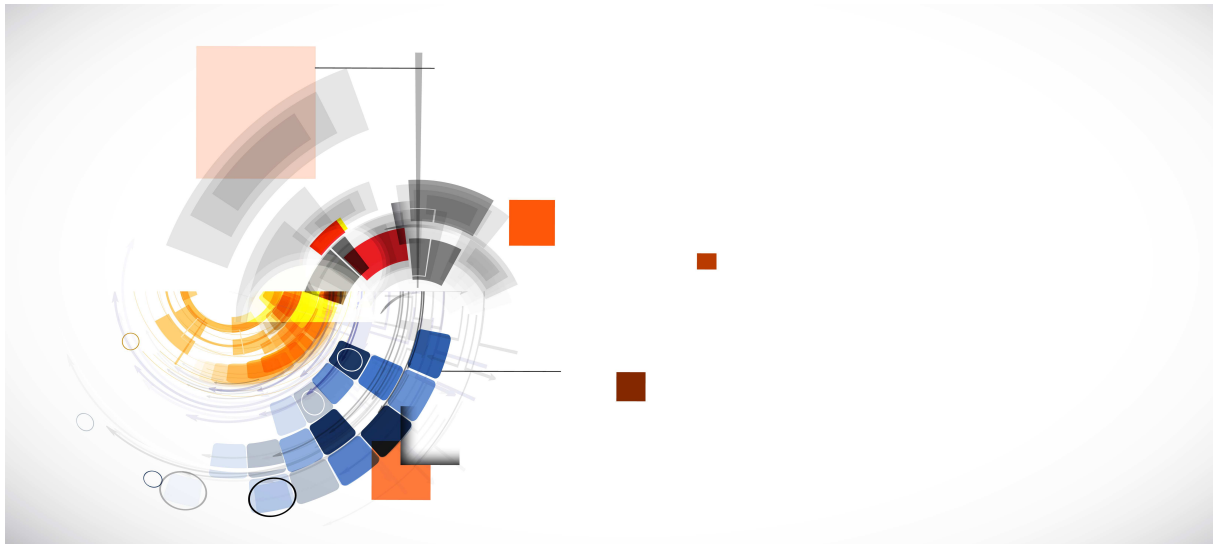


## Patent – News (\*)

### A totally new stage : Post Grant Opposition

Muazzez Korutürk, Canan Öztürker, Sertaç Köksaldı / 20 December 2016

Deris IP Attorneys



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

## A totally new stage : Post-Grant Opposition

### Current Legislation

The current Decree Law No. 551 on Protection of Patent Rights did not have any regulations enabling third parties to oppose against patent grant decisions.

### Proposed Changes by the Draft IP Law

The proposed draft of IP Code introduces a whole new stage of post-grant opposition.

#### 1. Grounds of Opposition:

- the invention is not novel/does not include an inventive step/is not susceptible of industrial application,
- the subject matter of invention is excluded from patentability,
- the invention subject to the patent in dispute lacks of sufficient disclosure
- the invention contains subject-matter which extends beyond the content of the application as filed

#### 2. Procedural Steps:

Third parties may oppose to a granted patent within 6 months upon its publication. Once the opposition is filed, the Turkish Patent Institute notifies and invites the patentee to file his observations or amend the patent upon his notification with the filed opposition. Both the opposition and the patentee's observations and amendments are examined by the Board to be established at the Turkish Patent Institute. The outcome of the opposition proceedings may be revocation, refusal or partial revocation.

The amended patent will be published if the patentee approves the amended text within 2 months.

### Comment

National patent applications filed before the enactment of the IP Law will be treated in accordance with the provisions of the Decree Law No. 551 on Protection of Patent Rights. International patent applications entered into national phase before the enactment of the IP Law will be granted according to the Law in force at that time.

The composition of the Board and other procedural rules will be clarified with the implementing regulations.

The Turkish Patent Institute became an international search authority with an improved technical competence. Therefore, we are of the opinion that the post grant opposition will be a cost and time effective option against competitor patents.

The short time limit of 6 months to oppose needs to streamline the process internally in order to compete with this time pressure. Deris reconstructed its operation line in this respect, to inform his clients of the grant decisions of competitor patents for its clients.