word, color and device trademarks. While the individual elements of the trademark subject to the action may differ from the plaintiff’s registered word, color and device trademarks, the Court nonetheless considered the overall impression of the mark as a whole and highlighted the protection afforded to color trademarks. Importantly, the decision highlights that a subsequent mark,

even if arranged differently, may be deemed similar if it incorporates essential elements of earlier marks and their actual use. During similarity examination, the Court highlighted the below points:

- The phrase 'motor oil' included in the subject trademark is descriptive in nature and serves as a subsidiary element and therefore the main and distinctive element is the phrase "MONSTER" which is identical to the cited trademark "MONSTER".- The colors used in the subject trademark are indistinguishably similar to the plaintiff's registered color trademark defined by pantone 6 c pantone 375 c.



The subject trademark



The trademarks cited as a ground for the action

- The device element used in the subject trademark consisting of a figurative lion head is similar to the plaintiff's registered device trademark consisting of a figurative lion head.

As result of a holistic evaluation and considering the well-known status of the plaintiff's "MONSTER ENERGRY" trademark, the Court concluded that there exists a

likelihood of confusion between the disputed trademarks. In the action, the Court also found that the subject trademark would unfairly benefit from the reputation of the plaintiff's well-known "MONSTER ENERGY" mark through image transfer, weaken the function of the plaintiff's trademark in indicating the origin of its goods and thereby damage the distinctive character of the well-known mark, giving rise to dilution. The Court further held that the defendant's adoption of the sign was not coincidental but rather aimed to exploit the mark unfairly and constituted bad faith. As a result of the proceedings, the subject trademark was invalidated entirely. This decision, which serves as a textbook example in trademark law, was subsequently upheld on appeal and cassation, thereby becoming final and binding.

In conclusion, this recent decision can be regarded as both illuminating and instructive. It offers valuable guidance for assessing the similarity of goods and services, safeguarding and registering color and figurative elements associated with globally renowned marks, and invoking such marks as a defensive mechanism against similar trademarks. As such, it provides important precedent and encouragement for both practitioners and scholars in the field of trademark law.

Turkish Court of Cassation's Stance on Short-Word Trademarks: Analysis



According to the Trademark Examination Guideline of the Turkish Patent and Trademark Office, which is aligned with the European Union Intellectual Property Office (EUIPO) guidelines, the comparison of trademarks should be based on the overall impression created by the marks. In this assessment, the length of a trademark can be an important factor. In general, the shorter a sign is, the easier it is for the public to perceive each of its elements. Conversely, in longer signs, differences are less likely to be noticed. That said, each case must be assessed individually, taking all relevant circumstances into account.

The Turkish Court of Cassation (CoC) follows the same general approach in its decisions. However, it can be observed that the CoC tends to place greater weight on the main elements of the trademarks, even when the marks are short. The Court's established position on short-word marks is that the focus should remain on the dominant element. As long as the main elements are identical or highly similar, the presence of additional

elements is usually not sufficient to eliminate the likelihood of confusion.

For example, in its previous decision dated June 20, 2023, with Merit No. 2022/954 and Decision No. 2023/3909, the CoC upheld the Regional Court's decision, finding the trademarks listed below to be confusingly similar.

SFA GROUP
The trademark
subject to the action

STFA
The trademark
shown as a ground
for the action

In the upheld decision, the Regional Court highlighted that the main element of the subject trademark is the phrase "SFA", which differs by only a single letter from the trademark featuring the phrase "STFA" as its main element. The court concluded that, given the high similarity between the main elements of the disputed trademarks and the similarity of the goods and services covered by them, there exists a likelihood of confusion between these trademarks.

Likewise, consistent with its previous decisions, a CoC decision dated March 3, 2025, with Merit No. 2024/3305 and Decision No. 2025/1446, upheld the Regional Court's decision regarding the similarity of the below marks, which had rescinded the first-instance court's decision.



The trademark
subject to the action



TRILYE
The trademark
cited as the basis
for refusal

In its decision, despite the first-instance court having found these trademarks dissimilar, the Regional Court carefully identified the primary and secondary elements of the disputed trademarks and concluded that the main elements of both trademarks are the phrase "MB". Consequently, the court determined that the addition of the phrase "Holding", which lacks distinctiveness, together with the stylisation of the phrase "MB", was deemed insufficient to differentiate the above-left trademark from the trademark cited as the basis for refusal.

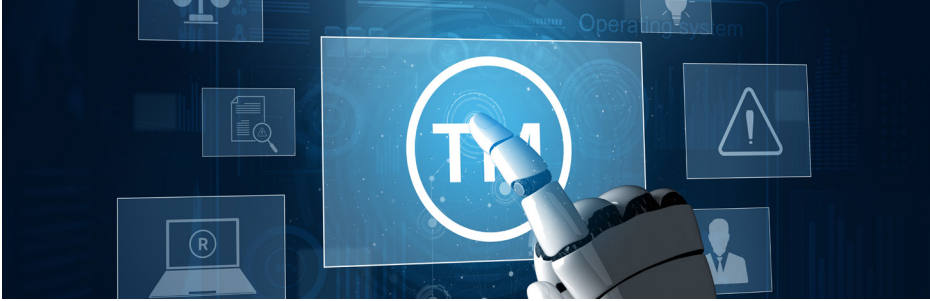
It is therefore essential to consider whether the additional elements added to short-word trademarks are descriptive, as well as the positioning of the short-word elements within the trademarks. Despite visual differences between the trademarks, the presence of the same main element was deemed sufficient

to establish similarity and a likelihood of confusion.

Key takeaways on short-word trademarks

As can be observed from the relevant decisions and the CoC's approach, in the assessment of similarity for short-word trademarks – even those consisting of just two letters – the main elements of the marks play a decisive role, whereas differences in secondary elements alone are not sufficient to differentiate the marks. While this approach has long been adopted in numerous disputes, each case has its own unique characteristics and different outcomes remain possible in individual disputes.

Artificial Intelligence and Trademark Law



The impact of artificial intelligence (“AI”) technologies on trademark law has been among the frequently debated topics over the past year. As also discussed in our article published last year, while these technologies accelerate processes in terms of trademark registration procedures, they simultaneously necessitate a re-assessment of the human-centered criteria traditionally applied in trademark law.

Indeed, Intellectual Property (“IP”) offices worldwide continue to increasingly adopt these technologies in order to enhance time and cost efficiency, improve the accuracy of procedures, and productivity. In this regard, the World Intellectual Property Organization (“WIPO”) maintains an Index¹ listing country-based examples of such use. These include AI-powered translation tools, systems assisting in the identification/classification of goods and services during trademark application processes, applications enabling word-based, semantic and visual similarity searches as well as reverse image searches, and self-learning systems that continuously improve

over time². In Türkiye, the Turkish Patent and Trademark Office (“TÜRKPATENT”), within the scope of its “AI Supported Digital Transformation Project”³, aims to integrate application processes, streamline workflows, and accelerate examination periods through a new AI-supported software infrastructure.

Another issue that should be addressed is that AI technologies necessitate a re-evaluation of the general principles of trademark law. Indeed, with the rise of AI technologies, situations have begun to emerge in which consumers’ purchasing preferences are shaped by the results presented to them by AI, or in which the act of purchasing itself is carried out by AI directly upon the consumer’s voice instructions. Looking ahead, scenarios in which such transactions are automatically performed by AI without the need for explicit instructions have also sparked debate.

Traditionally, trademarks have functioned as tools that simplify complex product information and provide a reliable indicator of origin to serve consumers’ limited cognitive processing capacity. However, in scenarios

where purchasing processes are conducted by AI systems, it is considered that algorithms would simultaneously analyse multiple data such as price, quality, user reviews, supply chain data, and personal preferences, owing to their capacity to process large datasets. In such cases, trademarks may cease to be the primary determinant in the decision-making process and instead become merely one of the data points evaluated⁴. From this perspective, for a computer, there may be no meaningful distinction between a trademark and a line of code. However, in our view, the emotional meaning attributed to trademarks through the human experience, as well as the significant impact of the communication function of trademarks, continue to be crucial. Accordingly, even as AI assistants and recommendation algorithms become increasingly widespread, the possibility that decision-making processes will be entirely delegated to AI systems without human interaction should be assessed with due consideration of these factors.

Another issue is that the current system is based on the perception of the human-centered 'average consumer' and relies on concepts such as the 'likelihood of confusion', which are assessed through visual, phonetic or conceptual similarity, taking into account human traits such as limited attention, imperfect memory, and the tendency to inadequately evaluate context in the pace

of everyday purchasing decisions. However, in situations where AI systems come into play, and considering their ability to analyse context in a holistic manner, it will no longer be possible to speak of confusion in the same sense as it applies to humans⁵. Instead, the likelihood of confusion or even error may arise due to factors such as algorithmic manipulation or the misguidance of data flows. There is no doubt that this will bring the aspects of data protection and competition law to the forefront when undertaking the issues.

In conclusion, within this evolving and transforming landscape, the increased use of digitalisation and AI systems may require a fundamental re-examination of the core principles of trademark law. In such an environment, when shaping their commercial strategies, trademark owners may benefit from taking steps toward digitalisation by developing system-compatible and machine-readable versions of their trademarks⁶; securing these through trademark registrations and further integrating appropriate technological tools such as blockchain, the Internet of Things, and other relevant technologies into their business operations, while also adopting preventive measures to avoid situations that may give rise to infringement.

¹ https://www.wipo.int/about-ip/en/artificial_intelligence/search.jsp

² [https://www.wipo.int/en/web/ai-tools-services#:~:text=WIPO%20has%20developed%20an%20AI,Patent%20Classification%20\(IPC\)%20schema.](https://www.wipo.int/en/web/ai-tools-services#:~:text=WIPO%20has%20developed%20an%20AI,Patent%20Classification%20(IPC)%20schema.)

³ <https://www.turkpatent.gov.tr/haberler/turkpatent-akademi-tanitimi-ve-yapay-zeka-destekli-dijital-donusum-projesi>

⁴ Michael Grynberg, Kentucky Law Journal, AI and the Death of Trademark, Cilt 108, 2019-2020, number 2, page 205-2010; Alpana Roy . Althaf Marsoof, Removing the Human from Trademark Law, Springer, 22 April 2024, page 740-741.

⁵ Roy- Marsoof, Removing the Human from Trademark Law, page 740-741.

⁶ Roy- Marsoof, Removing the Human from Trademark Law, page 757.

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Firm Overview

We are one of the oldest and largest law firms in Turkey and are considered internationally to be among the top-tier of legal services providers.

We are a full-service law firm leading the intellectual property field among others, providing dispute management, advisory, transactional, prosecution, investigation, and regulatory markets law services to domestic and multinational corporations.

We are based in Istanbul, with working and correspondent offices in Ankara, Izmir and the major commercial centres in Turkey.

We operate mainly in Turkish and English and also work fluently in German and French.

We advise a large portfolio of clients in numerous fields of activity including life sciences, insurance and reinsurance, energy, construction & real estate, logistics, technology, media and telecoms, automotive, FMCG, chemicals and the defense industries.

Our vision is to be the leader in the services we provide, sensitive to wider society, the environment, and our employees as an innovative and sustainable institution.

Our clients' success is at the heart of our own success. We closely monitor developments in the business sectors in which our clients operate and invest in accumulating industry specific knowledge to understand their changing needs. We actively participate in professional, trade and business organisations in Turkey and internationally.

We are committed to adapt to our clients' changing business needs by delivering innovative, high quality and commercially prudent legal solutions.

