

In Turkey, trademark protection is granted according to the provisions of the Decree-Law No.556 Pertaining to the Protection of Trademarks.

Who may apply for trademark protection in Turkey?

The protection for trademarks in Turkey is available to natural and legal persons who are domiciled or who have industrial or commercial establishments within the territory of the Turkish Republic, or to the persons who have application rights resulting from the terms of the Paris or Bern Conventions or the Agreement Establishing World Trade Organization. Natural or legal persons other than those referred above, who are nationals of states which accord legal and de facto protection to the nationals of the Turkish Republic shall enjoy according to the reciprocity principle trademark protection in Turkey.

What are the means of making an international application in order to enjoy trademark protection in Turkey?

Basically, there are two ways of applying for a trademark protection in Turkey:

1)Direct application to Turkish Patent Institute: The first way of making a trademark registration application is to file an application directly to Turkish Patent Institute. **Those who are domiciled outside Turkey-except for those making an application through the Madrid Protocol- can only be represented by trademark agents who are authorized to act before the Institute. (for the list of trademark attorneys)**

The system is same as the national procedure in Turkish Patent Institute, which is explained briefly below:

Examination of trademark applications in Turkish Patent Institute

Trademarks Department of the Turkish Patent Institute carries out an examination system, which consists of examination for absolute grounds for refusal and also ex-officio examination for prior rights. If no grounds for refusal is found in the first examination, the application will be published in the monthly Official Trademark Bulletin. Third persons may file oppositions in 3 months time limit following the publication date of the Bulletin.

If there are no oppositions filed within the abovementioned time limit, the application will be registered in the Trademark Register and it will be published in the Official Trademark Gazette. If the application is refused totally or partially in the first examination, the applicant may lodge an appeal to the Institute in 2 months time limit. In this case, the application should be re-examined regarding the appeal. If the appeal is found acceptable, the application will be published totally or partially in the Bulletin, this means that the application may be the subject of a further refusal following an opposition.

For the examination of oppositions and appeals, TPI Trademarks Department has a separate division (oppositions and appeals division). Parties who are not satisfied with the decisions of this division can also appeal to the decisions before the Institute. "Re-examination and Evaluation Board" is the final decisive organ of the Institute; the decisions of the board are open to court actions in 2 months time limit.

2) International applications through the Madrid System:

The second alternative for making a trademark application in Turkey is to use the Madrid System which is administered by World Intellectual Property Organisation (WIPO). Madrid system is formed by two treaties complementing each other. These treaties are the Madrid Agreement and the Madrid Protocol. Turkey is a member of the Protocol only. Therefore, it accepts applications from the States which are party to the Protocol only or from the States which are party to both the Agreement and the Protocol. In both cases, the governing treaty for the international applications filed to Turkish Patent Institute is the Madrid Protocol.

Who can benefit from the Madrid System?

An international application can be made by natural or legal persons who have a real and effective industrial or commercial establishment in a State party to the Madrid Protocol (or both the Protocol and the Agreement) or who are nationals of or domiciled in that State. In order to obtain international registration, it is compulsory to have a registered trademark or a pending application for registration in the Office of origin; and expansion on the list of goods and/or services of this basic registration or basic application is not possible.

How does the System work?

Briefly, in the Madrid System for international trademark applications; an applicant files an international application with the International Bureau of WIPO in Geneva, and in that application he designates the countries (that are party to the treaties) in which the registration is sought. Then WIPO registers the mark in the International Register and then passes it on to the designated countries. The registration in the International Register is an administrative procedure which does not mean that the mark is going to be protected in every designated country. Because, each country examines the application as if it was an application filed with them directly and they apply their national legislations related with trademark protection. If a country refuses the application, the refusal is notified to WIPO and the decision of that country is entered for the mark in the International Register . In other words, international registration is secured, but whether or not it is protected in a designated country is determined by that country.

For detailed information about the international applications through the Madrid System, please follow the link <http://www.wipo.int/madrid/en/> in web site of WIPO.