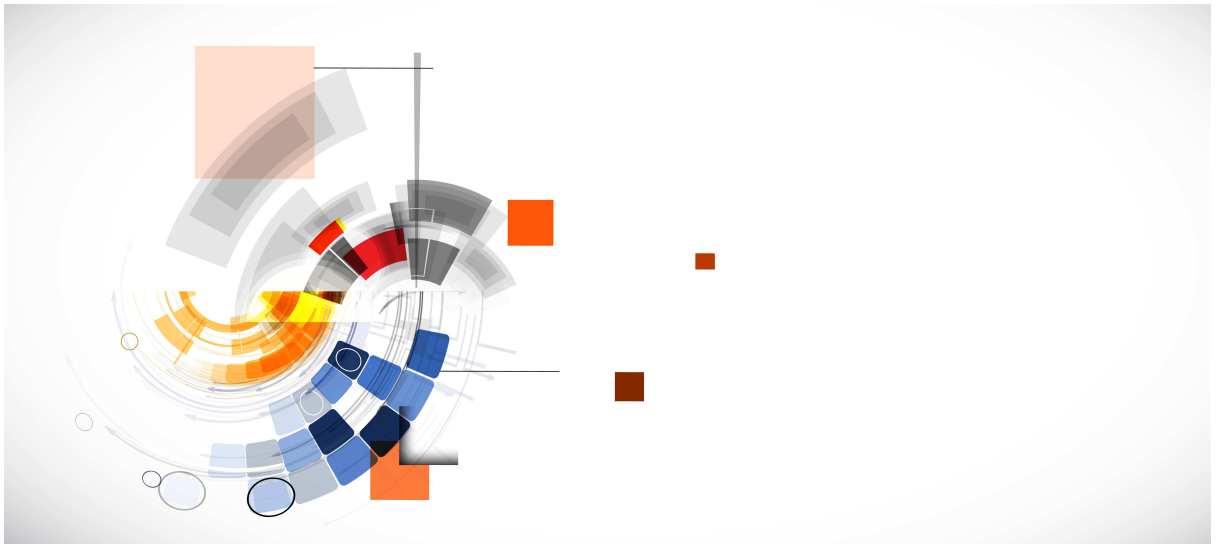


Trademark – News (*)

The Refusal Grounds for Trademarks

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(*) Turkey's new Draft IP Law is before the Parliament

The Refusal Grounds for Trademarks

Current Legislation

The *Absolute Grounds* and *Relative Grounds* for refusal provisions within the current Decree-Law No. 556 on the Protection of Trademarks, was mainly reflecting First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks.

Proposed Changes by the Draft IP Law

The draft introduced new ground for absolute refusal regarding “**the registered geographical indications**” and will entitle the Turkish Patent Institute to ex-officio refuse all indications that are composed of or containing “**registered geographical indication**”.

Secondly, the “**bad faith**” has become a clear ground for relative refusal within the opposition proceedings.

Lastly, the *Absolute Grounds* of refusal of a trademark application based on “**unregistered well-known mark**” (in accordance with Article 6bis Paris Convention) has been transformed to a *Relative Grounds* of refusal.

Comment

The introduction of “**registered geographical indication**” as an *Absolute Grounds* for refusal is welcoming as it reinforces the GI protection in this jurisdiction and serve to prevent, in first place, the legal uncertainty regarding the relation between these two protection types.

Categorizing the “**bad faith**” claim as an independent ground of refusal reflects the established jurisprudence made by several court decisions recognizing the “**bad faith**” claim as a ground for refusal.

The obligation to ex-officio refuse an “**unregistered well-known mark**” was an undue burden for Turkish Patent Institute in accordance with the international trends.