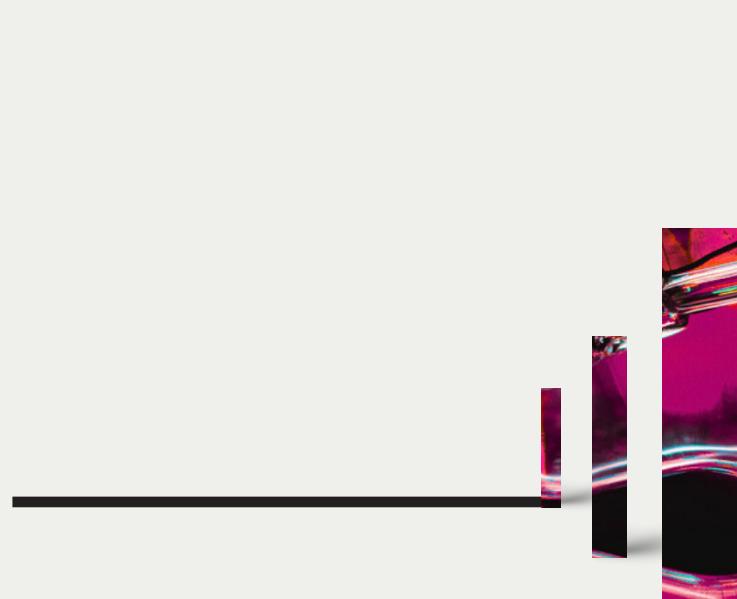


MOROĞLU ARSEVEN

# INTELLECTUAL PROPERTY LAW

ROUNDUP | 2026



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## INTRODUCTION

2025 was a year in which Turkish Intellectual Property Law became more layered and more outward-looking. Administrative authority expanded, judicial scrutiny deepened, and foreign jurisprudence began to echo more audibly. The result is an IP landscape that is becoming more powerful and more complex.

In this collection, we bring together ten articles addressing the developments that defined this transformation—from trademark cancellation and opposition standards to advertising law, position marks, alcohol branding, and the long-arm jurisdiction of the Unitary Patent Court. Each contribution reflects not only what changed, but why it matters.

At Moroğlu Arseven, we approach intellectual property law as a dynamic and strategic field, shaped by technological progress, market realities, and judicial interpretation. This roundup reflects that approach: offering both a structured overview of the current landscape and a forward-looking reference for navigating the developments ahead.

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# TÜRKPATENT'S AUTHORITY TO CANCEL TRADEMARKS AND ITS EARLY PRACTICE

## Transfer of Cancellation Authority to TÜRKPATENT and Procedural Regulations

With the Industrial Property Law No. 6769 ("IPL"), which entered into force on January 10, 2017, the authority to cancel trademarks upon the request of persons with legal interest was granted to the Turkish Patent and Trademark Office ("TÜRKPATENT/ OFFICE"). However, since this authority had been exercised by courts for many years, the legislator foresaw possible transitional problems that might arise in practice and provided a seven-year transition period for TÜRKPATENT to begin exercising this authority. This period ended on January 10, 2024, and thus cancellation requests for trademarks have begun to be filed before TÜRKPATENT.

The most frequently encountered ground for cancellation in practice is the "cancellation due to non-use" requests regulated in Article 26 of the IPL. The main purpose of this regulation is to ensure that trademark rights are protected only for trademarks that are actually used, to prevent abuse of trademark monopolies and trademark hoarding, thereby protecting both commercial competition and the integrity of the trademark register.

From January 10, 2024, the Office began accepting cancellation applications based on non-use, before the procedures and principles regarding the application of the cancellation authority granted to TÜRKPATENT were determined. However,

since there was no detailed application procedure at that time, only applications were received; these applications were not evaluated by TÜRKPATENT. This uncertainty was resolved with the amendments made to the Regulation on the Implementation of the Industrial Property Law ("Regulation"), which was published in the Official Gazette dated March 15, 2025 and numbered 32842 and entered into force; the procedures and principles regarding cancellation requests due to non-use were clearly determined.

Pursuant to the amendments made to the Regulation, cancellation requests due to non-use are submitted to TÜRKPATENT through a signed form containing the trademark registration number, the goods and services for which cancellation is requested, the date from which cancellation request is requested, and information and documents showing that the cancellation fee has been paid, and a separate request must be made for each trademark registration. If the application is not made in accordance with the legislation, the applicant is given a one-month period to remedy the deficiencies; if the deficiency is not remedied within this period, the request is rejected and the fee paid is not refunded. Cancellation requests are filed against persons registered as trademark owners in the register or their legal successors; in case of a change in the trademark owner during the examination, the proceedings continue with the new registered owner. Pursuant to the Regulation, TÜRKPATENT grants trademark owners a one-month period to respond to cancellation requests, and this period

may be extended for another month upon request; additionally, the Office may request additional evidence or information from the parties when it deems necessary. In this process, trademark owners are obliged to prove the genuine and serious use of their trademarks in Türkiye with respect to the goods or services subject to the request, and uses initiated three months before the request date that are solely aimed at preventing cancellation are not taken into account. If the trademark owner fails to submit evidence within the deadline or if the evidence submitted is insufficient to prove that the trademark has been used seriously, the cancellation request is accepted.

One of the provisions that has caused the most debate with the Regulation concerns the cancellation fees. With the new regulation, the cancellation fee consists of two items: the TÜRKPATENT fee and the deposit fee. The deposit fee is the amount that the right holder filing the cancellation request must deposit with TÜRKPATENT along with their application; if the request is found justified, it is refunded to the applicant; if it is rejected, it is paid to the trademark owner; and if it is partially accepted, it remains with TÜRKPATENT. As of 2025, TÜRKPATENT has set a trademark cancellation fee of 28,150.00 TL and a deposit fee of 23,458.33 TL, requiring a total payment of approximately 51,608.33 TL for one cancellation request. The Office has stated that this regulation was introduced "to prevent unjust and bad faith cancellation requests"; however, the separate payment of this amount for each cancellation request has created a significant financial burden, especially when cancellation requests are filed for multiple trademarks belonging to the same trademark owner. Nevertheless, it is possible to withdraw the cancellation request before TÜRKPATENT makes a decision, and in this case, the deposit fee is refunded to the applicant.

As can be seen, the process regarding trademark cancellation due to non-use has acquired a more systematic framework with the provisions of the IPL and the Regulation, and with TÜRKPATENT beginning to exercise this authority and issuing decisions, the application has begun to take concrete form.

## First Cancellation Decisions Based on Non-Use

Following the Regulation amendments, TÜRKPATENT began examining cancellation requests based on trademark non-use and requested trademark owners to submit evidence proving their use. Accordingly, the Office has begun issuing its first decisions.

In a recent decision, in addition to the ground of non-use regulated in Article 26 of the IPL, a cancellation request was also filed on the grounds that the subject trademark had become a generic term and is misleading to the public. However, TÜRKPATENT determined that the applicant had not submitted any information or documents regarding these grounds and rejected the cancellation request in this respect.

As for the ground of non-use, the evidence submitted by the trademark owner was specified one by one in the decision; as a result of the evaluation, it was determined that the trademark was used for some services, while use could not be established for others. Accordingly, the Office decided to cancel the trademark with respect to the goods and services for which use was not established, and to maintain the registration for the others. For example, it was determined that the trademark was used in one of the sub-classes of class 39, and it was decided to maintain the registration only for this class and to cancel it for the other classes.



In the same file, although it was argued that the cancellation request was made in bad faith due to the existing dispute between the parties, TÜRKPATENT stated that no legal consequence regarding bad faith is attached to trademark cancellation requests within the framework of the IPL and Regulation provisions and did not take this defense into account.

In another decision, the cancellation request was accepted due to the trademark owner's failure to submit evidence. The applicant requested that the cancellation be effective from November 6, 2023; since the applicant's trademark application was dated November 7, 2023, it was important that the previous trademark be canceled from this date. TÜRKPATENT found this request justified and decided to cancel the trademark as of November 6, 2023. Thus, the Office has demonstrated that a cancellation decision can be issued with retroactive effect when the necessary conditions are met.

TÜRKPATENT's initial decisions have revealed that evidence submitted against cancellation requests based on non-use must be concrete and that the Office will conduct separate examinations for each class of goods or services in its evaluations. The initial applications demonstrate that it is mandatory for trademark owners to fulfill their obligation to submit serious evidence of use, and that cancellation requests must be prepared with justification and based on evidence.

#### **Uncertainties and Areas of Development in the Cancellation Process Due to Non-Use**

Although practice has begun to take direction with TÜRKPATENT decisions, uncertainties still exist for several points.

In particular, how the legal interest requirement will be evaluated in practice is a matter of debate. Before the IPL, cancellation actions were within the jurisdiction of courts, and pursuant to the Code of Civil Procedure ("CCP"), the plaintiff's having a legal interest in filing a lawsuit was a condition of action. Courts evaluated whether the plaintiff had a right truly worthy of protection; if this condition did not exist, they rejected the case.

IPL Article 26 uses only the expression "persons with legal interest" for persons who may file a cancellation request; therefore, who these persons are and by what criteria the legal interest will be evaluated will become clear through TÜRKPATENT's practice.

Another controversial issue concerns the submission of evidence.

In the court process, parties could rely on their commercial books to prove the use of the trademark, and on-site examinations could be conducted by experts. However, such physical examinations are not conducted at TÜRKPATENT. Evidence is submitted entirely electronically, and it is not possible for the institution to conduct physical book examinations. Considering the volume and scope of commercial books, this situation significantly restricts trademark owners' ability to rely on one of their most important proofs of use.

Although TÜRKPATENT's initial applications have made the basic procedures and principles visible, issues such as whether legal interest will be sought, the limits of the nature of evidence, and the inability to conduct physical book examinations remain areas of uncertainty. These matters will be clarified in the coming period through Office decisions or possible judicial review, and the practice is expected to become more predictable over time. Therefore, it is important for parties to act carefully in the process and to develop their evidence strategies taking these uncertainties into account.

In conclusion, the cancellation process due to trademark non-use has become a comprehensive administrative mechanism operating at TÜRKPATENT with the IPL and Regulation amendments. The Office's initial applications provide important insights regarding evidentiary obligations, procedural requirements, and the class-based evaluation approach for both applicants and trademark owners. However, it is observed that the practice has not yet fully settled in some areas regarding legal interest and submission of evidence, and these matters are expected to gain clarity through case law and practice in the coming periods.



## **CONSTITUTIONAL COURT'S CASE LAW IN 2025: THE CONSTITUTIONAL FRAMEWORK OF INDUSTRIAL PROPERTY LAW**

In 2025, the Turkish Constitutional Court ("TCC") issued a number of noteworthy decisions in the field of intellectual and industrial property law. The TCC clarified the constitutional framework surrounding the net profits criterion in compensation calculations, while postponing -for now- the long-anticipated constitutional assessment of the administrative cancellation of trademarks due to non-use.

In this context, two decisions particularly stand out: the ruling numbered 2024/176 E., 2025/42 K. concerning the "*net profits obtained by the infringer*" under Article 151 of the Industrial Property Law ("IPL"), and the decision numbered 2024/155 E., 2024/153 K. concerning the administrative revocation of trademarks by the Turkish Patent and Trademark Office ("TPTO"). Taken together, these rulings show that while the TCC strengthened the constitutional protection afforded to industrial property rights -particularly under the right to property- it deferred addressing the constitutional boundaries of administrative cancellation on procedural grounds.

#### **a. Assessment of the Net Profits Criterion in Compensation Calculations**

Article 151 of the IPL sets out the scope and methods of calculating material damages in cases of industrial property infringement. The provision allows the right holder to claim actual loss and loss of profit, and provides three alternative methods for calculating the latter: (i) the profit the right holder could have earned had the competition not occurred, (ii) the hypothetical licence fee that would have been paid under a lawful licence agreement, and (iii) the net profits obtained by the infringer. The last of these has been the subject of long-standing debate and is among the most controversial in practice.

Given that calculation of damages have long been a problematic area in Turkish IP litigation, the TCC's decision numbered 2024/176 E., 2025/42 K. offers clarity on several key points. The TCC held that the method set out in Article 151/2(b) -which allows the right holder to claim damages based on the net profits obtained by the infringer- is not unconstitutional.





The referring court had argued that this method could require the infringer to surrender not only unjust gains but also profits derived from legitimate commercial activities, thereby imposing a disproportionate burden. It had also raised concerns regarding the foreseeability of the "net profits" calculation. The TCC, however, first emphasized that industrial property rights fall within the protection of the constitutional right to property under Article 35, and that the State's obligations in this context extend beyond merely abstaining from interference and also include establishing an effective legal framework against third-party infringements. This observation serves as the constitutional foundation for the remainder of TCC's reasoning.

TCC stressed that Article 151 grants the right holder a choice among three calculation methods, meaning that the "net profits" method is optional, not mandatory. It also underlined that the amount representing the infringer's net profits must be evaluated in conjunction with the fundamental principles of damages law, and that under Article 151/3 the judge must consider unjust enrichment and other established principles when determining an equitable amount for damages.

Accordingly, the "net profits" figure does not automatically direct to amount of damages to be awarded; it may be adjusted - or

even reduced- depending on the circumstances of the case. In the TCC's view, the provision does not impose a rigid mechanism through which all of the infringer's profits must be transferred to the right holder; rather, it grants judges a discretionary framework that also serves a deterrent purpose.

One of the most notable aspects of the ruling is the TCC's acknowledgment that, given the economic significance and frequently intentional nature of industrial property infringements, compensating only the actual damage may be insufficient to protect the right holder. Deterrent-oriented compensation mechanisms may therefore be legitimate. This signals a more flexible constitutional stance toward compensation models with punitive effects -at least within the context of industrial property. At the same time, the TCC consistently highlighted the principle of proportionality, cautioning against a mechanical application of the net profits method that would impose an excessive or extraordinary burden on the infringer.

In practice, the decision is expected to provide stronger constitutional support for claims and judgments based on the net profits method, while also requiring courts to articulate their equity-based adjustments more explicitly in their reasoning.

### **b. Assessment of Cancellation for Non-Use**

For many years, the authority to revoke trademarks due to non-use rested exclusively with the courts. With the entry into force of the IPL, this authority was transferred to the TPTO as an administrative mechanism. This system, which became operational in 2024, has sparked significant debate in both practice and academia, as it allows trademark rights to be extinguished through an administrative act.

One of the first cases to bring these questions before the TCC was the 2024/155 E, 2024/153 K. application for concrete norm review. The applicant argued that the administrative cancellation mechanism under Article 26 of the IPL could interfere with the right to property, access to court, and the right to a fair trial, particularly because it allows trademark rights to be terminated by an administrative, rather than judicial, act. The TCC, however, held that the contested provision was not applicable to the underlying dispute and therefore rejected the application on procedural grounds, without conducting a detailed examination on the merits.

As a result, the expected precedent regarding the constitutionality of the administrative revocation regime due to non-use by brands has not yet emerged, at least for now, and the debate has been removed from TCC's agenda by a procedural decision.

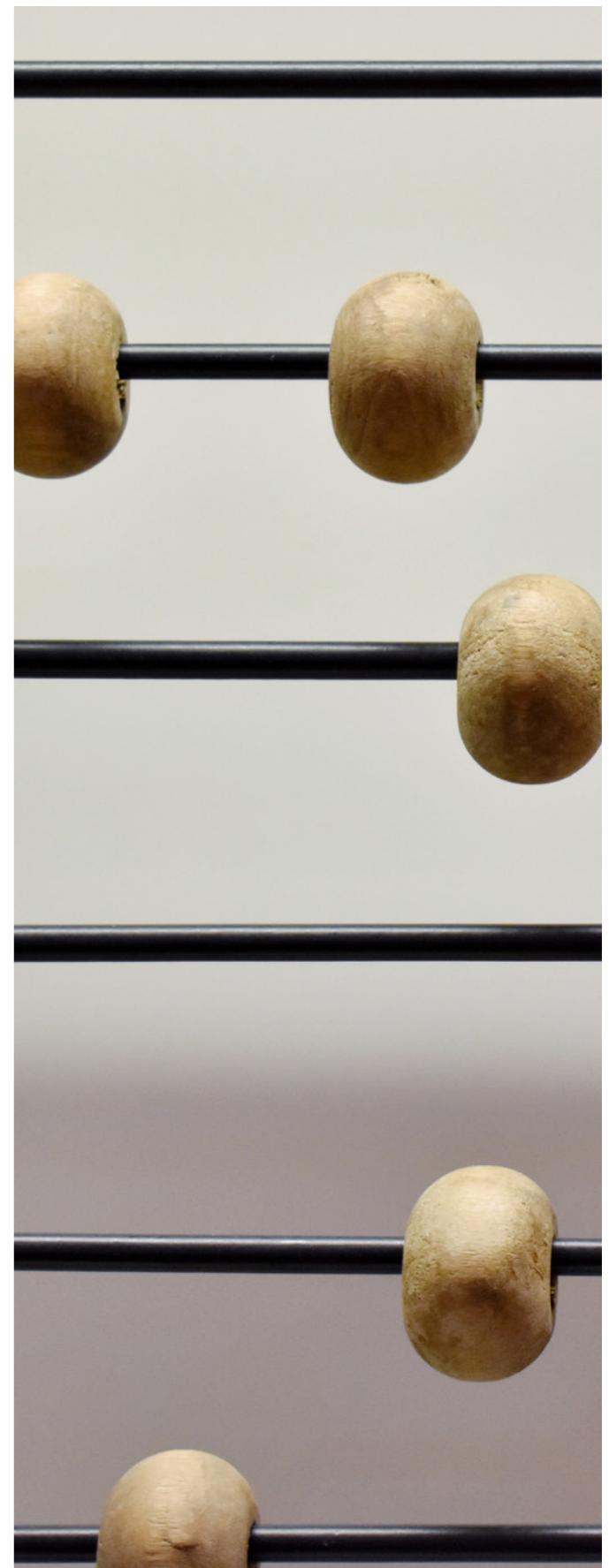
The constitutional contours of the system -particularly regarding property rights, the limits of administrative discretion, and the intensity of judicial review remain unresolved. The TCC's procedural dismissal does not imply that the provisions are constitutional, nor that they are unconstitutional.

As the administrative revocation system becomes more widely used and concrete disputes reach the courts, it is likely that the TCC will eventually develop substantive case law on this matter.

### **c. Conclusion**

Viewed together, these two decisions indicate that the constitutional protection of industrial property rights has been strengthened in 2025, particularly regarding compensation. The net profits method -subject to equity and proportionality considerations- now rests on a clearer constitutional footing.

By contrast, the TCC's silence on the administrative cancellation of trademarks leaves the constitutional limits of this mechanism to be shaped by future cases.



## 3

## ASSESSMENT OF WELL-KNOWN STATUS IN OPPOSITIONS FILED BEFORE THE TPTO AND THE REGISTER OF WELL-KNOWN TRADEMARKS



On 8 April 2025, the Turkish Patent and Trademark Office ("TPTO") published a note regarding oppositions based on well-known status. In this note, it was emphasized that, in line with recent Court of Appeal decisions, well-known status is considered a dynamic concept; therefore, parties submitting opposition claims must provide information and documents demonstrating that the well-known status has continued from the date it was originally established up until the date of the opposition.

Articles 6/4 and 6/5 of the Industrial Property Law No. 6769 ("IPL") provide protection respectively for trademarks well-known under the Paris Convention and for trademarks that have attained well-known status in Türkiye. Oppositions filed under these provisions must be supported by highly detailed evidence, such as the duration and extent of the trademark's registration and use, its geographical reach, market prevalence, market share, annual sales volume, and advertising activities.

One category of such evidence includes prior court and TPTO decisions establishing the trademark's well-known status, as well as records of well-known trademarks maintained by TPTO. Through the recently issued note, TPTO highlighted that such previous determinations alone are no longer sufficient; it is now necessary to provide decisions showing that the well-known status continues to apply as of the opposition date. Indeed, as the note also references, the Court of Cassation acknowledges that well-known status is a dynamic process.

The Court of Appeal's General Assembly of Civil Chambers ("GACC"), in its decision dated 1 February 2023 and numbered 2023/83 E. and 2023/7 K., stated that well-known status is not a fixed fact and must be proven anew in each specific case. The GACC also ruled that TPTO does not have the authority to maintain a registry of well-known trademarks. These decisions

demonstrate that the registry-based approach adopted by TPTO does not provide legal certainty before the courts, and even if a trademark is recorded as well-known in the registry, each case must be assessed independently before the judiciary.

Indeed, reflecting the Court of Cassation's contrary rulings over the past five years, TÜRKPATENT had suspended its decisions and assessments regarding recognition for a period of time. However, it has recently been observed that some decisions regarding well-known status have been made.

At this stage, when the 8 April 2025 announcement by TPTO is considered together with court precedents from the last five years, it is clear that the courts and TPTO now follow parallel approaches. Indeed, the Court of Cassation has consistently held that well-known status is not a permanent fact, that a trademark may lose its status over time after being registered in the so-called registry, and that, since the registry is not a continuously updated system, a registry entry alone is insufficient to prove well-known status. Similarly, TPTO emphasized that well-known status must be reassessed in each individual case and that concrete and up-to-date evidence must be provided when claiming well-known status.

Therefore, the fact that a trademark appears in TPTO's well-known trademarks registry will not be determinative on its own in opposition proceedings before TPTO, just as it is not determinative before the courts. Trademark owners must demonstrate, with concrete evidence, that the well-known status continues. To mitigate legal risks, trademark owners should not rely solely on historical registry entries and should maintain comprehensive and up-to-date evidence to substantiate well-known status.

## DECISIONS GRANTED BY UNITARY PATENT COURT ON ITS LONG ARM JURISDICTION AND ITS POSSIBLE EFFECTS ON PATENT ENFORCEMENT IN TÜRKİYE

The Unified Patent Court ("UPC") holds exclusive authority over (classical) European patents, European patents with unitary effect (Unitary patents), supplementary protection certificates (SPCs) granted for products covered by such patents, and European patent applications as outlined in Article 32 of the Agreement on a Unified Patent Court ("UPCA"). UPC is a court common to the contracting member states, and thus part of their judicial system.

However as established by precedent decisions of UPC namely, Alpinestars S.r.l vs. Dainese S.P.A, FujiFilm vs. Kodak, Dyson vs. Dreame, Teqphone, Eurep and HL Display vs. Black Sheep, UPC can extend its jurisdiction to non-UPCA and non-EU states such as the UK, Switzerland, Norway and possibly Türkiye as well.

Although there has not been a decision rendered by UPC whereby its long arm jurisdiction was extended to Türkiye so far, the decisions rendered against the UK (non-EU and non-UPCA), Switzerland, Liechtenstein, Norway (non-UPCA, non-EU but Lugano Convention)<sup>1</sup> and Poland and Ireland (non-UPCA but EU) confirm that the jurisdiction of the UPC may extend to Türkiye under certain conditions.

The long arm jurisdiction of the UPC is sourced in Article 71b of Regulation (EU) No 1215/2012 of The European Parliament ("Brussels Ibis Regulation")<sup>2</sup> which allows the UPC to exercise jurisdiction over defendants domiciled in a country party to the UPCA.

Article 71b/3 further extends this jurisdiction by allowing the UPC to exercise jurisdiction in relation to damage arising outside the EU from an infringement of a European patent giving rise to damage within the EU as well. However, such jurisdiction may only be established, if property belonging to the defendant is located in any Member State party to the instrument establishing the common court and the dispute has a sufficient connection with any such Member State.

UPC has exercised this long arm jurisdiction in several disputes so far:

In its decision regarding Alpinestars S.r.l vs. Dainese S.P.A<sup>3</sup>, UPC ruled that in light of Court of Justice decision in case BSH Hausgeräte vs Electrolux<sup>4</sup> (C-339/2022) ("BSH Decision"), 25

February 2025, UPC considered that it may have jurisdiction under specific circumstances, particularly where the defendant is domiciled in a UPCA member state and the alleged infringement produces effects within the UPC territory.

It is important to note BSH Decision as a landmark decision in European patent litigation here. Prior case law had been interpreted restrictively following GAT v. LuK, often leading courts to decline jurisdiction where the validity of a foreign patent was raised as a defense. However, BSH Decision significantly re-calibrated jurisdictional limits and reduced fragmentation in cross-border patent litigation. In the mentioned decision, the Court of Justice ruled that member states' Courts at the defendant's domicile retain jurisdiction over the infringement case and can rule on the infringement of European patents validated in another member state even when validity of the said patent is challenged as a defense (without prejudice to the exclusive jurisdiction of the courts of the state of registration over questions of validity).

UPC has also maintained this approach in its decision regarding FujiFilm vs. Kodak (UPC\_CFI\_365/2023)<sup>5</sup> whereby it granted a permanent injunction having effects in relation to the UK designation confirming that UPC has jurisdiction to decide upon infringement of the UK part of a European patent provided that the defendant is domiciled in a UPC state.

UPC further extended its jurisdiction with its decision in case Dyson vs. Dreame, Teqphone, Eurep (UPC\_CFI\_387/2025)<sup>6</sup> dated August 14, 2025. With this decision UPC granted Dyson a preliminary injunction across Spain and 18 UPC member states, because it was evaluated to have jurisdiction even where certain defendants were not domiciled in UPC states, due to closely connected claims within the same corporate group.

Likewise, in its decision, HL Display v Black Sheep (UPC\_CFI\_386/2024)<sup>7</sup> dated October 10, 2025, UPC granted a permanent injunction including the UK, Switzerland, Liechtenstein, Ireland,

Norway and Poland, which are outside the UPC territory. UPC stated that the defendant, domiciled in the Netherlands (a UPCA member state) did not dispute the jurisdiction of the UPC. Further, because the validity of the patents in non-UPCA states was only challenged as a defense but no revocation claims had been instituted, the Court assumed competence for hearing the infringement claims regarding all designated countries in the EP, even if they are not UPC contracting member states, for the purposes of the infringement proceedings before it. Regarding non-UPCA but EU or Lugano Convention Member States, however, the Court decided to evaluate whether there was a serious, non-negligible chance that the competent national court would invalidate the patent. Regarding non-EU Member States, the Court limited itself to a *prima facie* assessment of validity for the purposes of deciding on infringement and injunctive relief, without ruling on validity.

These decisions could further mean that actions may be brought against and damages can be requested based on activities in non-contracting countries (to UPCA), which are party to European Patent Convention, as long as the basis European patent is valid there and the defendants are domiciled in a UPC member country.

Although Türkiye is not a party to UPCA and therefore has not approved and acknowledged the authority of UPC and the enforcement of any UPC decision in Türkiye would be challenging, it is important to consider the case law of the UPC when strategizing against an infringement of a European patent. Because the UPC has jurisdiction to render a decision on the infringement of a European patent on multiple jurisdictions in Europe, it is crucial for companies operating in Europe to follow the case law closely and review their patent portfolios in light of the current patent litigation practice in Europe. Otherwise, they may face serious problems, especially if they find themselves in the defendant position in an infringement action filed before the UPC.

<sup>1</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:22007A1221\(03\)](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:22007A1221(03))

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:2021R1215-20150226>

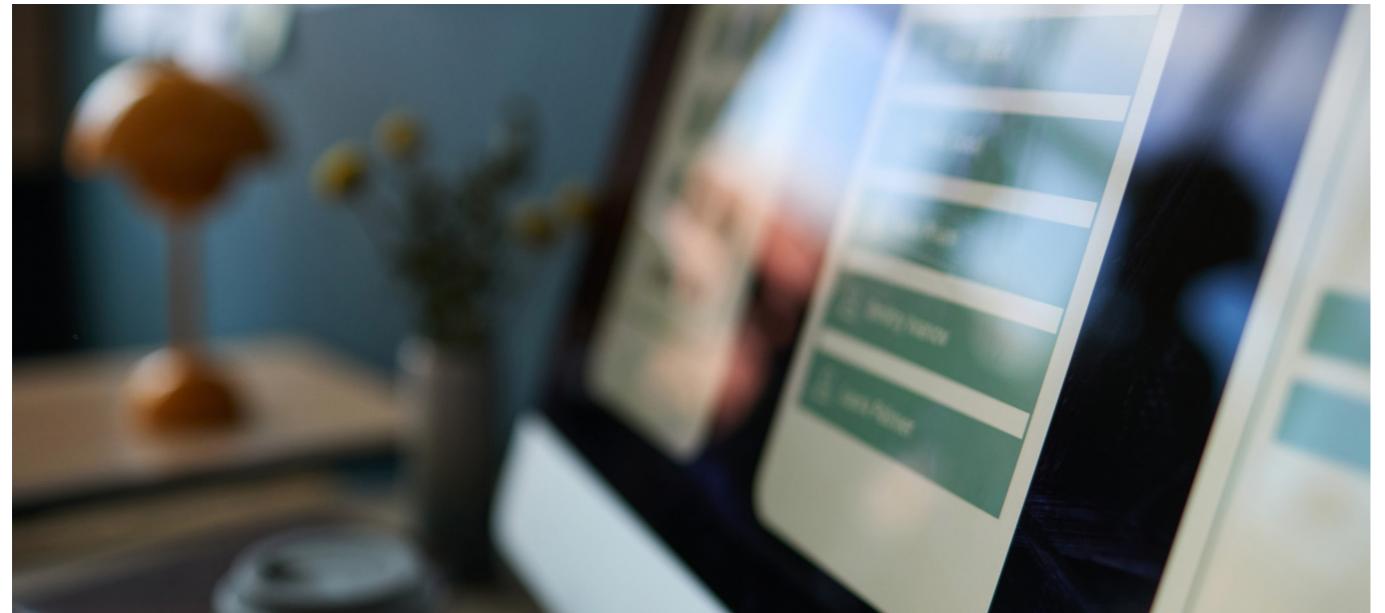
<sup>3</sup> [https://www.unifiedpatentcourt.org/sites/default/files/files/api\\_order/993CE8B48A7614B5B428964AE8AD13DC\\_en.pdf](https://www.unifiedpatentcourt.org/sites/default/files/files/api_order/993CE8B48A7614B5B428964AE8AD13DC_en.pdf)

<sup>4</sup> <https://curia.europa.eu/juris/document/document.jsf?text=&docid=295685&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=14077509>

<sup>5</sup> [https://www.unifiedpatentcourt.org/sites/default/files/files/api\\_order/79F4081FBB1ABDFE531C293B98469E7A\\_en.pdf](https://www.unifiedpatentcourt.org/sites/default/files/files/api_order/79F4081FBB1ABDFE531C293B98469E7A_en.pdf)

<sup>6</sup> [https://www.unifiedpatentcourt.org/sites/default/files/files/api\\_order/20368\\_2025%20Decision%20final%202014082025\\_signed%20all.pdf](https://www.unifiedpatentcourt.org/sites/default/files/files/api_order/20368_2025%20Decision%20final%202014082025_signed%20all.pdf)

<sup>7</sup> [https://www.unifiedpatentcourt.org/sites/default/files/files/api\\_order/UPC\\_CFI\\_386\\_2024%20HL%20Display%20-%20BSR%20decision-1.pdf](https://www.unifiedpatentcourt.org/sites/default/files/files/api_order/UPC_CFI_386_2024%20HL%20Display%20-%20BSR%20decision-1.pdf)



# 5

## IMPORTANT DECISIONS OF ADVERTISING BOARD IN 2025

In 2025, the Advertising Board ("the Board") continued to issue important decisions regarding commercial advertisements that closely concern both consumers and commercial enterprises. Among these, the decision rendered in May to block access to a website created through copying, and the decision rendered in July to suspend advertising and campaign notifications sent via the mobile application of an online marketplace, stand out as the most remarkable decisions of the year.

### Decision on Blocking Access to a Copycat Website

The Board, in its meeting dated May 15, 2025, examined advertisements and promotions conducted through a website that is an exact copy of another company's official website.

As a result of the examination, it was determined that the copied website was created as an identical replica of the original right holder's official site and that the promotions on this site were misleading to consumers.

Pursuant to Article 7 of the Regulation on Commercial Advertising and Unfair Commercial Practices ("the Regulation"), advertisements must be prepared to be truthful, honest, and not misleading, taking into account the average consumer's level of perception and the possible effects of the advertisement on the consumer. In this context, the exact copying of a website belonging to a brand known by the average consumer creates the misleading impression that the consumer is visiting the official website of that brand. In the event subject to the decision,

the Board determined that the copied website was created as an identical replica of the original rights holder's official site and that the promotions on this site were misleading to consumers. Accordingly, the Board concluded that the promotions on the relevant website were deceptive due to their similarity with the copied website and that this situation was in violation of the Regulation and Law No. 6502 on the Protection of the Consumer, and therefore decided to block access to the website.

Furthermore, pursuant to Articles 11 and 12 of the Regulation, advertisements must not abuse commercial reputation and must not be imitated in a way that misleads consumers or causes confusion. The fact that the website subject to the decision gave the impression of belonging to the original brand both harmed the commercial reputation of the brand and misled consumers. Another noteworthy point of the decision was that no electronic means of communication could be found on the complained-about website. For this reason, notification could not be made to the relevant party and a direct access ban was imposed.

This decision is of particular importance in preventing the activities of those who attempt to unfairly benefit from the sales of well-known brands by copying websites, which have increased in recent years.

It can also be stated that this decision is promising in terms of preventing consumers from being misled by online promotions and from having doubts regarding product safety. Additionally, it provides an alternative application channel to courts or dispute resolution service providers for blocking access to counterfeit websites.

### Decision On The Suspension Of Campaign And Advertising Notifications Sent Via The Mobile Application Of An Online Marketplace

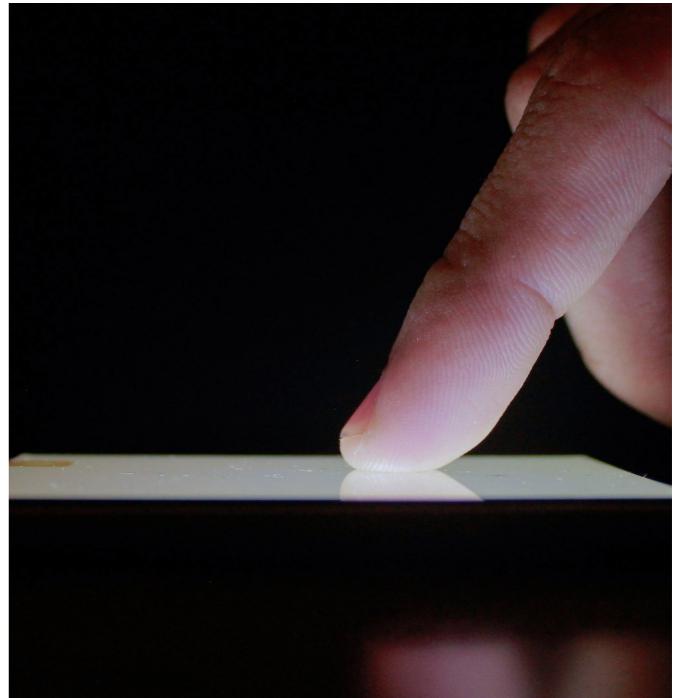
Numerous consumer complaints have been submitted regarding campaign and advertising notifications directed at consumers, and the Board's decisions rendered in relation to such complaints significantly shape the practices of companies operating online marketplaces.

In its meeting held in July 2025, the Board reached a decision following its examinations regarding the mobile application of an online marketplace.

In the incident subject to the decision, it was determined that the relevant application included options under the "my notification preferences" section for email, SMS, and phone calls; however, even when users disabled these options, the company continued to send campaign and advertisement notifications, thereby continuing electronic marketing. The Board determined that users could only completely disable in-app notifications via the phone settings, and that in such a case, users who wished to receive information regarding orders or cargo tracking were also obliged to receive promotional notifications beyond their preference.

Such a practice is undoubtedly in clear violation of consumers' right to determine their preferences regarding the receipt of commercial electronic messages. Accordingly, the Board concluded that these practices negatively affect consumers' ability to make decisions and choices, are misleading and deceptive in nature, and constitute unfair commercial practices, and therefore ordered the suspension of these practices.

While the importance of personal data protection has been increasing in recent years, consumers are exposed to numerous promotional messages in the field of digital marketing. This decision once again emphasizes the Board's firm stance on protecting consumer preferences in the field of digital marketing.



## 6

## CUMULATIVE ASSESSMENT OF RELATIVE GROUNDS FOR REFUSAL IN OPPOSITION PROCEEDINGS

In opposition proceedings conducted before the Turkish Patent and Trademark Office ("TPTO") under the Industrial Property Law No. 6769 ("IPL"), time to time the examination of relative grounds for refusal is, in practice, carried out within a limited framework. For example, in cases where a likelihood of confusion is found to be rightful, TPTO may refrain from conducting a detailed examination of the remaining relative grounds for refusal.

However, in a recent decision by TPTO in 2025, the opposition was accepted not only on the basis of likelihood of confusion under Article 6/1 of the IPL, but also on the grounds of prior use under Article 6/3, well-known status under Article 6/5, protection of other intellectual property rights under Article 6/6, and bad faith under Article 6/9 separately.

In the dispute mentioned, the trademark application subject to the opposition contained not only the verbal element of a well-known toy brand, but also the shape of the toy itself. On the other hand, the opponent holds the word mark before TPTO and has been using its trademark worldwide, including in Türkiye.

TPTO's initial assessment was based on the likelihood of confusion under Article 6/1 of the IPL. Despite the existence of an additional figurative element in the trademark application, the trademarks were found to be visually, phonetically and conceptually similar, as they also cover identical goods. Indeed, although the figurative element has a high degree of distinctiveness, it consists of the visual appearance of the product on which the opponent's trademark is used and therefore increases the likelihood of confusion between the marks.

Moreover, TPTO also accepted the opponent's claim of genuine ownership arising from prior use under Article 6/3 of the IPL. Although the opponent had an earlier trademark application for the word mark, it is understood that the claim of prior use with respect to the figurative element included in the application was also taken into consideration. Since the acceptance of this provision requires the submission of detailed and concrete evidence, comprehensive evidence such as sales reports, catalogues, advertising and promotional materials, news articles and collaboration projects were submitted in this respect.

Moreover, based on the evidence submitted, the TPTO concluded that the opponent's trademark is a well-known trademark in Türkiye and therefore granted protection under Article 6/5 of the IPL. The decision further indicated that there was a risk of taking unfair advantage of the opponent's trademark, as well as a risk of dilution of its distinctive character or damage to its reputation.

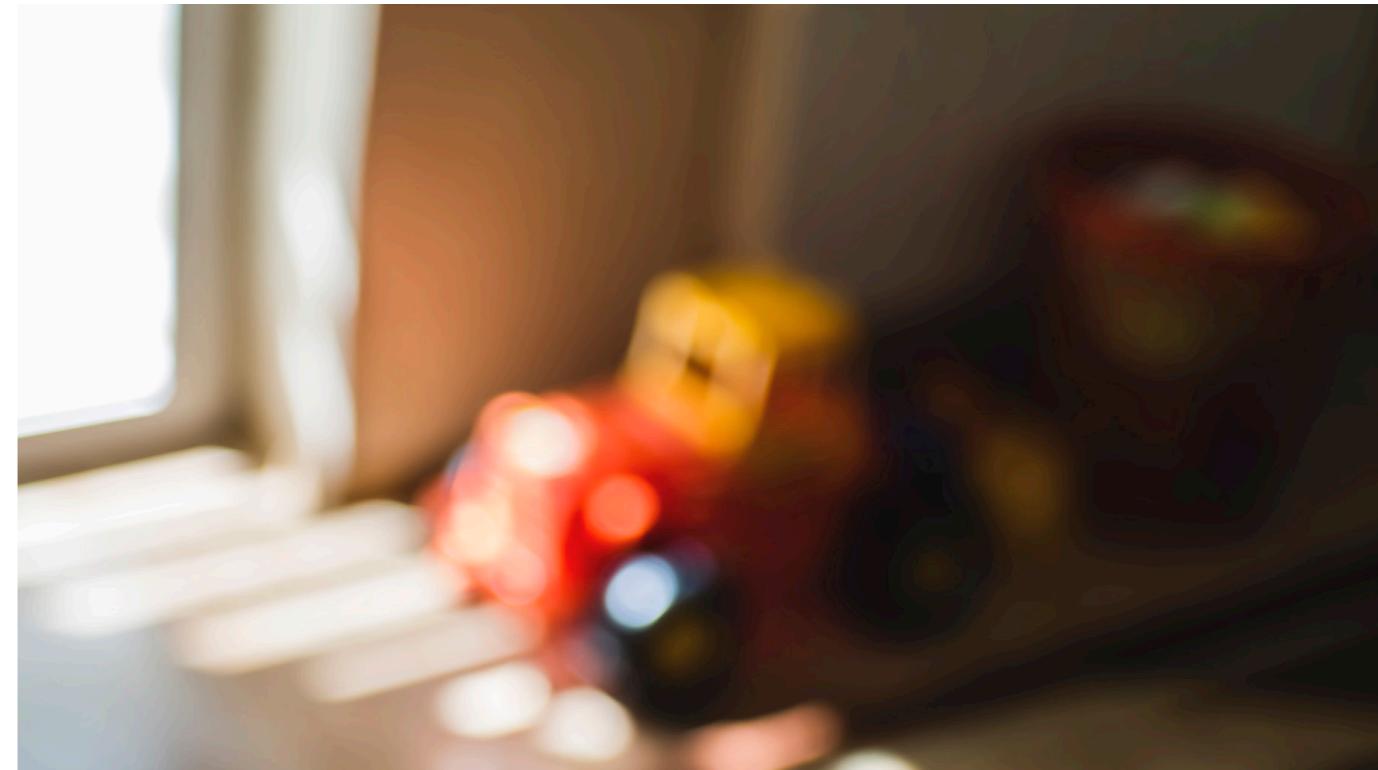
In addition, under Article 6/6 of the IPL, a trademark application shall be refused if it contains another person's intellectual property right, including copyright. The figurative element contained in the trademark application directly consisted of the toy shape owned by the opponent, and this shape has been protected as a work in many countries through copyright registration. Thus, upon submission of the relevant copyright registration certificates, the opposition was also accepted on this ground.

Finally, the TPTO conducted an assessment of bad faith under Article 6/9 of the IPL. Taking into account that the trademark application was identical to the client's well-known mark and

that this similarity clearly went beyond mere coincidence, demonstrating the applicant's intention to unfairly benefit from the client's reputation, the application was deemed to have been filed in bad faith. The decision explicitly stated that the applicant had acted contrary to the principles of honest commercial practice.

As a result, the TPTO's acceptance of five separate relative grounds for refusal set forth under the IPL within the same file clearly demonstrates the decisive impact of submitting comprehensive, consistent, and solid evidence. The cumulative evaluation of the likelihood of confusion, the client's genuine ownership based on use, well-known status, copyright ownership, and the bad-faith filing of the application enabled TPTO to grant an exceptionally broad scope of protection, exceeding its ordinary practice.

In this respect, the decision stands as a significant precedent demonstrating that, where sufficient evidence is submitted, protection may be secured under all the relevant relative grounds for refusal set forth under the IPL in publication opposition proceedings.



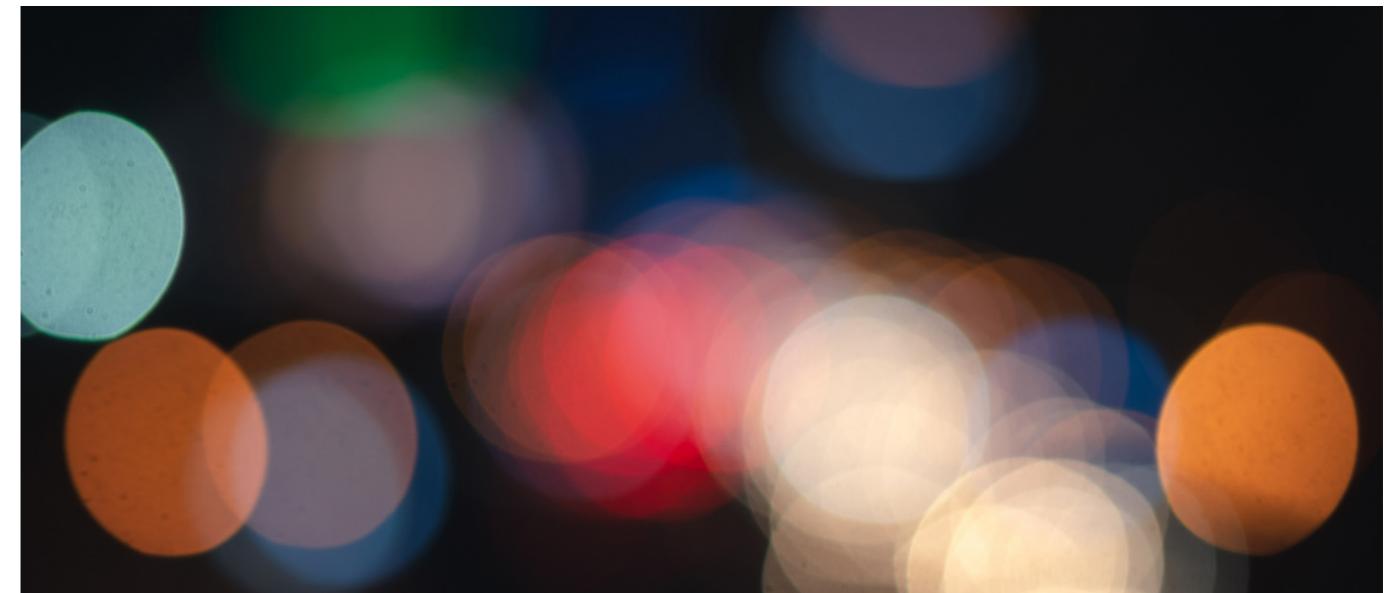
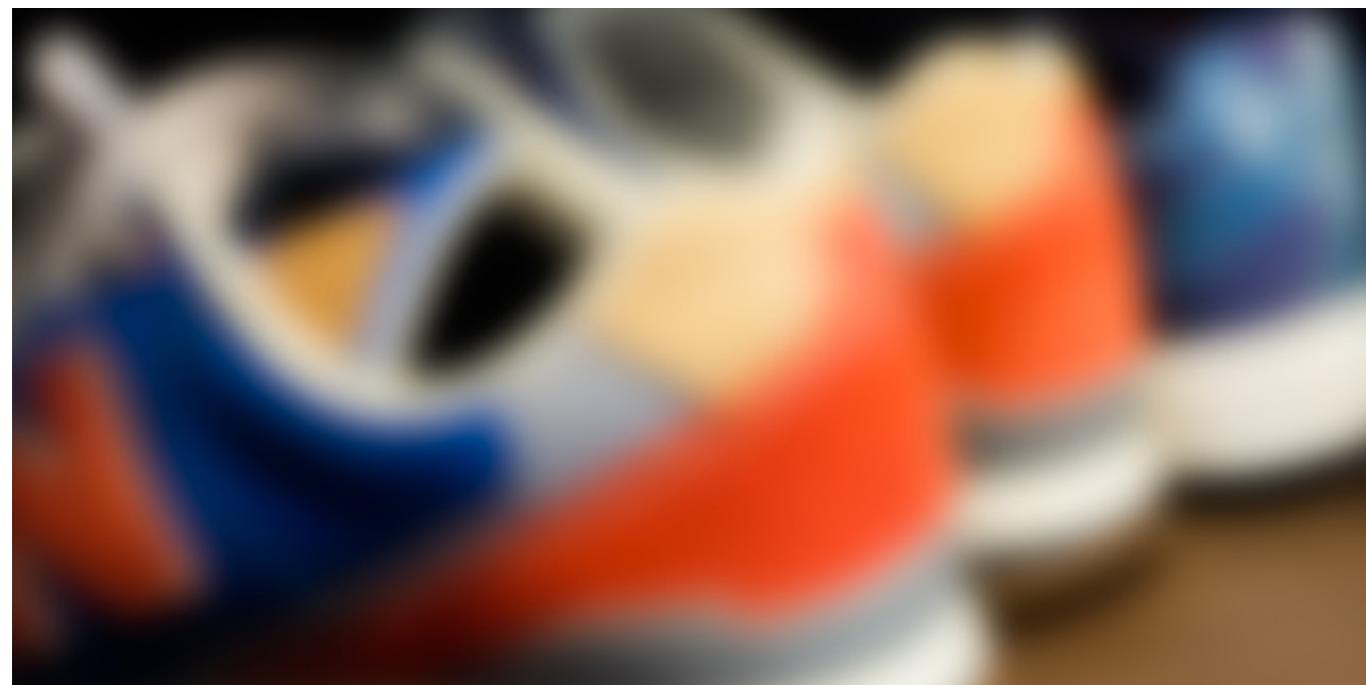
## PROTECTION OF POSITION MARKS AND ASSESSMENT OF DISTINCTIVENESS

Brand differentiation is no longer limited to word and device marks; the placement of a sign on the product itself can also confer a distinctive commercial identity. As consumers' visual interaction with products becomes increasingly complex, position marks have become an integral component of brand identity alongside traditional trademark types. In sectors such as fashion and especially footwear, the way a sign is positioned on the product often leaves a stronger impression on the consumer than verbal elements.

However, the boundary between a distinctive position mark and an ordinary decorative use has long been debated, frequently giving rise to disputes before both the Turkish Patent and

Trademark Office ("TPTO") and the courts. A recent decision of the 11th Civil Chamber of the Court of Appeal offers important guidance on how this distinction should be approached in the context of protection afforded to position marks.

In the concrete dispute before the Court of Appeal, an opposition was filed against a word-and-device composite trademark application on the basis of position marks that are registered before TPTO, have been used on shoes for many years, and have reached a level of well-known status. TPTO finally rejected the opposition, upon which the opponent filed an action requesting the cancellation of the TPTO's decision and, in the event the trademark is registered, invalidation of the trademark.



The first instance court held that the plaintiff's marks constituted "position marks", and that the placement of the linear device on the product was central to the trademark function. The court found that the device element in the defendant's application was similar enough in its position and overall impression to create a likelihood of confusion with the plaintiff's marks, and that the presence of a word element did not sufficiently dispel this similarity. The court emphasized that consumers are highly accustomed to perceiving such signs as indicators of commercial origin, and that the appearance of a form specific to the plaintiff's mark on the defendant's products could mislead consumers into believing that there was an economic link between the parties or that the plaintiff had authorized such use.

The court also made significant findings regarding bad faith. According to established Court of Appeal case law, the attempt to register an almost identical copy of a highly original shape or positioning may be indicative of bad faith. In the present case, given that the parties operated in the same sector and that the plaintiff's marks were registered and well-known both in Türkiye and internationally, the defendant's choice of a design so closely resembling that of the plaintiff was found incompatible with the ordinary course of trade. The attempt to register a sign that is virtually indistinguishable from the plaintiff's, despite the existence of countless alternative design options, was deemed a strong indication of bad faith in trademark law.

The 11th Civil Chamber of the Court of Appeal upheld the decision of the Court of First Instance, thereby reaffirming the criteria governing the protection of position marks.

Accordingly:

- In position marks, the placement of the sign on the product constitutes the core of the mark's distinctiveness.
- The distinction between decorative/ornamental elements and distinctive position marks must be made by assessing the placement of the sign, the extent and duration of its use, and whether consumers perceive it as indicating commercial origin.
- Applications that exhibit an indistinguishable degree of similarity may give rise both to a likelihood of confusion and to a presumption of bad faith.
- The presence of a word element in the application does not eliminate confusion when the essential trademark function in position marks is carried by the device element.

This decision of the Court of Appeal strengthens the position of position marks in trademark law and demonstrates that effective protection will be provided against the imitation of distinctive positioning. It is observed that in 2025, applications for position marks continue to be registered with the TPTO provided that the distinctiveness criterion is satisfied, and that this matter is no longer controversial.

## OVERVIEW OF ALCOHOL BRANDING AND MARKETING IN TÜRKİYE

Before filing a trademark application, it is essential to conduct a preliminary study on the registrability of the trademark. For a trademark that is intended to be registered for alcoholic beverages, this preliminary investigation should be conducted not only by considering the industrial property legislation, but also by taking into account the sectoral regulations that may prevent the use of the trademark in the market. This is because acting in accordance with trademark registrability searches conducted solely in accordance with the Industrial Property Law ("IPL") in highly regulated areas such as the alcohol sector may result in the existence of a registration that does not constitute trademark infringement but cannot be used on alcoholic beverages.

Likewise, focusing solely on regulatory regimes without conducting a search for compliance with industrial property legislation may lead to the use of an essentially infringing trademark.

Especially in areas such as the alcohol and tobacco sector, where there are detailed regulatory rules regarding branding, advertising and product promotion activities, it is extremely important to conduct trademark registrability searches by evaluating industrial property and regulatory regulations holistically at the trademark application stage.

### Use of Alcohol Trademarks in Light of Sector-Specific Regulatory Rules

According to the legislation, no trademark, promotional or distinctive sign of alcoholic beverages may be used on non-alcoholic beverages and other products; and no trademark,

promotional or distinctive sign of non-alcoholic beverages and other products may be used on alcoholic beverages. This regulation, which is included in the Regulation on Procedures and Principles Regarding the Domestic and Foreign Trade of Alcohol and Alcoholic Beverages, is enforced by the Tobacco and Alcohol Authority ("Authority") in order to prevent the indirect promotion of alcoholic beverages.

In the application of this paragraph by the Authority:

- Whether the two elements to be compared have the same shape and design in terms of packaging or content, or whether there is a clear and direct identity, similarity or association between the two elements in terms of the components contained in the trademark, promotional and distinctive signs,
- Whether the two elements to be compared aim to promote an alcoholic beverage directly or indirectly, or to indirectly promote alcoholic beverages through elements belonging to another product or company, or whether they directly or indirectly encourage or have an incentivizing effect on the use of alcoholic beverages,
- Whether there is a legal or de facto connection or interest relationship between those using the elements to be compared

the existence of any one of these matters is considered sufficient for non-compliance.

The Authority strictly enforces this regulation. In two decisions dated 2015, it ruled that alcoholic beverage trademarks cannot be used if they are registered at a later date than trademarks

registered for non-alcoholic products under the same designation. It was decided that the companies should withdraw the relevant products from sale, otherwise administrative fines would be imposed. Similarly, if the trademark is registered earlier for alcoholic beverages, the subsequent use of the relevant trademark on non-alcoholic products is not permitted.

The Authority's strict approach continues in the same manner in 2025. Recently, the Authority issued a decision stating that new product notifications and shipment notifications for alcoholic products bearing a trademark that does not comply with trademark stretching prohibitions will not be approved and the relevant requests will be rejected.

For this reason, when filing a trademark application for alcoholic beverages, it is recommended to conduct a comprehensive registrability search for all classes, not just the classes covering alcoholic products (for example, Class 33). Thus, the possibility of registering a trademark that is non-infringing on products in Class 33 but cannot be used in the market due to conflicts with earlier registered trademarks on non-alcoholic goods in other classes will be eliminated.

### Promotional Strategies of Alcohol Brands Under Strict Advertising Restrictions

All forms of advertising and promotion of alcoholic beverages are prohibited in Türkiye. According to the legislation, this prohibition covers all media and mass communication channels, including those listed below:

- Television, radio, cinema, print media, digital and social media, and outdoor advertising
- Product placement and sponsorships
- Campaigns, promotions or events that encourage consumption or sales

This obligation applies to all persons and organizations in the supply chain.

Alcohol producers, importers and marketers cannot promote their products to consumers under any circumstances. They cannot sponsor events using the names, logos or emblems of their alcoholic products. The only exception is licensed

establishments where alcohol is consumed on-site; in these establishments, it is possible to display trademarks or logos on service materials.

In audiovisual media such as TV series, films and music videos, the use of alcoholic beverages or images that may encourage their consumption is prohibited. At the same time, companies cannot distribute alcoholic products as free samples, gifts or promotions.

These strict prohibitions create a dilemma between regulatory compliance and brand visibility. Since it is prohibited to advertise directly with an alcohol brand, companies operating in the alcohol sector have over time adopted creative yet sensitive strategies that will also comply with the advertising ban in order to increase their brand visibility.

Companies frequently use alternative brands or sub-brands that imitate the design, colors or tone of the alcohol brand but do not make explicit reference to it. Such alternative brands aim to evoke the original brand in consumers' minds while avoiding covert advertising of alcoholic beverages.

However, even such strategies carry risks. The Advertising Board has issued numerous decisions evaluating indirect references as covert advertising in cases where consumers can associate alternative brands with an alcoholic product. The use of alternative brands can only be compliant with the advertising ban provided that there is no direct and contextual connection with the alcoholic product. Examples of this include slogans that are purely aesthetic or related to a particular concept and do not evoke alcoholic beverages in consumers' minds.

Below are some exemplary decisions of the Advertising Board on the implementation of strict advertisement bans on alcoholic products:

- In 2020, the Advertising Board reviewed the use of the expression " **#BİRLİKTE GÜZEL** " (NICE TOGETHER), which was created without using the name and any trademarks of Efes Pilsen (Anadolu Efes) beer brand but with shape and color combinations evoking this brand, in places and media such as concerts, events, restaurants, bars, cafes. In the examinations made by the Advertising Board; it was

determined that no elements contrary to the provisions of the advertising legislation were found in the advertisements subject to the examination and it was decided that the said advertisements were in compliance with the law<sup>8</sup>.

- Advertisements for the "Gordon's Gin" branded product were made on the Instagram. As a result of the examinations of Advertising Board, it was determined that several Instagram pages included the phrase "Go Ons", which evokes the "Gordon's Gin", together with phrases such as "Stop And Stay In The Moment", "#FridayLikeWednesday", "@goons\_tr", "#invitation" and "#reklam", and that these posts also contained visual elements such as signs, stands, glasses, etc. on which the phrase was used.
- It was stated that the posts used the word "Goons" in the same font and color scheme as the "Gordon's" trademark and that the word had a strong phonetic similarity with the trademark, and it was assessed that the joint posts made by celebrities indicated a marketing campaign for the promotion of the "Gordon's Gin" branded product. Therefore, it was determined that the posts constituted both prohibited advertising of alcoholic beverages and hidden advertising under the applicable legislation, and the relevant company was imposed an administrative fine and a suspension decision for the relevant advertisements<sup>9</sup>.
- It was determined that on the social media platform Instagram, the user account "@wearethewalkers\_tr" featured sponsored promotional content under the title "We're Walking Together with Those Who Say 'My Feet Don't Touch the Ground' – #YürüyoruzDiMi", including visuals of alcoholic beverages. As a result of the examination, it was determined that in the advertisements titled "We're Walking Together with Those Who Say 'My Feet Don't Touch the Ground' – #YürüyoruzDiMi" published by the company on the social media platform Instagram under the username @wearethewalkers\_tr, visuals of alcoholic beverages were included, the name of the alcoholic beverage producer was used in sponsored promotions, and the brand was

prominently featured. Despite the fact that any form of advertisement and promotion of alcoholic beverages to consumers is prohibited under the relevant legislation, the promotion of such products and their producers was assessed as being harmful to public health and in violation of the applicable regulations. Accordingly, it was decided to impose a cease order on the aforementioned advertisements.<sup>10</sup>

- The posts shared via the Instagram account @halkekmagfest included phrases such as "Position of The Day Cheers", the "+1" logo that are used on Efes products and images of "Efes" branded alcoholic beverages. As a result of the Advertising Board's examination, the Board concluded that these posts intentionally drew attention to Efes alcoholic beverages through images and expressions designed to create consumer interest and constituted implicit advertising of alcoholic beverages, which is prohibited by law. As a result, the relevant company was imposed an administrative fine and the relevant advertisements were suspended<sup>11</sup>.
- As can be seen from the practice of the Advertisement Board, the strict bans on the advertisement of the alcoholic products extends to alternative trademarks provided that a clear connection can be made between the use of the alternative trademark and the alcoholic products intended to be marketed whereas the use of the alternative trademark without the context of promoting an alcoholic beverage can be deemed compliant.
- All in all, alcohol branding and marketing in Türkiye are subject to strict legal and regulatory constraints, which are designed to protect public health and prevent misleading promotion. To ensure compliance and avoid penalties, businesses must carefully navigate both intellectual property and sector-specific regulations. Taking a strategic and informed approach to trademark registration and marketing is therefore essential for operating successfully within this tightly regulated environment.

<sup>8</sup> Advertising Board Meeting No. 303 dated November 10, 2020, Decision No. 2019/11462

<sup>9</sup> Advertising Board Meeting No. 340 dated December 12, 2023, Decision No. 2023/549

<sup>10</sup> Advertising Board Meeting No. 351 dated November 12, 2024, Decision No. 2024/6536

<sup>11</sup> Advertising Board Meeting No. 361 dated September 11, 2025, Decision No. 2025/2973

## 9

# CURRENT TRENDS IN THE APPLICATION OF PRELIMINARY INJUNCTIONS IN INTELLECTUAL AND INDUSTRIAL PROPERTY LAW DISPUTES IN 2025



Preliminary injunctions are a legal protection mechanism invoked in situations where delay may create a risk, ensuring the safeguarding of claims other than monetary claims, or in some cases allowing such claims to be temporarily fulfilled without waiting for the outcome of the main action. If the claim and the risks posed by delay are demonstrated with sufficient preliminary evidence, the judge may grant an injunction, and in urgent circumstances, the opposing party's right to be heard may be deferred. Thus, preliminary injunctions operate as a temporary yet functional intervention tool that aims both to preserve the effectiveness of a future judgment and to prevent irreparable harm that may arise during the proceedings.

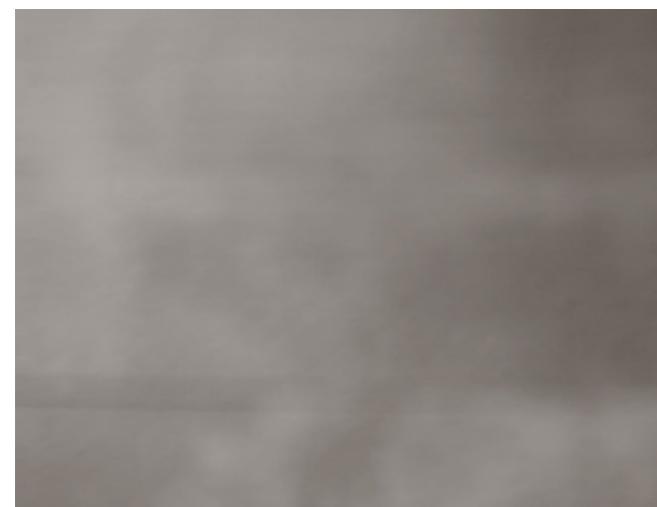
In intellectual and industrial property disputes, preliminary injunctions play a particularly critical role, as the value protected by the industrial property right may be rapidly damaged, and the consequences of the infringement may spread to wide audiences in a short time. Infringements in this field typically arise through products placed on the market, promotional activities, or uses in digital environments; in such cases, any delay may aggravate the impact of the infringement, defeating the purpose of the injunction. For this reason, the Industrial Property Law numbered 6769 ("IPL") relaxes certain constraints found in general procedural law to ensure the effectiveness of interim protection. Pursuant to Article 159 of the IPL, if it is proven that the use forming the subject of the action constitutes an infringement of the plaintiff's industrial property rights, or that serious and effective preparations have been made to carry out

such infringing acts, the courts may order the suspension of such uses by way of preliminary injunction.

Within this framework, when the party requesting the injunction provides sufficient preliminary evidence that the use in question constitutes an infringement or that substantial efforts have been made that would lead to such an infringement, the injunction request may be granted. Requiring full proof at this stage would effectively undermine the very function of the preliminary injunction mechanism. For this reason, the increasingly common judicial practice of examining injunction requests at the preliminary hearing, hearing the opposing party, and often waiting for an expert report and parties' statements against the report, even in clear infringement cases, is inconsistent with the principle of relying on sufficient preliminary evidence.

That is to say, as a rising trend, even in situations where courts, as specialized courts, can easily assess the likelihood of confusion, they resort to expert reports. In cases where such reports are necessary, it is often observed that after the report providing approximate proof is submitted to the file, the parties' objection periods are awaited, or the assessment regarding provisional measures is deferred to the preliminary examination hearing.

However, considering the urgent nature of provisional measures, this situation is thought to slow down the proceedings and the provision of the benefit sought through provisional measures.



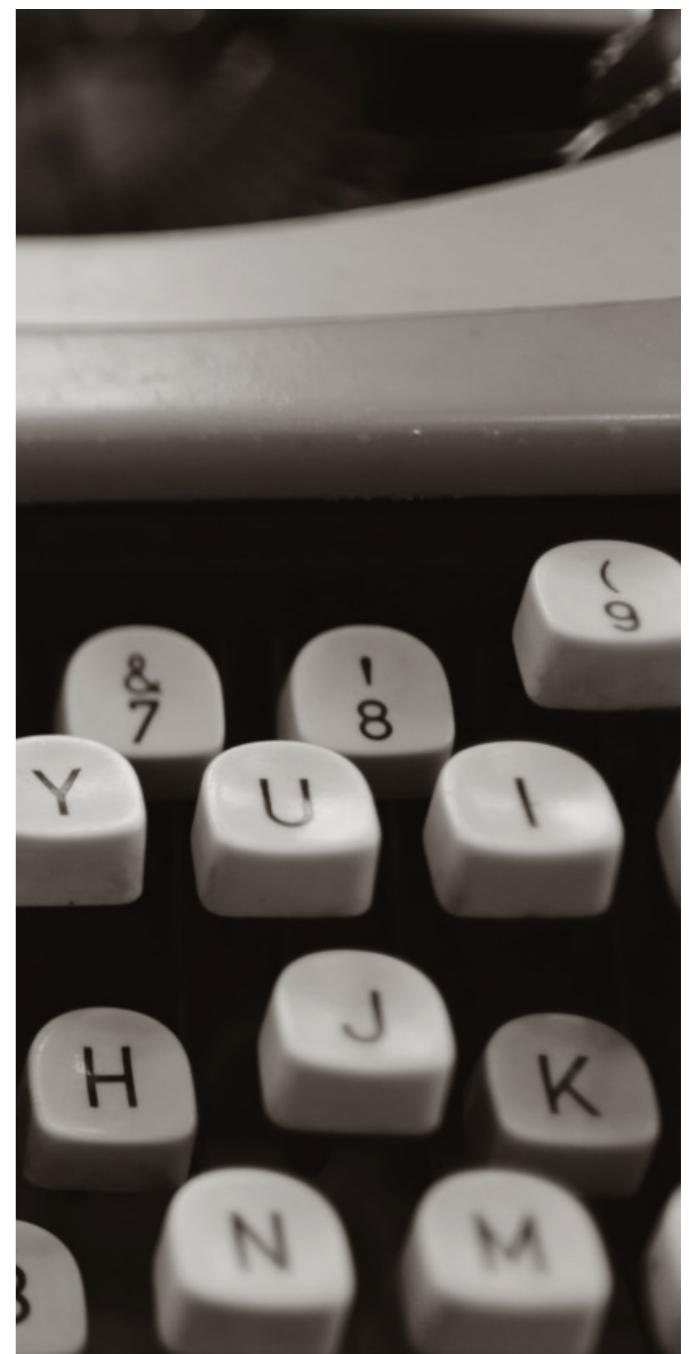
Indeed, a Regional Court of Appeal decision, dated November 13, 2025, addresses this issue: In the dispute in question, the first instance court decided to obtain an expert report for the assessment of the preliminary injunction. The report in question is in favor of the requesting party and is well-reasoned and subject to review. However, the first instance court deferred the assessment of the provisional measure to the preliminary examination hearing stage. At the preliminary examination hearing, based on legally unsubstantiated objections, the court still refrained from issuing a preliminary injunction order and decided to obtain an additional report. The relevant interim decision was appealed by the party requesting preliminary injunction. In its assessment, the Regional Court of Appeal stated that, based on the existing evidence, the condition of approximate proof had been met at this stage, and that the first instance court should have decided to accept the request for preliminary injunction in exchange for appropriate security. It noted that it was incorrect to reject the request for preliminary injunction on the grounds that the evidence had not yet been collected, as this would not be in line with the purpose of the preliminary injunction.

This decision reveals that the practice of first instance courts not examining requests for provisional measures without obtaining an expert report or issuing provisional measures without proceeding to the investigation stage, thereby raising the level of proof required for provisional measures to be granted to near that of full proof, is flawed.

Considering that the structure of the preliminary injunction institution allows for rapid intervention before the full consequences of infringement become apparent, it is anticipated that decisions in this direction will increase and, as a result, the application of preliminary injunctions will become more effective.

Moreover, in cases where infringement cannot be immediately observed, where technical assessment is required, or where the legal nature of the allegedly infringing use is debatable, the ability to swiftly obtain an injunction largely depends on the scope and quality of the evidence submitted by the requesting party. Considering that courts have increasingly adopted more demanding approaches in evaluating injunction requests, submitting complete and concrete evidence supporting the

infringement allegation, along with expert opinions or technical assessments where necessary, has become critically important for securing interim protection. Such supporting materials enable the judge to reach a reasonable view based on the file and ensure both the proper functioning of the injunction mechanism and the prevention of irreparable harm at later stages of the proceedings.



## 10

## COURT OF APPEAL EVALUATION REGARDING REGISTRATION OF WELL-KNOWN MOVIE TITLES AS TRADEMARK BY THIRD PARTIES

Cinematographic works, and especially film titles that are widely known by large audiences, are no longer merely cultural elements; they become signs with substantial commercial value, generating economic benefit through licensing. Today, many films and series titles are used across a wide range of products, from clothing to toys, and function almost like trademarks in the eyes of consumers. Therefore, attempts by non-rightholders to register well-known film titles as trademarks frequently give rise to conflicts involving both intellectual property rights and allegations of bad faith. A 2025 Court of Appeal decision addressing this issue has provided significant clarification and resolved several long-debated points in practice.

The dispute in this case concerns the request for the annulment of the decision and the invalidation of the trademark, following Turkish Patent and Trademark Office's rejection of the opposition filed by the producer of the film company against the trademark application containing the name of a world-renowned film. The Court of First Instance accepted that the registration of the name of a globally recognized movie as a trademark by a real person who has no connection with the movie is inconsistent with the normal course of life and constitutes a situation that goes beyond coincidence; it ruled that the trademark application cannot be

registered both because it involves intellectual property rights originating from a movie belonging to another party, pursuant to Article 6/6 of 6769 of the Industrial Property Law ("IPL") 6/6 due to its inclusion of intellectual property rights originating from another person's cinematographic work, and also cannot be registered pursuant to Article 6/9 of the IPL on the grounds of bad faith. This decision was upheld by the 11th Civil Chamber of the Appeal Court in its decision dated April 8, 2025, numbered 2024/4146 E. and 2025/2253 K., following the Regional Court of Appeal's rejection of the appeal.

Article 6/6 IPL provides that when a trademark application includes with another party's intellectual property right, this constitutes a relative ground for refusal, and the application must be rejected upon opposition by the right holder. Because film titles, together with related characters or visual elements, qualify as cinematographic works, using these signs as trademarks gives rise to a conflict of intellectual property rights.

The Court specifically noted that the film title had been created under a production agreement and that this was confirmed through a copyright agreement. It accepted that the 1997 film is an original cinematographic work and that the copyright



belongs to the plaintiff. It also emphasized that the film title had been extensively used for many years on various products such as T-shirts, hats, sunglasses, toys, and mugs, and that this widespread commercial use had conferred strong distinctiveness on the sign. For these reasons, the Court held that the trademark application directly conflicted with the plaintiff's intellectual property rights and that the refusal ground under Article 6/6 of IPL was established. Thus, it reaffirmed that film titles qualifying as cinematographic works enjoy strong protection under trademark law not only due to cultural recognition but also by virtue of copyright.

On the other hand, bad faith under Article 6/9 of IPL is an increasingly developed relative ground for refusal in Turkish trademark law, with its boundaries shaped by Court of Appeal precedents. Although the statute does not define bad faith, in practice it typically arises where an applicant knowingly seeks to register another party's well-known sign in order to obtain unfair benefit. In the case at hand, the Court considered not only the applicant's choice of the film title but also the fact that the applicant had previously filed similar applications as an important factor in determining bad faith. Given the strong

associations evoked by the film title and its worldwide fame, the Court concluded that it was impossible to accept that the applicant had selected or created the sign by coincidence.

This decision demonstrates that when protecting well-known film titles as trademarks, not only the level of recognition but also intellectual property ownership and commercial use are critical. The ruling also shows that in assessing bad faith, criteria such as "a choice that goes beyond coincidence" and "incompatibility with the ordinary course of life" play an important role. In this respect, the decision indicates that bad-faith examination in trademark law is becoming more thorough, and that attempts to register elements of popular culture will be subjected to stricter review.

Ultimately, the Court of Appeal upheld both the annulment of the Turkish Patent and Trademark Office Appeal Board's decision and the judgment declaring the contested trademark invalid. This decision constitutes strong precedent for similar disputes in practice and demonstrates that Articles 6/6 and 6/9 of IPL provide effective protection against the registration of cinematographic works, characters, and other elements of popular culture as trademarks by unrelated parties even after long time has passed.

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