

Kluwer Trademark Blog

ALL QUIET ON THE TÜRKPATENT FRONT

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For some time, brand owners and practitioners in Turkey have been waiting for three things to be moved forward before TÜRKPATENT, namely (1) administrative non-use cancellation proceedings, (2) an updated 2024 PTO fee schedule and (3) a new edition of entry exam to the profession. However, TÜRKPATENT has been remarkably silent. Here is a summary of what has been going on.

ADMINISTRATIVE NON-USE CANCELLATION

The Turkish IP Code no 6769 (the Code) entered into force on 10 January 2017. In short the Code was saying that TÜRKPATENT's (the PTO) authority to handle non-use cancellation claims would commence seven years after the publication date of the Code and that during those seven years the Courts would keep handling such cases.

Therefore, since 10 January 2024, TÜRKPATENT would have been examining non-use cancellation claims. However, the system is not really functioning at the moment.

In order to examine cancellation requests due to non-use, TÜRKPATENT needs a Regulation. Unfortunately, the draft Regulation was shared with the public only in October 2023, and only one week time was given to NGOs for submitting comments. And even though the relevant NGOs conveyed their views and comments to TÜRKPATENT within the given short time period, the Regulation has not been enacted yet.

Meanwhile, only a few days before 10 January, an electronic form for filing non-use cancellation was uploaded on TÜRKPATENT's system. Right now there is indeed a form where you can fill in and claim cancellation of a mark due to non-use. However, when submitting the form you are not asked for payment of any official fees, nor can your cancellation request be seen in the subject mark's records at the PTO. In short; you only submit a form but afterwards nothing happens. That

of course creates significant uncertainty.

OFFICIAL FEES 2024

Since the establishment of TÜRKPATENT, there has been no year without a clear announcement of the annual official fees. We always had TÜRKPATENT's Schedule of Charges on the first working day of every year. But this year, strangely, the PTO did not announce its official fees for 2024 in January. Even stranger, we could apply for all transactions as usual, but without knowing the fees to be paid until the last step. There was indeed a raise in the official fees but an updated list of charges was not provided. Meanwhile, a fee schedule has been made available for the 2024 fees; however, this seems to reflect only the raise of the Government Fees, but not that in PTO service fees. Contrary to many other systems, the Turkish system knows two types of government fees, one being the PTO service fees. There is therefore still some uncertainty about the overall fee

TRADEMARK AND PATENT ATTORNEYS EXAM

According to Turkish law, the exam to be a Trademark & Patent Attorney takes place every 2 years, and the date of the respective exams must be announced 2 months in advance. Yet, more than 2 years have passed since the last exam and no announcements have yet been made. This is unfortunate as it blocks access to the profession for an ever growing community of young practitioners.

WHY IS THAT?

Many people believe that TÜRKPATENT is the cause of the issues mentioned above, but in fairness, that does not seem to be the case.

Legally, TÜRKPATENT's service fees, the date of the trademark and patent attorney exam, and the PTO Regulations must be approved by TÜRKPATENT's Board of Directors. The Board members are appointed by the Presidential Office. However, there has been a shortage of members on the Board for a long time, and new appointments were expected to be made. Due to the lack of these appointments, TÜRKPATENT could not take action. Finally, the appointment of the two missing members was published in the Official Gazette dated 15 February 2024. We can therefore now expect progress on the issues mentioned above. Practitioners are particularly keen on finally kicking off the administrative cancellation, which will align Turkey more with the EU procedures.

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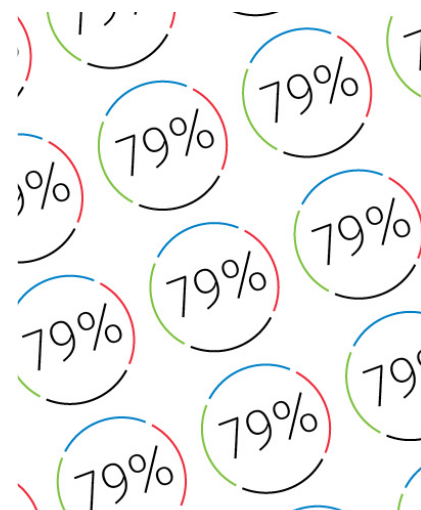
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