

*\* This English translation is for informative purposes only and not an authentic translation of the original Turkish texts.*

**LAW ON PATENT AND TRADEMARK ATTORNEYSHIP AND CERTAIN  
REGULATIONS<sup>1</sup>**

**Law Number** : 5000  
**Acceptance Date** : 6/11/2003  
**Official Gazette Published** : Date: 19/11/2003 Number: 25294  
**Published Code** : Arrangement: 5 Volume: 42

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**Foundation and purpose**  
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<sup>1</sup>While the name of this Law is “The Law on the Establishment and Duties of the Turkish Patent Institute (The Law on the Amendment of the Decree Law on the Establishment and Duties of the Turkish Patent Institute with the Amendment of the Decree Law and the Annex of the Decree on the General Staff and Procedure Amendments to the Schedules and the Law on Civil Servants)”, 22/ It has been amended as “Law on the Establishment and Duties of Turkish Patent and Trademark Office” with Article 188 of the Law No. 6769 dated 12/2016, and then changed as it was included in the text with Article 86 of the Decree Law No. 703 dated 2/7/2018 .

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**PART TWO**

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**FIRST PART**

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**Main Service Units**

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**Department of Brands**

**Article 13- (Repealed: 2/7/2018-KHK-703/86 art. )**

**Department of Designs<sup>3</sup>**

**Article 14- (Repealed: 2/7/2018-KHK-703/86 art. )**

**Department of European Union and Foreign Relations<sup>4</sup>**

**Article 15- (Repealed: 2/7/2018-KHK-703/86 art. )**

**Department of Innovation and Promotion**

**Article 15/A- (Added: 22/12/2016-6769/172 art. ; Abolished: 2/7/2018-KHK-703/86 art. )**

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<sup>2</sup>While the title of this article was "Re-examination and Evaluation Board", it was changed as it was written in the text with Article 168 of the Law No. 6769 dated 22/12/2016.

<sup>3</sup>While the title of this article was "Department of Industrial Designs", it was changed as it is in the text with Article 170 of the Law No. 6769 dated 22/12/2016.

<sup>4</sup>While the title of this article was "Department of International Relations", it was changed as it is in the text with Article 171 of the Law No. 6769 dated 22/12/2016.

**Department of Geographical Indications**

**Article 15/B- (Added: 22/12/2016-6769/172 art. ; Abolished: 2/7/2018-KHK-703/86 art. )**

**Department of Re-examination and Evaluation**

**Article 15/C- (Added: 22/12/2016-6769/172 art. )**

**(Repealed first paragraph: 2/7/2018-KHK-703/86 art. )**

**(Repealed second paragraph: 2/7/2018-KHK-703/86 art. )**

The decisions of the Re-examination and Evaluation Department are the final decisions of the Institution. Against these decisions, a lawsuit can be filed in Ankara Civil Court of Intellectual and Industrial Rights within two months from the notification date of the decision. The decision regarding the annulment of the decisions of the Re-examination and Evaluation Board cannot be executed until it is finalized. This provision is also applied to the associates of the writ. The statute of limitations for the aforementioned writs starts from the date of finalization of the decision.

**SECOND PART**

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**Auxiliary Service Units**

**Article 16- (Repealed: 2/7/2018-KHK-703/86 art. )**

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**Article 17- (Repealed: 2/7/2018-KHK-703/86 art. )**

**Support Services Department<sup>5</sup>**

**Article 18- (Repealed: 2/7/2018-KHK-703/86 art. )**

**Information Processing Department<sup>6</sup>**

**Article 19- (Repealed: 2/7/2018-KHK-703/86 art. )**

**advisory units**

**Article 20- (Repealed: 2/7/2018-KHK-703/86 art. )**

**Research, Planning and Coordination Department**

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<sup>5</sup>While the title of this article was "Administrative and Financial Affairs Department", it was changed as it is in the text with Article 174 of the Law No. 6769 dated 22/12/2016.

<sup>6</sup>While the title of this article was "Information, Documentation and Data Processing Department", it was changed as it is in the text with Article 175 of the Law No. 6769 dated 22/12/2016.

**Article 21- (Repealed: 22/12/2005-5436/17 art. )**

**Legal Consultancy**

**Article 22- (Repealed: 2/7/2018-KHK-703/86 art. )**

**Strategy Development Department**  
**Article 22/A- (Added: 22/12/2016-6769/178 art. ; Abolished: 2/7/2018-KHK-703/86 art. )**

### **PART THREE**

#### **Appointment Conditions, Budget and Staff**

##### **FIRST PART**

###### **Appointment Conditions**

###### **Appointment conditions**

**Article 23- (Repealed: 2/7/2018-KHK-703/86 art. )**

##### **SECOND PART**

###### **Audit, Revenues, Expenses and Budget**

###### **Audit**

**Article 24- (Repealed: 2/7/2018-KHK-703/86 art. )**

###### **Revenues, expenses and budget<sup>7</sup>**

**Article 25- (Repealed first paragraph: 2/7/2018-KHK-703/86 art. )**

**(Repealed second paragraph: 2/7/2018-KHK-703/86 art. )**

The income, transactions and real estates of the institution are exempt from all kinds of taxes, duties and fees, no guarantee is sought in lawsuits.

**(Abrogated fourth paragraph: 2/7/2018-KHK-703/86 art. )**

, the amount of fees specified in the tariff number 8 of the Fees Law dated 2.7.1964 and numbered 492 is collected by the Institute together with the fees to be collected for the services to be performed by the Institute, and the fees collected in this way are transferred to the Ministry of Finance on a monthly basis.

##### **THIRD PART**

###### **Employee**

###### **Employee**

**Article 26- (Repealed: 2/7/2018-KHK-703/86 art. )**

###### **Staff of the institute**

**Article 27- (Repealed: 2/7/2018-KHK-703/86 art. )**

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<sup>7</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrase "Institute" in the third, fourth and fifth paragraphs of this article has been changed to "Institution", and the phrase "Institute" in the fifth paragraph has been changed to "Institution".

**PART FOUR**  
**Other Provisions**

**Provisions that will not apply<sup>89</sup>**

**Article 28-** The provisions of the General Accounting Law dated 26.5.1927 and numbered 1050 shall not apply to the works and transactions envisaged to be carried out by the Institution established by this Law . The property of the Institution is considered as State property. <sup>(8)</sup>

**regulations**

**Article 29- (Repealed: 2/7/2018-KHK-703/86 art. )**

**Persons authorized to act as a proxy before the Institute**

**Article 30- (Amendment: 22/12/2016-6769/181 art. )**

Natural or legal persons authorized to provide consultancy on industrial property rights and traditional product names and to act on behalf of applicants before the Authority, patent attorneys on patents, utility models and integrated circuit topography; brand attorneys for brands, geographical indications and traditional product names; on design, they are both patent attorneys and trademark attorneys.

In order to be a patent attorney or trademark attorney, real persons must meet the following conditions:

- a) Being a citizen of the Republic of Türkiye.
- b) To have the capacity to act.
- c) To graduate from one of the higher education institutions that provide at least four years of undergraduate education or from one of the higher education institutions abroad whose equivalence is accepted by the competent authorities.
- d) Even if the periods specified in Article 53 of the Turkish Penal Code dated 26/9/2004 and numbered 5237 have passed, a prison sentence of five years or more for an intentionally committed crime or even if pardoned, crimes against the security of the State, the constitutional order and this not to be convicted of crimes against the functioning of the order, embezzlement, extortion, bribery, theft, fraud, forgery, abuse of trust, fraudulent bankruptcy, rigging the tender, rigging the performance of the performance, laundering the assets arising from the crime or smuggling.

e) Having a residence in Türkiye.

f) To be successful in patent attorney or trademark attorney exams.

for a legal entity patent attorney or trademark attorney to be established as a limited liability or joint stock company in accordance with the laws of the Republic of Türkiye, the

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<sup>8</sup>Regarding the implementation of this article, see article 81 of the Law No. 5018 dated 10/12/2003.

<sup>9</sup>With Article 188 of the Law No. 6769 dated 22/12/2016, the phrase "Institute" in the first paragraph of this article was changed to "Institution" and the phrase "Institute" as "Institution".

business subject to cover the patent attorney or brand attorney activity, and the patent attorney or trademark attorney must be represented by real persons. Even if a real person attorney is a partner or employee of more than one legal entity attorney, he/she can use his/her power of attorney to represent only one legal entity attorney. Those who use their power of attorney in this way cannot act as a proxy as a real person. A real person attorney is jointly and severally liable to the person giving power of attorney together with the legal entity representative he/she represents, provided that personal criminal responsibility is reserved .

Patent attorney and trademark attorney exams are held every two years by the decision of the Board of Directors. Those who meet the conditions specified in subparagraphs (a), (b), (c) and (d) of the second paragraph are accepted to the exam.

The winners of the patent attorneyship or trademark attorneyship exams are required to register in the Patent Attorneys Registry to be able to act as patent attorneys, and to the Trademark Attorneys Registry to be able to act as trademark attorneys. The duration and amount of the professional liability insurance required for registration and renewal of registration is determined by the Board of Directors.

The procedures and principles regarding the examination and registration procedures related to patent attorneyship and trademark attorneyship, and other matters related to patent attorneyship and trademark attorneyship are regulated by a regulation.

Exam, document issuance, registration and registration renewal fees for patent attorneyship and trademark attorneyship are determined by the Authority.

Regarding the power of attorney, in cases where there is no provision in this Law, the provisions of the Turkish Code of Obligations dated 11/1/2011 and numbered 6098 shall apply.

### **Disciplinary penalties, acts to be penalized and disciplinary committee**

#### **Article 30/A- (Annex: 22/12/2016-6769/182 art. )**

The disciplinary punishments written in this Law are applied to those who act and behave in violation of the professional rules of patent attorney and trademark attorneyship, which are prepared by the Institution after taking the opinion of the Union of Chambers and Commodity Exchanges of Türkiye and the agency with the highest number of members, and published on the official website of the Institution, and those who do not perform the duties required by attorneyship.

Disciplinary penalties to be given to patent attorneys and trademark attorneys and the acts and situations to which disciplinary punishment will be applied are as follows:

a) Warning: It is a written notification that more care should be taken in the execution of the attorneyship and in professional attitudes and behaviors. A warning penalty is imposed on deputies who behave and behave in violation of the professional rules.

b) Reprimand: It is a written notification of fault in the execution of the attorneyship and professional attitudes and behaviors. A reprimand is imposed on those who receive a warning but commit an act requiring the same penalty within two years, or fail to fulfill the obligations required by the attorneyship, or act as attorneys for parties whose interests are

opposite in any transaction carried out before the Institution.

c) Temporary detention from acting as an attorney: It is prohibited from acting as an attorney for not less than three months and no more than one year. A temporary detention penalty is imposed on attorneys who receive a reprimand but commit the same penalty within five years, or who use the rights and powers of attorneyship with an example contrary to the original of the power of attorney, or who use the title, internet domain name or other means of promotion belonging to the Institution in a way that causes confusion. .

d) Removal from attorneyship: It is an indefinite ban from attorneyship activity. A penalty of dismissal from attorneyship is applied to those who are temporarily suspended from acting as attorneys and act within five years that require the same punishment.

If an investigation is not initiated within three months from the moment it is learned that the acts and conditions listed in the second paragraph have been committed, and if a disciplinary punishment is not given within two years from the date of committing the acts and conditions that require punishment, the authority to impose disciplinary punishment shall be time-barred.

Penalties within the scope of the second paragraph must be given within thirty days following the completion of the investigation.

No disciplinary punishment can be given to the attorneys without their defense. The attorney who fails to make his defense within the time period given by the investigator or on the specified date, not less than seven days, shall be deemed to have waived his right of defense.

Disciplinary penalties take effect from the date they are given and are applied immediately.

Administrative jurisdiction may be appealed against the decision to impose or not to impose a disciplinary penalty. Those who are dismissed from patent attorneyship or trademark attorneyship as a result of a finalized disciplinary decision cannot be a patent attorney or trademark attorney again.

Patent and Trademark Attorneys Disciplinary Board; It consists of a total of seven people, including one member from the Ministry, three members from the Institute, and three members from patent attorneys or trademark attorneys who have practiced their profession for at least five years and have not received one of the penalties specified in the second paragraph with a decision given by the Disciplinary Board. Alternate members are determined in the same number and on the same basis. All members are appointed by the Minister of Science, Industry and Technology. While the President of the Institution proposes the members to be selected among patent attorneys or trademark attorneys to the Ministry, he receives the opinion of the two chambers of commerce with the highest number of members and the two associations with the highest number of members.

The term of office of the members of the Disciplinary Board is three years. In the event that a lawsuit is filed against one of the members for a crime specified in subparagraph (d) of the second paragraph of Article 30, this member cannot attend the meetings until the end of the lawsuit and an alternate member is replaced. The member who cannot attend the meeting due to a valid excuse must notify the excuse before the meeting date. The membership of the



member who does not attend two consecutive meetings without an excuse or loses his eligibility for being elected ends and an alternate member takes his place.

Procedures and principles regarding the Disciplinary Board, the procedure to be followed in the determination of acts that require disciplinary punishment and other matters related to discipline are regulated by a regulation.

**Trademark protection period for unpublished material**

**Article 31- (Annulled: With the Decision of the Constitutional Court dated 31/1/2008 and numbered E.: 2004/3, K.: 2008/47.)**

**Article 32-33- ( It is related to the Civil Servants Law No. 657 and has been replaced.)**

**rosters**

**Additional Article 1- (Added: 22/12/2016-6769/183 art. ; Abolished: 2/7/2018-KHK-703/86 art. )**

**Temporary Article 1- (Repealed: 2/7/2018-KHK-703/86 art. )**

**Temporary Article 2- (Repealed: 2/7/2018-KHK-703/86 art. )**

**Provisional Article 3- (Annex: 22/12/2016-6769/184 art. )<sup>10</sup>**

The duties of those who are in the positions of President, Vice-President and Head of Department in the list numbered (2) attached to the Law establishing this article shall expire on the effective date of this Law, and those who are in the positions of President of the Graduate School, Vice-President of the Institute in the order established by the attached list numbered (1). Head of the Turkish Patent and Trademark Office and Vice President of the Turkish Patent and Trademark Office, those who are in the positions of the head of the department are deemed to have been appointed to the consultancy positions established with the list (3) attached to the Law establishing this article. If the consultant positions created with the list (3) attached to the Law establishing this article are vacant for any reason, they are deemed to have been canceled without the need for any further action.

As per this article, the contract wage, wage, compensation, monthly, additional indicator, bonus (net amount corresponding to one month), all kinds of raises and compensations, which the personnel deemed to have been appointed to the consultancy staff received in the last month regarding their former staff as of the date of their appointment to the new staff, compensation, representation compensation, duty compensation, additional salary, supplementary payment, incentive payment and similar payments (excluding overtime wages and additional course fees due

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<sup>10</sup>Regarding the cadres in this article, see the Official Gazette dated 10/1/2017 and numbered 29944.

to actual work in accordance with the relevant legislation) taken); Contract fee, wage, compensation, monthly, additional indicator, bonus (net amount corresponding to one month), all kinds of raises and compensations, office compensation, representation compensation, duty compensation, additional salary, additional payment, incentive for newly appointed positions. In the event that the amount of the payment and all kinds of payments made under similar names are more than the total net amount (excluding overtime wages and additional course fees due to actual work in accordance with the relevant legislation), the difference amount is paid separately as compensation until the difference is closed, without being subject to any tax or deduction. The payment of difference compensation is terminated to those who have a voluntary change in the title of their assigned position and those who have been appointed to other institutions voluntarily.

The personnel working as patent specialist and trademark specialist at the Institute on the date of entry into force of this Law, and the personnel working as assistant patent specialist and assistant brand specialist are deemed to have been appointed to the cadres of industrial property assistant specialists, with their current staff degrees, without the need for any further action.

**Force**

**Article 34-** This Law enters into force on the date of its publication.

**Executive**

**Article 35-** The provisions of this Law are executed by the Council of Ministers.

**LEGISLATION BRINGING ADDITIONALS AND AMENDMENTS TO THE LAW  
NUMBER 5000 OR  
IMPLEMENTATION OF CONSTITUTIONAL COURT DECISIONS  
LIST SHOWING ENTRY DATES**

<b>Number of Amending Law/ Decree Law or Constitutional Court Decision</b>	<b>Amended or Canceled Articles of Law No. 5000</b>	<b>Effective Date</b>
5436	20, 21	24/12/2005
Decision of the Constitutional Court dated 31/1/2008 and numbered E.: 2004/3, K.: 2008/47	31	20/3/2008
Decree 666	26	2/11/2011 to be effective from 14/1/2012

6769	Name of the law, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 15/A, 15/B, 15/C, 16, 17, 18, 19, 20, 22, 22/A, 23, 24, 25, 26, 28, 29, 30, 30/A, Supplementary Article 1, Provisional Article 2, Temporary Article 3	10/1/2017
7061	3	5/12/2017
Decree/703	Name of the Law, 1 to 15 B, 15/C, 16 to 24, 25, 26, 27, 29, Supplementary Article 1, Provisional Article 1, Temporary Article 2	on 24/6/2018 together made Turkish Grand National Assembly And Presidency elections as a result President's swearing on duty started on the date (9/7/2018)