

Update on The Well-known Trademark Registry Debate in Turkey

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The well-known trademark registry of the Turkish Patent and Trademark Office (the Office) became a discussion topic after the Turkish Court of Cassation decided in 2020 that the Office has no authority to create and maintain a registry for well-known trademarks (see [Turkey: Well-known trademark registry is again open for debate](#)).

First-instance intellectual property courts and regional courts of appeals adopted this decision immediately and changed their practice, whereas the Office has maintained its registry for recording well-known trademarks.

General Assembly decision

In a decision dated February 1 2023 and numbered 2023/83 E. 2023/7 K., the General Assembly of the Court of Cassation ruled that even though the Office created a registry to record trademarks that are well known according to its examination, it is not entitled to create such a registry under existing laws, and the well-known status of a trademark should be proven in each case as it is not a stable fact.

In addition, the General Assembly ruled that the courts are not entitled to render a decision about determination of well-known status in a way that would constitute a final verdict on the well-known status. This means that the courts could examine and decide whether a trademark is well known as a prior issue only, while deciding on the claims of the claimant that are based on the well-known trademark argument. In other words, the courts are not authorised to determine whether a trademark is well known as part of the verdict where their decisions on the claims of the claimant are explained.

The decision of the General Assembly is binding for the courts and the courts are expected to decide in line with this decision in cases where well-known status of a trademark would be decided.

On the other hand, throughout 2024 the Office has not changed its practice, and it is still possible to file an application for determination and recordation of well-known status of a trademark with the Office. Although the Office has also announced official fees for such applications in January 2024, there has not been any change in the legislation as discussed in a previous Gün + Partners article ([Debate on well-known Trademark Registry Expected to be Resolved Soon](#)).

While this issue remains unresolved, the Court of Cassation rendered a decision (dated January 25 2024 and numbered 2022/4067 E. 2024/620 K.) after the General Assembly's above-mentioned decision where there are references to the well-known trademark registry of the Office and the scope of protection that well-known trademark recordation provides with regard to goods and services. It seems that the Court of Cassation overlooked the General Assembly's decision, as the dates of both decisions are close and the courts shall follow the General Assembly's guidance in future cases.

Outlook for the well-known trademark registry

The Office is expected to announce its new official fees for 2025 soon, including the fee for filing an application for determination and recordation of well-known status. Meanwhile, right holders and practitioners are eager to know whether a new regulation will enter into force to give the Office authority to maintain the well-known trademark registry. This contradictory situation on the well-known trademark registry should be resolved with a clear and definite solution.