

Priority Rights in Turkish Law

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According to the Industrial Property Law, which entered into force on 10 January 2017, an enterprise of goods or services ensure distinguishing from or service goods other undertakings and brand owners to ensure protection of the subject it is turned on and including the names of persons, provided that shown on the register can provide an understanding of the exact words, shapes, colors, letters, numbers, to format the audio and goods or the packaging brand can be any kind of sign. A mark which is open to the public for the use of the mark is left to the person who registers him / her by registering. In this respect, an absolute right that can be put forward against everyone with a trademark right and compulsory by everyone is provided.

The necessity of international legislation has become compulsory because of the insufficiency of the national legislation to protect the trademarks. The first arrangement made in international legislation and on trademarks is the Paris Convention of 20 March 1883. The States which are parties to the Paris Convention have formed the Union for the protection of industrial property. It is stated that the States Parties to the Union will be able to benefit from the rights recognized by the State to its citizens in respect of industrial property, even if the citizens of the Union do not have any establishments or residence in one of the other Parties. Another important principle of the Convention is the right of priority. Under the agreement, the person applying for registration in any of the States in which the Union is located may benefit from the right to registration in the other States in twelve months for patent and utility model applications and six months for trademark and industrial designs. In the event of the use of the priority right within this period, applications made by third parties between the first application and the second application date to other states shall be deemed null and void.

A person who registers his trademark in one country may have an interest in the registration of the same mark in other countries. However, there is a risk that the mark may be registered or used by other parties during the period between registration in the first country and subsequent registration. The Paris Convention and the 'right of the right' organization have been put in place to ensure that the person who first registered the trademark and who wishes to protect the mark in other countries does not face the risks.

When we examine the terms of trademarks, we find that the right of the priority is defined in the Industrial Property Law No. 6769 and the Paris Convention. The right of preference is based on the Paris Convention. A trademark registered in any of the countries entered into the Paris Convention is a priority in other countries as well. The right of priority under Article 4 of the Paris Convention; The applicant has the right to have an application for the registration of the mark in one of the States including the Convention or to have the priority of the registration of the mark in the other member states within six months from the date of display together with the marks of the goods on display in any member state. In the meantime, unused rights are falling.

The right of rehabilitation is earned through registration or through exhibitions on the basis of an international agreement, as we have explained by way of example. The Industrial Property Law No. 6769 has given two priority rights. The first of these is the application or association priority arising from the application made in the foreign country (convention priority) and the second is the exhibition priority.

The priority of application is set out in article 12/1 of the Industrial Property Law No. 6769 as mentioned above. Pursuant to this Article, natural persons or legal entities or their successors who are in the territory of one of the States Parties to the Paris Convention or the World Trade Organization Foundation Agreement or who are not nationals of one of these States, within six months from the date of application for registration of their duly brand, but the brand under the Paris Convention provisions and take advantage of the priority in making applications for the same goods or services in Turkey. During this time, unused privileges are lost. In order to be able to benefit from the right of priority, it is obligatory to obtain a certificate of right from the competent authority of the first application.

The right of priority shall be demanded together with the application for registration. However, the exhibition of a mark with this goods or services carries with it a right of preference for the application and registration of that mark. Intellectual Property Law article goods or services to use the trademark subject to the application pursuant to 12/3 in Turkey opened a national or international exhibition or in the Paris Convention or the World Trade Organization Agreement on the State party in the drop-official or officially recognized with the brand in the international exhibition exhibiting and who submits the approved brands such as natural or legal persons referred to in Article 3 of the article, within six months from the date of application for registration of the same trademark in making exhibition in Turkey enjoy the right of priority.

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REFERENCES

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