



EXCO MEETING, CAPE TOWN 13 & 18 APRIL 2015

COUNTRY REPORT	
TITLE:	Country report for <i>Turkey</i>
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TABLED TO:	FICPI delegates
PURPOSE:	For information and consideration
SNIPPET:	News from and activities of the FICPI national group in <i>Turkey</i> since the Barcelona ExCo in November 2014.

SECTION A: ACTIVITIES OF FICPI ASSOCIATION/SECTION

The information supplied in Section A will remain confidential on FICPI's website after the ExCo (will require a password).

SECTION B: CHANGES IN LAW

Information supplied under Sections B and C will be published on FICPI's website after the ExCo and will be available to the public.

B1. LEGISLATION

- Please provide details of any changes to IP legislation (patent, trade mark, design and other) in your country implemented or due to be implemented since you reported last in October 2014.
N/A

B2. MAJOR CASES

- Please provide brief details of any new case law in the field of patents, trademarks, design or other IP of general interest.
N/A

B3. OFFICIAL PRACTICE

- Please provide details of any changes in official patent and trade mark office practice which would be of general interest to other members.
Turkish Patent Institute established its IT infrastructure and shall start sending notifications by emails in the first half of 2015.

B4. PROPOSALS FOR CHANGES

- Please provide details of any proposed changes in IP laws or practice and indicate if your National Association/Section is involved in providing comments to such changes. Would it be of assistance to have input from the CET on any proposed changes?
There is draft law in the agenda of the parliament "Pertaining to Amendments on the Patent Law Governing the Establishment and Functions of the Turkish Patent Institute and Related



Decrees" (Draft Law), which has been debated within the last few years at the relevant commissions of the Parliament and now in the agenda, proposing some amendments on the following laws: 1. Law No. 5000 Governing The Establishment And Duties Of The Turkish Patent Institute (TPI); 2. Law No. 5147 Pertaining to the Protection of Integrated Circuit Topography; 3. Decree Law No. 551 Pertaining to the Protection of Patents / Utility Models; 4. Decree Law No. 554 Pertaining to the Protection of Industrial Designs; 5. Decree Law No. 555 Pertaining to the Protection of Geographical Indications; 6. Decree Law No. 556 Pertaining to the Protection of Trademarks. The amendments proposed by the draft law are as follows in summary:

1. Re. the Law No. 5000 Governing The Establishment And Duties Of The Turkish Patent Institute (TPI): The major proposed amendment relates to establishment of an Discipline Committee and in its present form the committee will be consisting of five persons, three of which are officers of TPI and two of them are IP professionals. The committee is entitled to render various discipline penalties including ban from the profession. The current structure of the committee, in particular the number of TPI members, is widely criticized within relevant circles due to the reason that TPI will have direct control over the IP professionals.
2. Re. the Law No. 5147 pertaining to the Protection of Integrated Circuit Topography: The Draft Law suggests criminal remedies to be applied in case of infringement of integrated circuit topographies.
3. Re. Decree Law No. 551 Pertaining to the Protection of Patents / Utility Models: A provision with regard to ownership of the inventions by the professors and other staff in the higher education institutions including universities is proposed, which puts the institutions into an advantageous position with regard to ownership as they will be given first right to refuse ownership. Amendments with regard to processing of patent applications are introduced and one of the most important of them is about the additions of new opposition grounds by the new Article 62/A. Criminal remedies set forth against wilful infringement of patent and utility model rights.
4. Re. Decree Law No. 554 Pertaining to the Protection of Industrial Designs: The Draft Law suggests some amendments regarding filing and maintenance stages of the industrial designs and such amendments are not major. In addition the Draft Law rules the criminal remedies to be applied for the infringement of industrial design rights. In fact the provisions regarding the criminal remedies are the replacement of the provisions which have been invalidated by the Court of Constitution in 2009 due to non-conformity with the Constitution.
5. Re. Decree Law No. 555 Pertaining to the Protection of Geographical Indications: In addition to some minor changes, The Draft Law brings a new mechanism regarding the geographical indications. According to the Current Law, the applications filed are published in the Official Gazette and in one local newspaper that is circulation in the place of which the geographical indication is produced. The Draft Bill brings an Official Bulletin for geographical indications, which would provide an easier access to the applications. In addition while the of opposition remains the same but the draft Law provides a more regulated opposition mechanism and the system suggested is much more similar to trademarks. Finally the Draft Law replaces the criminal provisions which have been invalidated by the Court of Constitution in 2009 due to non-conformity with the Constitution.
6. Re. Decree Law No. 556 Pertaining to the Protection of Trademarks: The Draft Bill does not suggest any significant changes, except some new arrangements regarding the filing and maintenance stages of the trademarks.

At the moment, since the draft law is in the agenda of the parliament, it is not possible to be involved in commenting on the changes on behalf of FICPI. However, most of the members of



the FICPI Turkey were involved in commenting on the first drafts of the law through other sister associations two years ago. It is expected that new laws will come into effect before the end of the year.

SECTION C: OTHER INFORMATION

Please provide details of any other information pertaining to your country or region that would be of general interest to FICPI members and other IP practitioners browsing FICPI's website.

C1. QUALIFICATION AND THE RIGHT TO REPRESENT CLIENTS BEFORE A COURT

- 1.1 Please describe the qualification process for becoming a patent attorney in your country/region.
One should be a graduate of a university and pass the examination of Turkish Patent Institute.
- 1.2 Has the patent attorney qualification process changed in any way in the past 5 years?
No.
- 1.3 Does qualification as a patent attorney permit you any right of representation before any Court in your country?
No.
- 1.4 If so are there any special requirements or restrictions?
N/A
- 1.5 Are qualified lawyers in your country permitted to work in the patent field without any further qualification?
No. They also need to pass the examination of Turkish Patent Institute
If so are there any restrictions on what they may do?
N/A
If so, please describe those restrictions.
N/A
- 1.6 Please describe what privilege attaches to patent attorney communications including any restrictions.
No privilege. If the patent attorney is also an attorney at law there is an obligation for the attorney at law for keeping secrecy of the client communications. However, this is an obligation, not a privilege, and in practice it does not provide the desired protection.
- 1.7 Please describe the qualification process for becoming a trade mark attorney in your country/region.
One should be a graduate of a university and pass the examination of Turkish Patent Institute.
- 1.8 Has the trade mark attorney qualification process changed in any way in the past 5 years?
No.
- 1.9 Does qualification as a trade mark attorney permit you any right of representation before any Court in your country?
No.
If so are there any special requirements or restrictions?
N/A
- 1.10 Are qualified lawyers in your country permitted to work in the trade mark field without any further qualification?
No. They also need to pass the examination of Turkish Patent Institute
If so are there any restrictions on what they may do?
N/A



If so, please describe those restrictions.

N/A

- 1.11 Please describe what privilege attaches to trade mark attorney client communications including any restrictions.

No privilege. If the trademark attorney is also an attorney at law there is an obligation for the attorney at law for keeping secrecy of the client communications. However, this is an obligation, not a privilege, and in practice it does not provide the desired protection.

C.2 CET AND PEC SPEAKERS

- 2.1 Would your National Section/Association be interested in obtaining assistance from FICPI, through either the CET Work and Study Group or the Professional Excellence Commission (PEC), in providing speakers for seminars organized by your national group in your country?

Yes, for the seminar that is proposed to be held in the fall of 2015.

- 2.2 If your group does, or in the future might, require such assistance, please identify topics that might be of interest to your members, with a view to raising FICPI's profile and providing added value from membership of FICPI in your country.

Regulation of the profession and Code of Conduct

C.3 TOPICS OF INTEREST

- 3.1 Please list three IP topics that are of particular interest to you and/or your national section members.

Second medical use, online brand protection and expert examination in patent infringement cases.

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