

Turkey Will Compare Tobacco Intellectual Property Rights Against Similar Uses in Other Industries

2 May 2016

Turkey's Tobacco and Alcohol Market Regulatory Board ("**Board**") has introduced an associability check, comparing registered names, trademarks, emblems, or logos for tobacco companies, against companies in other sectors. The Board will gradually complete associability checks, evaluating certain criteria. The check has retrospective effect and will be made based primarily on the Turkish Patent Institute's trademark database and Ministry of Customs and Trade's trade registry database.

The Board's decision number 10936 ("**Amendment Decision**") was published in Official Gazette number 29689 on 19 April 2016, entering into effect on the same date. The Amendment Decision updates an earlier Board decision about tobacco-related intellectual property matters (Decision number 7055, dated 12 November 2012).

Significant changes under the Amendment Decision include:

- An associability check is introduced, comparing registered names, trademarks, emblems, or logos for tobacco companies, against companies in other sectors.
- The associability check will also include registrations from before 4 July 2012, when Article 3/15 of Law No: 4207 was amended.
- The Board will gradually complete associability checks, evaluating certain criteria listed in the Amendment Decision.
- The Board's inspections will be primarily based on the Turkish Patent Institute's trademark database and Ministry of Customs and Trade's trade registry database.
- The Board will consider:
 - (first stage) whether the two elements being compared have the same figure and design, or are clearly and directly identical.
 - (if the subject passes the first stage) whether the users of the elements are legally or economically related.
 - (if the subject passes both stages above) whether the elements remind viewers of a tobacco product or tobacco company, encourage use of a tobacco product, or have similar elements.
- Increased details are introduced for tobacco companies to choose a name, emblem, logo or trademark.
- During establishment, tobacco-related companies must now provide:
 - A range of specified license and compliance documents, listed in the Amendment Decision.
 - An undertaking to the Board confirming that they have meet all relevant legal conditions.
- Breaches of the undertaking or related licenses and documents will receive administrative penalties between 50,000 TRY and 250,000 TRY.
- The Board will grant non-compliant companies six months to meet the conditions of Law No. 4207 and the Amendment Decision. Administrative penalties will apply for non-compliance after that period.

Please see this [link](#) for the Amendment Decision (only available in Turkish).

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