

# INTA Bulletin

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## TURKEY: New IP Code Open to Comment

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Turkey's Ministry of Science, Industry and Technology circulated a draft IP Code on the website of the Turkish Patent Institute (TPI) for the opinions of relevant stakeholders, which includes anyone who would like to comment, but chiefly Non-governmental Organizations, business sector associations, IP-focused associations and IP law firms on February 24, 2016.

The new IP Code that is being discussed consolidates the Turkish Decree-Laws on Trademarks, Patents, Industrial Designs and Geographical Indications into four parts, with introductory provisions and common provisions. The draft will be sent to the Parliament for further discussion and enactment upon receipt of the opinions of the stakeholders, and is expected to enter into force within the upcoming months, likely by summer.

The Code does not only consolidate the provisions of the Decree-Laws, but also amends many of them in some quite major aspects. The following proposed amendments on trademarks are worth noting:

- Coexistence agreements will be accepted in overcoming the citations of earlier senior identical or confusingly similar trademarks as a ground of refusal by the TPI. This provision, which allows the parties to dispose of their rights freely, was not previously available in Turkey, unlike many jurisdictions, on the ground of public interest.
- The terminology for distinctiveness criteria has been changed resemble EU trademark legislation, although Turkey is not an EU Member State and under no obligation to comply with EU law.
- The opposition term for trademarks has been amended from three months to two months.
- The TPI's Trademarks and Industrial Designs Bulletins will now be published twice a month, not once, as per a recent decision by the TPI.
- Bad faith has been clearly added into the draft Code as a ground for opposition and cancellation.
- If requested by the applicant, opponents will be required to prove the genuine use of their trademarks, cited for opposition within the last five years. Accordingly, the TPI will take on the task of reviewing the evidence filed for proving genuine use of the relevant trademark(s).
- The holder of a trademark will not be able to argue that it has a registered right and that its use of a registered right cannot constitute infringement of an earlier mark.

Apart from the above amendments included in the draft Code, the opinions of stakeholders have been separately requested on some additional points. One of the questions directed to stakeholders is quite important for trademark owners, as it discusses whether or not the annulment claims against registered trademarks due to non-use shall be handled by the TPI (rather than the civil courts). The comment-submission period has now ended, but the more information is [available here](#).

This draft Code is considered a favorable development by the stakeholders in general, as the Turkish

Constitutional Court had in fact annulled many provisions of the Decree-Laws over the last few years. While there are some intense discussions on some points, this draft is expected to resolve some major issues for IP right owners.

Although every effort has been made to verify the accuracy of items in the *INTA Bulletin*, readers are urged to check independently on matters of specific concern or interest.

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