



COPYRIGHT LAW IN TÜRKİYE
KEY DEVELOPMENTS AND PREDICTIONS

2026

Copyrights

We are active in all aspects of copyright law in particular music, photographic, literary, architectural and artistic works of art, cinematographic works, computer software and databases, television program formats and character merchandising,

We provide clients in all business sectors with advisory, transactional, civil and criminal litigation, alternative dispute resolution services. We regularly represent clients both in civil and criminal courts, in ad hoc and institutional arbitration and mediation as well as acting as arbitrators in IP and copyright disputes.

We create and conduct anti-piracy campaigns including public awareness activities, consolidation of enforcement of various types of remedies, forming and advising alliances between rights holders, common interest groups and other similar establishments.

Our services include negotiating and drafting various copyright agreements including commissioning of copyright works, licenses, assignments, utilization, maintenance and improvement and outsourcing agreements.

We also comment on the compatibility of Turkish IP law and regulation with International treaties, interactivity with the relevant national law and regulations, and advise and represent clients on the enactment of the law.

The firm was among the pioneers of copyright enforcement in Turkey and contributed to the development of the state-of-the-art Copyright law particularly in computer software, publications and media.

Introduction

In recent years, the rapidly evolving digital ecosystem has transformed intellectual property law from a purely technical field into a central topic of economic and societal debate. As of 2025, significant developments have taken place in Türkiye both at the legislative level and in practice with regard to copyright law. From artificial intelligence to digital content creation, and from press publishing to the sports industry, a wide range of new questions has emerged. These developments challenge the boundaries of the existing legal framework and call for a reassessment of the balance between right holders and users.

In this context, the implications of AI-assisted content creation under copyright law have been among the most widely discussed issues, both internationally and in Türkiye. Similarly, legislative proposals introduced to address the specific needs of digital uses provide important insights into the future direction of copyright law. The online use of press content and the protection of publishers' rights have also become prominent topics, particularly in light of the growing influence of digital platforms.

At the same time, traditional copyright issues have gained new dimensions through digitalization. The protection of digital typefaces, the boundaries of adapted works, and the criteria of originality are being reassessed, while the case law of the Court of Cassation continues to serve as an important guide in practice. In addition, the legal characterization of distinctive elements emerging in the world of sports and entertainment—such as goal celebrations—offers striking examples of how far the boundaries of intellectual property law may extend.

In this document, key copyright law issues are addressed in light of the developments over the past year.

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Artificial Intelligence from a Copyright Perspective: Global Developments and Reflections in Türkiye



Artificial intelligence technologies have begun to be used by almost everyone and have increasingly become an integral part of daily life. With the widespread adoption of these technologies, which are capable of generating new outputs by processing inputs such as text, images and other forms of data, the question of whether outputs created by artificial intelligence models qualify as “works” and whether they infringe third parties’ copyright has continued to be intensely debated over the past year, as has been the case in previous years. These debates are no longer confined to a purely theoretical level but have also recently become the subject of judicial decisions.

The concept of “authorship”, which lies at the very core of copyright law, constitutes one of the most controversial areas with regard to content generated by artificial intelligence. This issue has also been addressed in various judicial decisions worldwide. In this context,

in a case¹ decided on 19 March 2025 by the Zhangjiagang People’s Court of Jiangsu Province of the People’s Republic of China, the designer Feng Runjuan generated an image by entering the following text prompt into the AI-assisted image-generation platform, Midjourney: “children’s chair with a jelly texture, shape of cute pink butterfly, glass texture, light background” and subsequently shared this image on an online platform. Thereafter, an authorised representative of the defendant company Kuashi Plastic made an offer to Feng with the intention of producing the design; however, Feng rejected this offer. Following this rejection, the defendant company began manufacturing and selling certain children’s chair models which were alleged to be highly similar to Feng’s designs.

Consequently, Feng initiated legal proceedings against Kuashi Plastic, alleging copyright infringement and unfair competition. The defendants argued that

¹ <https://www.iam-media.com/article/chinese-court-denies-copyright-protection-ai-generated-content-insufficient-human-input-in-first-of-its-kind-ruling>

the prompts entered by the plaintiff into the artificial intelligence system did not constitute protectable intellectual creations and that similar images had already existed prior to the creation of the disputed images. In the course of the proceedings, it was also established that AI-generated outputs are inherently unpredictable and that the same result may not be reproduced even when identical prompts are entered again.

In its decision, the court held that copyright protection would not arise where content is generated predominantly by artificial intelligence. The court emphasised that, for AI-generated outputs to benefit from copyright protection, the individual must make intentional and decisive choices by providing prompts and exercising creative control over the original visuals, including the individualisation of elements such as perspective, colour, and composition and that such human contributions must be clearly demonstrated. The court concluded that Feng failed to meet these criteria and accordingly dismissed both the copyright infringement and unfair competition claims.



Similarly, in a case where the plaintiff alleged that an image described as a “crystal cat necklace” had been created using an artificial intelligence application and that the defendant had unlawfully used this image

for promotional purposes across various platforms, the Beijing Internet Court held that, in order to determine whether an output qualifies as a work, the following criteria must be assessed cumulatively: (i) whether it falls within the fields of literature, art or science; (ii) whether it is original; (iii) whether it is expressed in a specific form; and (iv) whether it constitutes an intellectual creation. With regard to the criterion of originality, the court emphasised that the creative process must be demonstrated by the plaintiff by concrete evidence.

By its decision dated 16 September 2025, the court concluded that the requirement of originality had not been satisfied, as the plaintiff failed to submit any evidence regarding the creative process. Accordingly, the plaintiff’s claims were dismissed, and the decision was upheld.²



An examination of the relevant decisions indicates that, when assessing whether outputs generated by artificial intelligence as a result of given inputs qualify as works, Chinese courts require a demonstrable level of human contribution in the creative process and take into account proof of the extent to which the inputs were decisive in generating the output. Within this framework, it appears that the prevailing global approach is that

²<https://mp.weixin.qq.com/>

copyright protection may only be afforded to outputs that incorporate human creativity.

On the other hand, the use of copyrighted works in the training of artificial intelligence systems continues to be one of the most pressing issues in copyright law. In particular, the question of whether generative AI models trained on large datasets make unauthorised use of copyright-protected works has become the subject of numerous lawsuits worldwide. For example, in a case brought by visual content provider Getty Images, alleging that its works were used without authorisation by Stability AI during the training and development of an artificial intelligence model, thereby infringing its reproduction right, the High Court of England and Wales, in its decision dated 04 November 2025, held that the mere fact that an AI model was exposed to copyright-protected works during training does not, in itself, constitute copyright infringement. The court reasoned that the AI model does not store those works and therefore does not contain infringing copies of them and accordingly dismissed the copyright-based claims.³

While this decision indicates that the use of copyright-protected works in the training process of artificial intelligence systems does not automatically constitute copyright infringement in every case, it does not put an end to the ongoing debates regarding the scope of such use and its impact on the resulting outputs. Indeed, it is widely acknowledged across different jurisdictions that the assessment of copyright infringement may differ where AI-generated outputs

display substantial similarity to, or effectively reproduce, pre-existing protected works.

Indeed, under Article 22 of the Turkish Law on Intellectual and Artistic Works, the reproduction right is expressly regulated, granting the author the exclusive right to reproduce the original or copies of a work, in whole or in part, by any means or method, whether directly or indirectly, temporarily or permanently. Accordingly, contrary to the approach adopted by the High Court of England and Wales, such copying may be classified under Turkish law as temporary or indirect reproduction.

To our knowledge, at present, there is no court decision in Türkiye that directly addresses issues concerning artificial intelligence and copyright. Nevertheless, given the increasingly widespread use of AI models, it is inevitable that significant developments in this field will emerge in the coming years.

In conclusion; as of 2026, the relationship between artificial intelligence and copyright is not static but rather continuously evolving. While efforts are made to preserve the fundamental principles of copyright law, the continued advancement of technology is also encouraged. Within this search for balance, the proper management of legal risks and the careful monitoring of existing and emerging regulations are of critical importance for both rights holders and AI developers.

³ <https://www.judiciary.uk/wp-content/uploads/2025/11/Getty-Images-v-Stability-AI.pdf>

Draft Law on Digital Copyright



As emphasized in our recent article¹ on publishing rights in online use, the transformative impact of digitalization on the media and publishing sector has necessitated fundamental changes in copyright law. Within this framework, the Draft Law on Digital Copyright (“Draft”), which aims to protect copyrights in digital media, was submitted to the Turkish Grand National Assembly on 11 December 2025 and is currently under review by the relevant commission.

The Draft has been designed to ensure the effective copyright protection in digital environments, to safeguard the accessibility of content serving public interest, and to uphold the delicate balance between freedom of expression and copyright.

Determining the Liability of Intermediary Service Providers Regarding Copyright

The Draft foresees obligations specifically for platforms with more than 250,000 individual daily users. Platforms are required to establish

automated content recognition systems, detect and remove copyright infringements, conduct licensing negotiations with right holders, and share content revenues. This approach aims to move platforms beyond their role as mere technical intermediaries and encourage them to play an active role in the protection of copyright. However, this may entail certain risks to freedom of expression and the right of access to information. The tendency of platforms to remove disputed content in order to avoid legal liability may result in the removal of content that serves the public interest. Thus, it is crucial to maintain a sensitive balance between the protection of copyright and freedom of expression.

Establishment of Licensing Mechanisms for Online Press and Media Content

The Draft aims to ensure that the economic value derived by digital platforms from published content is shared with publishers. In this context, it is envisaged that licensing relationships will be established between

¹ <https://gun.av.tr/insights/articles/publishing-rights-in-online-use-recent-developments>

platforms and rights holders, with the objective of ensuring a more balanced distribution of the revenue generated in digital environments. This approach is in line with the European Union's Directive on Copyright in the Digital Single Market and similar regulations in Australia² and Canada³. However, as seen in the example of Spain⁴, there is also a risk that such regulations may lead to restrictions on the services provided by platforms. For this reason, the manner in which licensing negotiations are conducted and the relative bargaining power between the parties will be decisive for the effective implementation of the proposed Draft.

Acknowledgement of the "Fair Use" Exception

The Draft shall also recognize the "fair use" exception. Education, scientific research, critique, commentary, parody, news reporting, archiving and access for people with disabilities are included within this scope. The boundaries of fair use will be determined by criteria such as the purpose of use, its nature, the significance of the amount being used and the impact on the copyright holder's economic market.

Removal of Content through Notice-and-Take Down

It is envisaged that rights holders will report infringing content to platforms, and that platforms will remove such content within specified timeframes following the necessary

review. This obligation will also apply to intermediary service providers that meet certain thresholds.

Establishment of Institutional and Legal Mechanisms for Resolution of Copyright Disputes

The Draft provides for the establishment of a Copyright Monitoring Authority ("Authority"), a Copyright Monitoring Board, as well as a Copyright Dispute Arbitration Commission ("Commission"). The Authority shall be tasked with monitoring the obligations of digital platforms and assessing developments in the sector. The Commission is envisaged as an expert-led alternative mechanism to provide swift resolution for disputes arising particularly from licensing and revenue-sharing processes. While the Commission's decisions shall be binding, the parties' right to seek judicial remedies before the courts remains reserved.

Administrative Sanctions

The Draft provides for administrative fines of between 1% and 5% of annual revenue in Türkiye to be imposed on intermediary service providers who breach obligation; it also stipulates that the amount may be increased to up to 10% in the event of repeated breaches or gross negligence. However, given the high number of infringements occurring particularly on large scale platforms, the proportionality of the proposed sanctions remains open to debate. It is therefore

² <https://www.copyright.org.au/browse/book/ACC-Licences-for-Digital-Resources-INFO102>

³ <https://ISED-ISDE.CANADA.CA/SITE/CANADIAN-INTELLECTUAL-PROPERTY-OFFICE/EN/GUIDE-COPYRIGHT#benefitsRegistration>

⁴ <https://europe.googleblog.com/2014/12/an-update-on-google-news-in-spain.html> and <https://blog.google/products-and-platforms/products/news/google-news-returns-spain/>

important that the sanction mechanism serves as an effective deterrent while remaining sufficiently proportionate so as not to hinder the development of the digital ecosystem. Furthermore, the aim is to establish a sustainable framework for cooperation between right holders and platforms through incentive mechanisms.

In conclusion; the Draft represents a significant step towards restructuring the legal framework governing the production and distribution of digital content in Türkiye. However, issues such as the scope of liability for intermediary service providers, the impact of automated content moderation systems on freedom of expression, the balance of power between parties in licensing negotiations, and the boundaries of the fair use exception will be critical in practice. Furthermore, the relationship between the new institutional structures and the existing administrative and judicial systems is among the issues that will require clarification in implementation.

In this context, while the Draft Law on Digital Copyright represents an important initiative for the development of digital copyright law, its ultimate impact will depend on how the balance between copyright, freedom of expression and the right of access to information is established in practice.

Publishing Rights in Online Use - 2026



As digital technologies continue to transform the publishing industry, the debate on copyright in online use is intensifying at an unprecedented pace. In particular, the integration of artificial intelligence (“AI”)-driven systems into content creation and dissemination processes is reshaping the balance between publishers and digital platforms. Against this backdrop, it is clear that the regulatory framework established under the 2019 European Union (EU) Directive on Copyright in the Digital Single Market (“Directive”), have entered a new phase shaped by AI.

As discussed in our previous publications on the subject, the Directive sets out provisions regarding content creators’ rights to license the online use of their works, as well as their entitlement to fair remuneration.

AI and the Evolution of Revenue Sharing: The French Example

One of the most notable recent developments is that some major news publishers in France have begun allocating a portion of the revenues generated from AI licensing agreements directly to journalists. In this

context, in accordance with the agreements between publishers and journalists² unions, it is reported that approximately 25% of the revenues derived from content licensed to AI companies are redistributed to journalists.

This development signals a shift beyond the related rights traditionally granted to publishers, marking a new phase in which content creators assert direct economic claims. Hence, the fact that the journalistic content prepared by a journalist is processed by AI systems and incorporated into user-facing responses has brought about an important debate on whether the journalist should also be entitled to compensation for such use. Developments in France strongly suggest an emerging consensus in favor of such entitlement.

AI Powered Search Results and Loss of Traffic
On the other hand, it is evident that AI systems have a direct impact, not only on content usage but also on the traffic dynamics of news website. In particular, the AI-powered (“AI Overviews”) feature offered by Google enables users to obtain information directly from the search results page without the need

² <https://gun.av.tr/tr/goruslerimiz/guncel-yazilar/cevrimici-kullanimda-basin-haklari-guncel-gelistmeler-1>

³ <https://www.niemanlab.org/2025/09/in-france-ai-revenue-is-going-directly-to-journalists-could-that-happen-in-the-u-s/>

to visit source websites.

This situation is leading to a dramatic decline in referral traffic to news websites. Indeed, analyses reveal that the proportion of news-related searches that conclude without any clicks on websites has increased substantially. According to SimilarWeb data, the proportion of web searches related to news that are concluded without a click on a news website rose to 69% in May 2025, compared to 56% in the same period of the previous year. This erosion of traffic directly undermines advertising revenues and poses a serious threat to the financial sustainability of news organizations.

Obligation of Payment by Platforms: Strengthening the Australian Model

In this era of AI, debates regarding the use of media content are not confined to Europe; they are driving the development of new regulatory models on a global scale. In this scope, significant reforms are proposed with an aim to strengthen Australia's existing "News Media Bargaining Code"³.

According to a consultation paper published by the Australian Treasury, it was identified that the current system contains certain weaknesses that allow platforms to circumvent their obligations. Accordingly, the newly proposed "News Bargaining Incentive" model aims to effectively compel major digital platforms to compensate publishers for the use of news content.

With this proposed new model, it is aimed

at preventing platforms from avoiding their obligations by opting out of using news content. As a consequence, platforms will either enter into licensing agreements with news publishers or be subject to a direct financial levy. This approach notably demonstrates that the regulation's objective is not merely to address content usage but also to take into account the platforms' broader economic impact on the news ecosystem. Indeed, the proposed system aims to prevent platforms from evading payment obligations by removing news content altogether.

The Situation in Türkiye

Although no specific legislation regarding the rights of publishers in the digital environment has yet come into force in Türkiye, the Draft Law on Digital Copyright ("Draft"), which aims to enhance the protection of copyrights in digital environments, was submitted to the Turkish Grand National Assembly on 11 December 2025 and is currently under review by the relevant committee. This Draft has also been the subject of one of our recent publications, in which its principal provisions are examined in detail.

In conclusion; taking into consideration all such developments, it is evident that the debate regarding publishers' online usage rights has entered a new phase. Whilst the initial phase centered on the requirement for platforms to pay publishers, the scope of this debate has now broadened; a strong trend has emerged suggesting that the economic value generated by the use of content

³ <https://www.ventureinsights.com.au/product/report-australian-government-must-win-the-news-bargaining-battle/?utm>

through AI systems should be shared not only with publishers but also directly with content creators.

However, the fact that AI-powered systems are increasingly delivering content directly to users while simultaneously reducing traffic to original sources is fundamentally disrupting traditional business models. This situation highlights the need for new regulatory approaches at the intersection of copyright law, competition law and media policy.

In the coming period, it is expected that legislative reforms, both within the EU and in other countries, will establish a more inclusive framework that safeguards the rights of not only of publishers but also journalists. The protection of freedom of the press and media pluralism in the age of AI will, however, depend directly on the effectiveness of these regulations.

Protection of Digital Fonts under Copyright, Design Law and Unfair Competition Regulations



With the digitalisation of commerce, digital fonts are no longer just an element of design; they have become an integral part of brand identity and commercial communication. It is now possible for original digital fonts to enjoy protection under copyright and design law, as explained in our article, <https://gun.av.tr/tr/goruslerimiz/guncel-yazilar/dijital-yazi-tiplerinin-telif-ve-tasarim-hukuku-bakimindan-korunmasi>. In addition to copyright and design law, digital fonts may also be protected under the regulations for unfair competition. Article 54 et seq. of the Turkish Commercial Code ("TCC") also foresees protection for digital fonts. This article addresses the protection under unfair competition provisions.

In our previous article, it was stated that digital fonts can be protected by copyright only if they have the characteristics of the creator and unique feature. It was also explained that code blocks constituting the fonts may be considered as a computer programme and it would be considered as literary and scientific works under Article 2 of the Law on Intellectual and Artistic Works ("LIAW") and calligraphic work under Article 4 of the LIAW. Therefore, it can be protected under copyright provisions.

Although there are currently no precedents on the protection of fonts, there are decisions of American Courts (Adobe Systems Inc. v Southern Software Inc.¹) and Chinese courts (Founder Electronics Co Ltd v. Blizzard Entertainment²) stating that digital fonts can be protected under copyright. A more detailed account can be found in our article at <https://gun.av.tr/tr/goruslerimiz/guncel-yazilar/dijital-yazi-tiplerinin-telif-ve-tasarim-hukuku-bakimindan-korunmasi>.

In the referred article, we explained that digital fonts should be protected under design law, in addition to copyright law. In accordance with Article 55(2) of the Industrial Property Code ("IP Code"), fonts created through graphic design techniques and intended to ensure legibility and attract attention may also be protected under design law, provided that they are novel and have distinctive character.

Unfair competition provisions are of a complementary nature and may be relied upon to support the protection of digital fonts, either in cases where fonts are not regarded as works of art or as an additional basis reinforcing such protections.

¹ Adobe Sys., Inc. v. Southern Software Inc, C95-20710, 1998.

² <https://www.managingip.com/article/2a5bxi588dmdnzknwlc/how-to-protect-typefaces-and-fonts>

Protection of Digital Fonts in Respect to Unfair Competition

In accordance with Article 54 of the TCC, unfair competition refers to acts contrary to the rule of good faith between competitors or in supplier-customer relations. The TCC does not limit unfair competition to infringement of certain rights; it is based on the protection of honest trade and integrity in competition. In this respect, unfair competition provisions constitute an important legal basis in cases where there is no intellectual property protection or where it is insufficient.

Besides, inclusion of an extremely broad concept as “all parties” in the provision of Article 54(1) of the TCC, which states “The purpose of the provisions of this Section relating to unfair competition is to ensure honest and integrity of competition for the benefit of all parties”, prevents the rules relating to unfair competition from being limited only to the relations among competitors. In this context, by expanding the scope of protection of unfair competition law, the legislator has aimed to protect not only competitors, but also all interest groups involved in the competition process, including the traditional triad of competition law: economy, consumers and the public. In this regard, if digital fonts are considered as commercial products of enterprises, unfair and unauthorised use of such fonts by other parties can be prevented in accordance with the provisions relating to unfair competition.

To discuss unfair competition, three conditions must be the case:

1. The competition is related to the

economic aspect, with acts intending to generate income;

2. The acts alleged to constitute unfair competition are contrary to the rules of good faith;
3. The acts alleged to constitute unfair competition lead to economic loss.

In the context of digital fonts, unfair competition—particularly under Article 55/1-c of the TCC—may arise where an original font developed through a design process is used without authorization, thereby constituting unauthorized exploitation of another party's work product. There is no question that the use of another's font without authorisation is against the law and commercial practice.

It should not be forgotten that digital fonts are not only an aesthetic factor in modern commercial life, but also a product of enterprises which add economic value. Therefore, the protection of digital fonts should not be limited to copyright and design law; in cases where relevant provisions do not provide sufficient protection or inapplicable, provisions concerning unfair competition may also be applied. Hence, Article 54 et seq. of the TCC provides wide protection, taking in its scope unauthorised use of digital fonts and that which is contrary to accepted commercial practices in accordance with the principle of “honest competition and integrity of competition”. Unauthorised use of fonts, especially those which are the product of an original design process, may constitute unfair exploitation of work and may be subject to sanctions relating to unfair competition.

On the Court of Cassation’s “My Sweet Orange Tree” Decision



The legal nature of translations represents an important issue under copyright law. Indeed, a translation is often not simply a technical transfer between languages; particularly in the context of literary works, it constitutes the product of intensive intellectual labor whereby the translator reconstructs the work by drawing on the culture of the target language, its expressive possibilities, and the translator’s own interpretation. In this respect, a translation may in certain circumstances even acquire the character of a form of “rewriting”.

Indeed, Article 6 of the Law on Intellectual and Artistic Works (“LIAW”) No. 5846 explicitly lists translations as an example of adaptations. According to the said article, “intellectual and artistic products created by benefiting from another work but that are not independent of such work” are regarded as adaptations. The same provision further emphasizes that only those adaptations which do not prejudice the rights of the author of the original work and which bear the personal characteristics of the adaptor shall be deemed works. Within this framework, while the utilization of a work requires, in principle, the authorization of

the author of the original work, the resulting adaptation must also be the product of a certain degree of creative effort in order to qualify as a work in its own right.

In this context, a recent decision of the Court of Cassation that has been reflected in the press contains noteworthy and precedent-setting evaluations regarding the criteria for protecting the intellectual contribution made by a translator to a translated work. The dispute arose under the following circumstances: the work titled “Meu Pé de Laranja Lima” by the Brazilian author José Mauro de Vasconcelos was translated into Turkish by the translator Aydın Emeç under the title “Şeker Portakalı (Sugar Orange)”, and the work became widely known under this title. For many years, the publishing house Can Yayınları published 130 editions of the work using Aydın Emeç’s translation. However, although the publisher later republished the work with a different translator, it continued to use the title “Şeker Portakalı”, which had already become established in the public sphere. Ali Selim Emeç, the son and heir of the translator Aydın Emeç, filed a

compensation claim based on copyrights, arguing against the continued use of the title that had been originally created by his father. Although both the Court of First Instance and the Regional Court of Appeal dismissed the claim on the grounds that the title of the work did not constitute an independent creative contribution, the decision of the 11th Civil Chamber of the Court of Cassation, which has been widely reported in the press, set aside the lower courts' judgments and remitted the case to the court of first instance for a reassessment, holding that the issue of compensation should be examined.

In the decision of the Court of Cassation, it was stated that the title *Şeker Portakalı* does not constitute a literal translation of the original Portuguese title. The expression "Meu Pé de Laranja Lima" could, in terms of its literal meaning, be rendered as "My Sweet Orange Tree". However, the translator did not simply translate the text into Turkish. By creating the title *Şeker Portakalı*, which reflects the spirit of the work and has no counterpart in the original, he made a distinct personal creative contribution.

This assessment confirms that translations produced through creative effort constitute works that are distinct from the original work and therefore merit protection under Article 6 of LIAW No. 5846. Moreover, the decision is also consistent with Article 83¹ of the same Law, which provides that titles of works may receive separate protection if they possess a distinctive character.

When title choices in literary translations are examined through concrete examples, the importance of cultural and creative preferences from the perspective of copyright law becomes more clearly apparent. For example, the work titled *Pride and Prejudice* by Jane Austen has been published as "Gurur ve Önyargı (*Pride and Prejudice*)", in the Hasan Âli Yücel Classics series of Türkiye İş Bankası Kültür Yayınları, and as "Aşk ve Gurur (*Love and Pride*)" in the translation published by Can Yayınları. In this respect, while the first example adopts a literal translation of the source title, the translation published by Can Yayınları prefers a title that reflects the spirit of the work by taking into consideration the novel's content and emotional tone.

Although some news reports have treated it as comparable to the case of the title *Şeker Portakalı*, the fact that the novel "The Catcher in the Rye" by J. D. Salinger was known in Turkish for many years under the title "Gönülçelen (*Heart-capturer*)" rather than "Çavdar Tarlasında Çocuklar (*Children in the Rye Field*)" actually arises from the fact that the first translation of the work, made by Adnan Benk, was not translated from the original English text but from the French translation titled "L'Attrape-Cœurs", which literally means "heart-catcher" or "heart-snatcher".

Some translated expressions may also go beyond the source work and acquire literary value by themselves. The soliloquy "To be or not to be" in the play *Hamlet* by William

¹ Article 83: (1) The title and distinctive signs of a work and the form of the reproduced copies of such work may not be used in another work or in its reproduced copies in such way as to give rise to confusion. (2) The provision of the first paragraph shall not apply to titles, distinctive signs and exterior forms that lack a distinguishing character and are in general use.

Shakespeare was translated by Sabahattin Eyübođlu as “Var olmak mı, yok olmak mı, bütün sorun bu! (To exist or not to exist, that is the whole question!)” in a manner relatively close to its original wording. By contrast, the translation by Can Yücel “Bir ihtimal daha var, o da ölmek mi dersin? (There is another possibility; do you think it is to die?)” has gone beyond the confines of the play and has become an iconic expression that is frequently cited in different contexts. Such translations clearly demonstrate that the translator’s creativity adds an additional value to the work.

A similar situation is also observed in the translations of the Harry Potter series in Türkiye by Sevin Okyay and Kutlukhan Kutlu. The equivalents produced for the fictional terms in the source work—horcrux – hortkuluk, howler – çğırtkan, dementor – ruh emici, boggart – böcürt, pensieve – düşünseli, auror – seherbaz—constitute not merely acts of translation but also the construction of a new literary universe in the target language.

In conclusion, the Şeker Portakalı decision of the 11th Civil Chamber of the Court of Cassation presents an important approach regarding how creative contribution in translated works should be evaluated within the scope of intellectual property law. The decision clearly emphasizes that elements constituting the title of a work, such as the title itself, may also be protected by copyright if they contain originality. In this respect, the said case law has a guiding character in the law of translated works both for academic discussions and for practice.

Goal Celebrations and Other Distinctive Elements



Recent reports in the Turkish press claiming that Warner Bros. has filed a lawsuit against Fenerbahçe footballer Kerem Aktürkoğlu for using the nickname “Harry Potter” on the pitch and in social media content, as well as for performing a goal celebration allegedly referring to the fictional universe created by J.K. Rowling, have once again brought to the forefront the intersection between intellectual property law, popular culture, and sports. These developments have reopened the discussion on under what circumstances elements originating from literary and cinematographic works that have spread into popular culture may benefit from protection under copyright and trademark law.

The Harry Potter universe, which constitutes the subject of the alleged dispute, represents a comprehensive intellectual property structure encompassing multiple categories of rights, including novel texts, motion pictures, character designs, musical works, symbols, and various other creative elements. A significant portion of these elements is

protected as works or parts of works under the Turkish Law on Intellectual and Artistic Works No. 5846 (“LIAW”). In addition, expressions such as “Harry Potter,” “Hogwarts,” and various logos are also protected through registered trademarks owned by Warner Bros. and its affiliated companies.

Indeed, pursuant to Article 83 of the LIAW, not only the title of a work but also original elements that have become closely associated with the identity of the work and that serve a distinctive function are protected as identifiers of the work. Similarly, Article 13 of the LIAW explicitly provides that the rights granted to the author apply not only to the work as a whole, but also to its distinctive parts. Within this framework, copyright infringement may arise not only from reproducing or communicating a work in its entirety, but also from the unauthorized use of distinctive elements that allow the work to be recognized, such as a character’s appearance, characteristic costumes, or other identifying features.

When this legal framework is applied to the debate surrounding goal celebrations, it appears difficult to consider a simple gesture performed on the football field, by itself, as an infringement of works or distinctive elements belonging to the Harry Potter universe. A goal celebration generally does not constitute a direct imitation of distinctive elements uniquely associated with a fictional character, nor does it directly incorporate the defining visual or auditory features of the work. Moreover, it is evident that a momentary gesture performed during a match would in most cases not fall within the acts enumerated under the law. Therefore, the mere use of a nickname or a spontaneous movement on the pitch may not, on its own, constitute copyright infringement.

On the other hand, the legal assessment may change if the goal celebration is shared on social media or other platforms together with original film music, visuals reminiscent of character designs, or registered logos. Such use may constitute unauthorized exploitation of distinctive elements of a work under the LIAW, while also giving rise to potential trademark infringement claims due to the unauthorized use of registered marks. Particularly where such content is shared for advertising, sponsorship, or personal branding purposes, the use may acquire a commercial character, which may lead to the conclusion that an unfair advantage is derived from the protected elements.

Another notable development in recent years is the increasing tendency of athletes to protect their names, images, voices, and gestures under image rights. Image rights represent a legal field situated at the intersection of personality rights and intellectual property law, and they have gained significant economic value in advertising agreements and sponsorship arrangements. Although goal celebrations generally do not qualify as copyright-protected works, a particular movement or pose may still be protected under trademark law where it becomes a distinctive sign recognized by the public and capable of indicating the commercial origin of goods or services.

In this context, a notable example is the French footballer Kylian Mbappé, who registered his goal celebration as a trademark before the European Union Intellectual Property Office ("EUIPO"), in which he crosses his arms over his chest. Similarly, the English footballer Cole Palmer obtained trademark registration in 2025 for his goal celebration known as "Cold Palmer," which involves holding the arms forward while making a trembling gesture. The motion mark has been registered before both the EUIPO and the United Kingdom Intellectual Property Office. In addition, Palmer has secured trademark protection for the word mark "Cold Palmer" before various intellectual property offices and has also filed trademark applications for the figurative representation of the goal celebration itself.

		 COLD PALMER
Figurative trademark registered in 2019 in the name of Kylian Mbappé Lottin	Trademark application filed in the United States in 2025 for Palmer Management Limited	Applications before the United Kingdom IP Office for Palmer Management Limited

These registrations protect the relevant signs and expressions under trademark law, particularly in relation to commercial use, licensing, and merchandising. However, for trademark infringement to arise, the sign must be used in a way that is perceived by the relevant public as indicating the commercial origin of goods or services. In other words, the sign must be used as a trademark.

In conclusion, the reports concerning Kerem Aktürkoğlu have in fact created an important basis for discussion regarding the position of fictional characters and, on the other hand, athletes' image rights within the framework of intellectual and industrial property law. The provisions of the LIAW concerning copyrightable works and the distinctive elements of works, together with the protection provided under trademark law, require a more careful legal assessment by both rights holders and content creators in today's world where popular culture and the sports industry increasingly intersect.

An Analysis of the Film ‘Side by Side’ in the Context of Adaptations and Copyright Law



The theatrical release last November of the film *Yan Yana* (hereinafter “Side by Side”), officially titled *The Anatomy of an Abstract Expressionist Friendship*, or *Side by Side*, directed by Mert Baykal and co-written by Aziz Kedi, Feyyaz Yiğit, and Mert Baykal, has led to a resurgence of debates regarding the relationship between adapted works and copyright law in Türkiye. Although the film clearly states in its opening that it is an adaptation of the 2011 film *Intouchables*, written and directed by Olivier Nakache and Éric Toledano, claims circulating particularly on social media that the work is, in layman’s terms, “stolen” demonstrate that conceptual and legal uncertainties still persist. This situation necessitates a clearer definition of the boundaries of adapted works within the framework of copyright law.

The increasing prevalence of adapted works in the fields of cinema and television has heightened the significance of the concept of derivative works in terms of copyright law. In particular, the reinterpretation of internationally acclaimed works across different cultures makes these productions

noteworthy subjects of study, not only aesthetically but also legally. In this context, the remake of the *Intouchables* screenplay in Türkiye through the film *Side by Side* serves as a contemporary example that highlights both the legal status of adapted works under the Law on Intellectual and Artistic Works (“LIAW”) and the processes of cultural localization.

According to the concept of derivative works regulated under Article 6 of the LIAW, “intellectual and artistic products created by utilizing another work but which are not independent relative to that work” are considered adaptations/derivatives. The Law explicitly cites the filming of scientific and literary works, or making them suitable for filming, radio, and television broadcasting, as examples of derivative work types. Within the scope of the same article, it is stated that only adaptations that do not prejudice the rights of the original author and bear the individual characteristic of the adapter shall be considered a work. In this framework, obtaining permission from the original author is a prerequisite for utilizing a work for

this purpose; furthermore, for the resulting adaptation to qualify as a work, it must be the product of a specific creative effort.

The French film *Intouchables*, released in Türkiye under the title *Can Dostum*, is widely regarded as one of the classic examples of the subgenre known in film literature as “buddy comedy.” With its dramatic structure centered on the relationship between a wealthy man who is paralyzed from the neck down and a young caregiver from a marginalized suburban background, the film places unexpected friendships at its core. As a faithful adaptation, *Side by Side* preserves the core structure of the screenplay and largely retains the same framework in terms of character functions, dramatic turning points, the transformative arc of the relationship, and the emotional tone of the narrative.

However, the element that carries *Side by Side* beyond a mere reproduction lies in the cultural localization choices made within the Turkish context. The geographical setting of the story has been adapted to the socio-cultural realities of Türkiye; the class positions of the characters, their family relations, sense of humor, and dramatic emphases have been reconstructed through cultural codes familiar to the audience in our country. For example, the passion for Western classical music associated with the character Philippe in *Intouchables* finds its counterpart in *Side by Side* in the character Refik, portrayed by Haluk Bilginer, through his interest in Classical Turkish music. Similarly, the cultural connection that the character Driss establishes with R&B and soul music, and in this context the songs of

Earth, Wind & Fire, which occupy a significant place in the film, is replaced in *Side by Side* by the Roman-style melodies associated with the character Ferruh, portrayed by Feyyaz Yiğit. Likewise, the police control sequence featured in the iconic opening scene of *Intouchables* is reworked in *Side by Side* with a similar dramatic function. While the scene in which Ferruh and Refik are stopped by the police while speeding in a luxury sports car, and Ferruh deceives the officers by claiming that they are urgently taking the paralyzed Refik to the hospital, is reproduced almost identically, Ferruh’s questioning of whether the flashing lights/beacons found on certain vehicles can be purchased with money recontextualizes the scene within a distinctly Turkish sense of humor and perception of reality.

Although *Intouchables* is a film whose screenplay has become classic, its remakes in different languages and cultures are not limited to *Side by Side*. The film has previously been reinterpreted in different contexts through the 2016 Indian film “*Oopiri*”, the Argentine production “*Inseparables*”, and the 2017 U.S. adaptation “*The Upside*”. Among these adaptations, *The Upside* adopts the conventional structural framework of Hollywood storytelling and reconstructs the narrative within the context of class relations, urban life, and identity politics in American society. Although the language of humor and the dramatic emphasis diverge from the tone specific to French culture in *Intouchables*, the core narrative structure remains recognizable. In such licensed “remakes” or adaptations, the authorization obtained from the owner

of the original work secures both the legal legitimacy of the adaptation and its circulation within the international production market.

The practice of adaptation is not limited to contemporary productions in Türkiye; it was also a frequently employed method during the Yeşilçam era. In this context, *Aşk Hikâyesi*, written and directed by Nejat Saydam in 1971 and starring Deniz Gökçer and Salih Güney, is regarded as an adaptation of the 1970 U.S. film *Love Story*. Similarly, the film *Sen Bir Meleksin*, starring Hülya Koçyiğit and Ediz Hun, is considered a reinterpretation of *The Sound of Music* within the Turkish context.

While the preservation of a recognizable narrative structure in adaptations is a legally explainable situation, an increased level of localization strengthens the originality of the work, that is, the adapter's creative contribution. However, from a legal perspective, regardless of the intensity of the creative contribution, in cases where the dramatic structure, character relationships, or plot of the original work can still be distinctly recognized, the derivative work qualification continues, and accordingly, the requirement to obtain authorization from the owner of the underlying work does not disappear.

This framework is not limited to motion pictures alone. The long-established practice of adapted television series in Türkiye is likewise based on a similar legal rationale. Pairings such as *Medcezir* – *The O.C.* and *Kavak Yelleri* – *Dawson's Creek* are examples in which the core structure of youth dramas

is reinterpreted through cultural adaptation. *Doktorlar* – *Grey's Anatomy*, *Mucize Doktor* – *The Good Doctor*, and *Hekimoğlu* – *House* constitute examples of medical drama formats being adapted in Türkiye under official licenses. In these productions, similarities are mostly concentrated in the “crust” structure of the series. The fact that episode content diverges significantly over time is more closely related to the issue of the protection of “television formats.”

In the television production sector, program formats that carry significant economic and creative value do not have a clear and uniform definition under our law. Nevertheless, in his work titled *The Protection of Television Program Formats*, Uğur Çolak defines program formats as framework plans or drafts that include all characteristic elements of a program such as its title, flow, the position and attitude of the host, studio design, camera movements, key expressions, slogans and music, and that bear the individuality of their creator. Within this scope, it is accepted that the repeatable characteristic elements found in quiz shows, entertainment programs and television series constitute television formats. The view that such formats, when fixed in a tangible form and reflecting the individuality of their author, qualify as works under LIAW has become dominant both in judicial decisions and in doctrine. Accordingly, pursuant to Article 1/B(1)(a) of LIAW, program formats that meet the requirements of originality and fixation are protected as works, and producers making use of these formats are required, as in the case of adaptations, to act within the

framework of the authorization or license of the original format owner.

In conclusion, the remake of well-known films and television series in different cultures serves an important function for audiences whose access to such works is limited due to linguistic and cultural barriers. From a copyright perspective, these productions are dependent on the original work yet contain creative contributions and do not constitute fully independent works. Adaptations produced through derivative use or format licensing should not be regarded as mere copies of a foreign work, but rather as original forms of expression made possible by legal authorization and shaped by cultural creativity.

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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.

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