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PRESIDENTIAL DECREE ON THE ORGANIZATION OF AFFILIATED, RELATED, ASSOCIATED INSTITUTIONS AND ORGANIZATIONS WITH MINISTRIES AND OTHER INSTITUTIONS AND ORGANIZATIONS (Related Articles)

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**CHAPTER TWENTY-SEVEN
Turkish Patent and Trademark Office**

Foundation and purpose

ARTICLE 358 – (1) In order to contribute to Türkiye's technological progress, to create a free competition environment within the country and to ensure the development of research and development activities, establishment of patents and trademarks and industrial property rights, providing protection in this regard and industrial property rights in the country and abroad Turkish Patent and Trademark Office with a legal personality, subject to the provisions of private law in cases not specified in this Section, affiliated to the Ministry of Industry and Technology, with a special budget, was established in order to make the existing information and documentation available to the public. Turkish Patent and Trademark Office is a public institution and its short name is "TÜRKPATENT".

(2) The headquarters of TÜRKPATENT is in Ankara.

Definitions

ARTICLE 359 - (1) In this Section;

- a) Ministry: The Ministry of Industry and Technology,
 - b) Presidency: Presidency of Turkish Patent and Trademark Office,
 - c) Advisory Board: Turkish Patent and Trademark Office Advisory Board,
 - ç) Institution: Turkish Patent and Trademark Office,
 - d) Board of Directors: Turkish Patent and Trademark Office Board of Directors,
- means.

Duties

ARTICLE 360 – (1) In order to contribute to the technological and industrial development of the country;

- a) Performs the registration of patents, utility models, brands, geographical indications, traditional product names, designs and integrated circuit topographies in accordance with the provisions of the relevant legislation and the protection of these rights.
- b) Performs mediation activities in compulsory license procedures and acts as an expert in courts.
- c) It registers and registers license and transfer agreements.
- ç) Follows the use of inventions; Evaluation of new technologies, directing and archiving of technology transfer.
- d) Conducts relations with the European Union, international organizations and foreign countries in the field of industrial property; cooperates.
- e) Represents Türkiye before international organizations with the approval of the Ministry.
- f) Contributes to the preparation of international agreements on industrial property rights by protecting the interests of the country and ensures the implementation of these agreements in Türkiye.

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g) It cooperates with national and international institutions and organizations related to technology and research and development and with data banks, establishes documentation centers and makes this information available to the public.

ğ) Makes publications on industrial property rights.

h) It carries out the necessary work to inform and direct individuals and organizations in the country on industrial property rights.

ı) Carries out studies to provide training to individuals and organizations in the field of industrial property at home and abroad; It supports educational activities and academic studies related to the subjects within its field of duty.

İ) Establish a company in the country or abroad with the decision of the President; may become a partner in established companies.

j) Performs other duties assigned by the legislation.

Bodies of the Institution

ARTICLE 361 - (1) The bodies of the institution are:

a) Board of Directors.

b) Advisory Board.

c) Presidency.

Board of Directors

ARTICLE 362 - (1) The Board of Directors is the highest level management and decision-making body of the Institution.

(2) Board of Directors; It consists of seven members, one each from the Ministry of Justice and the Ministry of Treasury and Finance, three members to be determined by the Ministry of Industry and Technology, the President of the Institution and a Vice President. **(Additional sentences:RG-10/5/2019-30770-CK-35/2 art.)** The term of office of the members of the Board of Directors, excluding the Chairman, is three years. Members whose term of office expires can be re-elected. In case the Vice President's term ends, his membership in the Board of Directors also ends.

(3) The President of the Institution is also the Chairman of the Board of Directors. **(Additional sentence: RG-10/5/2019-30770-CK-35/2 art.)** In the absence of the President, the Vice President shall act as the President.

(4) The working procedures and principles of the Board of Directors are determined by a regulation issued by the Ministry.

Duties and powers of the Board of Directors

ARTICLE 363 – (1) The Board of Directors ensures the fulfilment of the duties assigned to the Authority by this Section and other legislation. To this end;

a) Takes all necessary measures in order for the Institution to operate regularly, efficiently and effectively in administrative, financial and technical terms. It ensures that the regulations to be prepared in order to bring efficiency to the functioning of the Institution enter into force with the approval of the Ministry.

b) Ensures the implementation of the legislation related to the Institution.

c) Approves the budget of the institution.

ç) Discusses and decides on the prepared activity report and financial report.

d) Prepares short and long-term work programs in line with plans and annual programs on industrial property rights and technological progress, identifies research topics and puts them into practice.

e) Prepares the fee schedules to be charged for the services to be provided by the Institution and puts them into practice upon the approval of the Ministry of Industry and Technology.

f) It decides on the appointment proposals to be made by the President.

g) Calls the Advisory Board to a meeting when necessary.

ğ) Discusses and decides on the recommendations of the Advisory Board.

h) It decides to organize national and international seminars, symposiums, open sessions, conferences and similar issues in order to inform the public about the issues falling within the scope of the Authority and to receive the opinions of the concerned.

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- 1) Establishes temporary or permanent specialized commissions consisting of experts in this field in order to receive opinions on industrial property rights, when needed.
- i) Decides to construct buildings for the needs of the Institution, to purchase or lease movable and immovable properties, and to sell or rent them when necessary.
- (2) The Board of Directors convenes at least once a month upon the agenda and invitation to be prepared by the Chairman.
- (3) The memberships of those who do not attend four meetings or three consecutive meetings within a year without a valid excuse accepted by the Board of Directors are automatically terminated without the need for any action, and new members are appointed in the same manner.
- (4) The Board of Directors convenes with at least four members; decisions are taken in the direction of the absolute majority of the members attending the meeting. In case of equality of votes, the vote of the Chairman is doubled.
- (5) (**Annex: OG-10/5/2019-30770-CK-35/3 art .**) To the Chairman and members of the Board of Directors for each meeting (9000) for not more than three per month, according to the additional article 29 of the Decree Law No. 375. Attendance fee is paid in the amount to be found as a result of multiplying the indicator figure with the civil servant monthly coefficient.

Advisory Board

ARTICLE 364 - (1) The Institution's Advisory Board; Representatives of ministries and public institutions and organizations to be determined by the Ministry, as well as the Turkish Exporters Assembly, the Union of Chambers and Commodity Exchanges of Türkiye, the Union of Chambers of Turkish Engineers and Architects, the Turkish Medical Association, the Turkish Veterinary Medical Association, the Turkish Pharmacists' Association, the Confederation of Turkish Tradesmen and Craftsmen and has the highest number of members. It consists of one member each from the labor and employer union confederations and five members to be determined from universities by the Council of Higher Education.

(2) The Board of Directors may invite experts to the Advisory Board meetings as needed.

(3) The term of membership in the Advisory Board is two years. Members whose term of office has expired can be re-elected.

(4) Working procedures and principles of the Advisory Board are determined by regulation.

(5) The Advisory Board convenes at least once a year. The Minister of Industry and Technology or the person to be appointed shall preside over the meetings.

Duties of the Advisory Board

ARTICLE 365 – (1) Within the framework of the Agency's activities and in order to assist the Agency, the Advisory Board provides opinions and advises on the Agency's working principles, annual report, budget and work programs regarding Türkiye's technological development, the effective protection of industrial property rights, and the creation of a competitive environment.

Presidency

ARTICLE 366 - (1) The President is the highest supervisor of the Institution and represents the Institution. The Presidency consists of the President and two Vice Presidents.

(2) The President is responsible for the execution of the Agency's services in accordance with the relevant legislation, international agreements on industrial property rights to which Türkiye is a party, plans and annual programs, and the decisions of the Board of Directors, and to ensure cooperation and coordination with national and international institutions and organizations in matters falling within the Agency's field of activity. . Minister; It prepares the budget, activity report and financial report of the institution and submits it to the approval of the Board of Directors. The President is responsible for the transactions of the employees of the Institution and is in charge and authorized to audit the activities and accounts of the Institution.

Intellectual Property Academy and Industrial Property Rights Training Center

ARTICLE 367 – (1) Intellectual Property Academy was established to carry out training, consultancy, research and coordination activities related to intellectual property rights, and Industrial Property Rights

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Training Center was established within the Institution to carry out training activities related to industrial property rights.

(2) Training activities on copyrights within the Academy are carried out by the Copyright Training Center of the Ministry of Culture and Tourism, and training activities on industrial property rights are carried out by the Turkish Patent and Trademark Institute Industrial Property Rights Training Center. Expenses related to education centers are covered by the Ministry of Culture and Tourism or the Institution, depending on their interest.

(3) An Executive Board is formed to plan and advise on the training and research activities to be carried out at the Intellectual Property Academy. This Board; A representative from the institution, a representative from the relevant unit of the Ministry of Culture and Tourism, two university lecturers, one specialized in industrial property rights and the other in copyright, a patent or trademark attorney, a sector representative operating in the field of copyrights, and members of the relevant department by the Supreme Court with their consent. It consists of eight members, one member determined from among the judges and a judge who works in civil or criminal courts on intellectual and industrial property rights determined by the relevant department of the Council of Judges and Prosecutors. The Intellectual Property Academy Executive Board meetings are held under the co-chairmanship of the Institution representative and the Ministry of Culture and Tourism representative. Members other than the members of the Court of Cassation and the judge are appointed by the Ministry of Culture and Tourism and the Institution, according to their interests. Members are appointed for three years. Those whose term of office has expired can be reappointed.

(4) The working principles and procedures of the Intellectual Property Academy Executive Board and training centers, secretariat services, fees received for services rendered, subjects related to training activities and other matters shall be determined by the regulation put into effect jointly by the Ministry of Culture and Tourism and the Institution.

Service units

ARTICLE 368 - (1) The service units of the Institution are as follows:

- a) Department of Patents.
- b) Department of Trademarks.
- c) Department of Designs.
- ç) Department of European Union and Foreign Relations.
- d) Department of Innovation and Promotion.
- e) Department of Geographical Indications.
- f) Re-examination and Evaluation Department.
- g) Personnel Department.
- ğ) Support Services Department.
- h) Department of Information Processing.
- ı) Strategy Development Department.
- i) Legal Consultancy Department.

Department of Patents

ARTICLE 369 - (1) Department of Patents;

- a) Registration, filing, research, examination, evaluation and registration procedures of patent applications in accordance with the provisions of the relevant legislation,
 - b) Transactions of patents and patent registration applications regarding license, transfer and other changes in accordance with the provisions of the relevant legislation,
 - c) Announcement, classification and registration procedures of patents,
 - ç) Other works to be assigned by the Presidency,
- it does.

Department of Brands

ARTICLE 370 – (one) Department of Brands;

- a) Registration, filing, research, examination, evaluation and registration procedures of trademark applications in accordance with the provisions of the relevant legislation,

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- b) Transactions of trademarks and trademark registration applications regarding licensing, transfer and other changes in accordance with the provisions of the relevant legislation,
- c) Announcement, classification and registration procedures of trademarks,
- ç) According to the provisions of the relevant legislation, the processes of protecting the signs and phrases with certain qualities, determining and putting into practice the principles related to the well-known level of the brands,
- d) Other works to be assigned by the Presidency, it does.

Department of Designs

ARTICLE 371 - (1) Department of Designs;

- a) It carries out the registration, filing, research, examination, evaluation and registration procedures of the registration applications of the designs in accordance with the provisions of the relevant legislation.
- b) It carries out the procedures related to licensing, transfer and other changes of designs and design applications in accordance with the provisions of the relevant legislation.
- c) Performs the announcement, classification and registration of designs.
- ç) Conducts the secretariat of the Turkish Design Advisory Council.
- d) Performs other tasks assigned by the Presidency.

Department of European Union and Foreign Relations

ARTICLE 372 - (1) Department of European Union and Foreign Relations;

- a) In matters falling within the scope of the European Union's jurisdiction; It makes the preparations for the negotiations, participates in the meetings, and ensures the coordination between the Institution units regarding these issues.
- b) Conducts and coordinates relations with foreign countries and international organizations on matters falling within the Agency's field of duty, assists in the preparation of bilateral and multilateral cooperation agreements, regional cooperation agreements and protocols.
- c) It monitors and examines the legislation of foreign countries and international agreements falling under the jurisdiction of the Agency and carries out the necessary work to fulfill its obligations.
- ç) Performs other tasks assigned by the Presidency.

Department of Innovation and Promotion

ARTICLE 373 - (1) Department of Innovation and Promotion;

- a) In order to generate value for the country's economy from industrial property rights, it carries out activities such as determining the assets and usage patterns of real and legal persons that are or may be subject to industrial property, following the relevant sectors, conducting studies and similar activities.
- b) Conducts studies on the value and economic effects of industrial property assets.
- c) It carries out commercialization activities such as the detection of new technologies and intermediation in technology transfer transactions.
- ç) Collects, classifies and makes available to the public all data obtained as a result of innovation support activities.
- d) Provides consultancy services on issues falling within the scope of innovation support activities.
- e) Prepares documentary, concept and promotional films and materials in all kinds of media, including legislation, application guides, brochures and industrial property rights related to the duties of the Authority, and carries out the publication of these.
- f) Determines, plans and implements targets and strategies regarding the promotion of industrial property rights.
- g) It organizes all kinds of training activities, seminars, conferences, symposiums and similar activities related to industrial property rights, and carries out the preparations for participation in fairs.
- ğ) It carries out the necessary cooperation studies for the information and document units of the Institution to operate.
- h) Performs other tasks assigned by the Presidency.

Department of Geographical Indications

ARTICLE 374- (1) Department of Geographical Indications;

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- a) Performs the registration, research, examination, evaluation and registration of geographical indications and traditional product names,
- b) Performs the announcement and registration of geographical indications and traditional product names,
- c) Performs other tasks assigned by the Presidency.

Department of Re-examination and Evaluation

ARTICLE 375 – (1) Against the final decisions of the Re-examination and Evaluation Department, the relevant department regarding the transactions related to industrial property rights and traditional product names, within two months from the notification date of the decision, the persons who are the parties to the transactions and whose interests are affected by the decision. It carries out the examination and evaluation of the objections to be made directly under the President of the Institution.

(2) Decisions on the subject that is requested to be re-examined and evaluated are taken by the Board, which is formed with the participation of at least two expert members, who are experts in the subject to be re-examined and evaluated, and who are not responsible for the decision of the Institution subject to objection.

Personnel Department

ARTICLE 376 - (1) Personnel Department;

- a) It carries out the services related to the employment contracts, staff, promotion, duty, travel, health, leave and similar personnel procedures of the personnel working within the institution.
- b) Performs works related to social services and in-service training.
- c) Performs other tasks assigned by the Presidency.

Support Services Department

ARTICLE 377 - (1) Support Services Department;

- a) Carries out leasing and purchasing works within the framework of the provisions of the Public Financial Management and Control Law No. 5018 dated 10/12/2003; cleaning, security, lighting, heating, repair, transportation and similar services.
- b) Organizes and carries out general document and archive activities.
- c) It carries out the transactions regarding the movable and immovable properties of the Institution within the framework of the relevant legislation.
- ç) Plans and executes the civil defense and mobilization services of the Institution.
- d) Carries out library services.
- e) Performs other tasks assigned by the Presidency.

Information Processing Department

ARTICLE 378 - (1) Department of Information Processing;

- a) By following the information technologies, it determines the automation strategies of the Institution, takes the measures required by the information security, and produces solutions in accordance with the public information standards.
- b) Carries out the information processing services of the Institution.
- c) Performs technical studies on the internet pages of the Institution, electronic signature and electronic document applications.
- ç) Collects information about the services of the Institution and creates databases.
- d) It carries out the works related to the establishment, maintenance, supply, development and updating of the existing information processing infrastructure of the institution, and ensures communication security.
- e) Provides data transfer between the Authority, documentation centers and national and international organizations with which it cooperates, establishes and develops the technical coordination required for electronic communication.
- f) Collects and evaluates information on industrial property rights obtained from domestic and foreign sources electronically and makes it available to the relevant units.
- g) Performs other tasks assigned by the Presidency.

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Strategy Development Department

ARTICLE 379 - (1) Strategy Development Department;

- a) Performs the duties assigned to strategy development and financial services units by Law No. 5018, Law No. 5436 of 22/12/2005 and other legislation.
- b) Performs other tasks assigned by the Presidency.

Legal Consultancy Department

ARTICLE 380 - (1) Legal Consultancy Department;

- a) Performs the duties assigned to the legal units in accordance with the provisions of the Decree-Law on the Execution of Legal Services in Public Administrations and Special Budgeted Administrations, dated 26/9/2011 and numbered 659.
- b) Performs other tasks assigned by the Presidency.

Revenues, expenses and budget

ARTICLE 381 - (1) The revenues of the institution are:

- a) Fees to be collected for the services to be performed by the Institution.
 - b) Aids from the general budget.
 - c) All kinds of aid and donations.
 - ç) Revenues of immovable property belonging to the Institution.
 - d) Revenues to be obtained by profiting from the above-mentioned revenues.
 - e) Other income.
- (2) The income and expenditure surplus of the institution is transferred to the next year's budget.
- (3) The expenses of the institution and the payment of the tuition fees to the trainers are met from the budget to be approved by the Board of Directors.

Expert employment

ARTICLE 382- (1) In accordance with the additional article 41 of the Civil Servants Law dated 14/7/1965 and numbered 657, Assistant Industrial Property Experts and Industrial Property Experts can be employed in the Presidency.

Personnel

ARTICLE 383 - (1) Considering the needs of the Institution, local and foreign experts can be employed in accordance with the additional article 26 of the Decree-Law dated 27/6/1989 and numbered 375.

- (2) Works and services that require a certain expertise can be performed within the framework of the exemption agreement in accordance with the supplementary article 31 of the Decree Law No. 375.
- (3) The Authority may benefit from the services of domestic and foreign institutions in the execution of transactions regarding industrial property rights. The fees for the services to be benefited in this way are collected by the Authority together with the fees for the services to be rendered by the Authority, and the payments to the relevant institutions are made by the Authority.