

New Turkish IP Code: What it Means for Designs

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The New Turkish Industrial Property Code entered into force on January 10, 2017. This Code replaces the Decree-laws pertaining to the protection of trade marks, patents, geographical indications and designs, all of which date back to 1995, by bringing all those rights together within the ambit of a single Code.

The design chapter includes changes which seek to achieve greater compliance with the relevant directives of European Union. The major changes relate to the designs are as follows:

- The name of the related chapter has been changed from “Industrial Designs” to “Designs” and all designs shall be protected, regardless of being industrial or not.
- Unregistered designs shall be protected for three years as of becoming publicly available, in line with Article 11 of the Council Regulation regarding community designs.
- Unseen parts/devices (e.g. parts of an engine) cannot be registered as designs. Novelty examination has been introduced for design applications.
- The Turkish Patent and Trademark Institute shall conduct this examination ex-officio and shall decide to publish the application or not.
- The criterion for distinctiveness has been changed to “*difference*” from “*significant difference*”.
- The opposition term has been shortened to 3 months (from 6 months).
- Opposition grounds have been broadened. The “bad faith” argument and “unauthorized use of an IP right” have also been added as opposition grounds.

The new IP Code entered into force on January 10, 2017 except some of the provisions of which the enforcement has been delayed, for the design applications which were filed before the enforcement date of the new IP Code, the former legislation, namely the Decree-Laws pertaining to the protection of Industrial Designs will still apply until their registration process will be completed.