



## Patent and Trademark Office implements service by publication procedure

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### TURKEY

Legal updates: case law analysis and intelligence

- There previously used to be delays in the notification of documents to applicants due to their failure to inform the office of address changes
- A provision was added to the IP Code in order to find a solution to the issue of serving documents to rights holders
- All documents that could not be served due to an address change have now started to be served via publication through an **Official Bulletin**

In the past, there used to be delays in the notification of documents to applicants due to address changes and the applicants' subsequent failure to inform the Patent and Trademark Office of such changes. This would cause opposition proceedings to remain pending for long periods of time, since applicants could not be officially informed of oppositions; therefore, the legal period for filing a counterclaim and raising a non-use defence could not start. This situation was causing delays not only in opposition proceedings, but also in the registration of applications, since notifications regarding payments for registration could not be sent and, consequently, trademark holders had to keep following up their registrations and wait to file an invalidation action.

With the implementation of the ETEBS system, it became possible to send notifications online through ETEBS. A notification is deemed to have been duly made when the applicant enters the ETEBS system or, in any case, within 10 days of the submission of the notification through the system. For applications filed before the ETEBS system entered into the force, where the notifications could not be served to the applicants' recorded addresses via certified mail for any reason, the notifications were left pending if the applicants were not registered with the ETEBS system.

A provision was added to the IP Code (No 6967) for the sole purpose of finding a solution to the issue of serving documents to rights holders: Article 160/7 stipulates that notifications under this law made in the form of announcements shall be published in the relevant bulletin without being bound by the form requirements of Article 29 of Law 7201. Such notifications are considered served seven days after publication.

Although the IP Code entered into force in January 2017, the office started implementing it only on 7 April 2022. Therefore, all documents that could not be served due to an address change have only started to be served via publication through an *Official Bulletin*. As mentioned above, such notifications are considered served seven days after their publication in the *Official Bulletin*.

With the implementation of service by publication, it is expected that there will no longer be delays in the service of office actions and that the number of pending applications will gradually decrease. On the other hand, as service by publication triggers the start of the official period, brand owners are advised to monitor the files that are kept open due to a lack of service of office actions - in particular, a lack of service of decisions in opposition proceedings.

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