

SABA
INTELLECTUAL
PROPERTY

BULLETIN

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AFGHANISTAN

Update on the TMO

INDIA

New Amendments
to the Patent Law

TURKEY

What You Need to Know
About Customs Protection

By way of background, the TMO follows the 10th edition of the Nice classification, and trademark examination is performed on formal, absolute, and relative grounds.



INDIA | NEW AMENDMENTS TO THE PATENT LAW



In its ongoing efforts to advance the patent protection scene in the country, India recently published the Patents (Amendment) Rules of 2021, which amend the Patents Rules of 2003. The amendment now includes a new category, “eligible educational institutions.” Rule 2(ca) now defines an educational institution as “a university established or incorporated by or under Central Act, a Provincial Act, or a State Act, and includes any other educational institution as [recognized] by an authority designated by the Central Government or the State Government or the Union territories in this regard.” This means any eligible educational institution will benefit from reduced fees for the entire patent filing and prosecution, thereby incentivizing such establishments to apply for more patents, and bringing India a step closer to becoming a global player in patent filings.

It is worth noting that India has regularly been amending its Patents Rules in order to remove procedural inconsistencies and unnecessary hurdles in the processing of applications. These efforts, which began as far back as 2016, aim to accelerate the grant, registration, and final disposal of patents. More recently, in November 2020, India reduced the filing fees for start-ups and small entities. These efforts have helped expedite the grant, along with speeding up registration and final disposal process. Additionally, these reforms have helped decrease the time taken for the examination of patents.

With the addition of the “eligible educational institution” as a category that now benefits from these reduced fees, India is expected to be better positioned to foster innovation and increase patent filings by local and foreign educational institutions.

TURKEY | WHAT YOU NEED TO KNOW ABOUT CUSTOMS PROTECTION

Located at the crossroads of Asia and Europe, Turkey occupies a transcontinental position of significant importance, which bestows upon the country a considerable influence across the region and beyond. Turkey's largely free-market economy is driven by its industry and, increasingly, service sectors, although its traditional agriculture sector still accounts for about 25 percent of employment in the country.

The automotive, petrochemical, and electronics industries have risen in importance and surpassed the traditional textiles and clothing sectors, as has been evident in Turkey's exports in more recent years. Turkey's strategic geographic position makes it an important energy and logistics corridor, linking Europe with the Middle East, the Caucasus, and Central Asia.

In late 2016 Turkey announced the adoption of Law No. 6769 on the Protection of Industrial Property Rights (IP Law), which repealed and replaced the Decree Laws on Patents and Utility Models, on Trademark and Service marks, on Industrial Designs and Geographical Indications.

The new Law entered into force on the date of publication in the Official Gazette in January 2017.

Turkey is also party to several international conventions, of which include the Paris Convention, the Agreement on Trade-Related Aspects of Intellectual Property Rights, and the Berne Convention. Turkey also has specific national legislations that are on par and aligned with the standards set by the World Intellectual Property Organization (WIPO). These laws include Customs Law No. 4458.

Brand owners may benefit tremendously from the preventive measures available at their disposal from the Directorate General of Customs, better known by the Turkish acronym GGM (Gümrükler Genel Müdürlüğü), in order to fight against counterfeiting. As per the Customs Law, brand owners have the option of applying to the GGM, through an electronic portal for the seizure of infringing goods. Customs may act on an ex officio basis and seize suspected goods. In the event of an ex officio seizure,



TURKEY | WHAT YOU NEED TO KNOW ABOUT CUSTOMS PROTECTION



the Customs will inform the brand owner and invite them to authenticate the suspected products and take any necessary action. However, it is recommended to file the proper Customs recordal application, since the authorities concerned cannot always be relied on to take the necessary action.

Customs recordals, as aforementioned in the above, are filed with the GGM, which has jurisdiction over the protection of IP rights for all local customs administrations across Turkey. Applications are received by the GGM, which in turn shares the information to all Customs officials through the electronic portal. Customs recordals, which are valid for a period of one year, cover imports and exports, as well as goods in transit and in Free Trade Zones.

In the event suspected counterfeit goods are discovered, the Customs officers will notify the brand owner or their legal representative. The brand owner must then obtain samples or photos of the seized goods and request a preliminary injunction decision or criminal seizure order within 10 working days.

In case the brand owner confirms trademark counterfeiting, then a complaint can be filed before the Public Prosecutor to commence criminal proceedings or a preliminary injunction can be requested from the civil IP Courts for civil proceedings, otherwise Customs will release the suspected goods. Should both parties agree to the destruction of the seized counterfeit goods by the Customs, then a petition must be filed within 10 days of the seizure of the goods. Once submitted, then the destruction procedure can commence without a Court order.

Preventative measures, such as Customs recordal, are an important keystone that can offer strong and reliable protection for brand owners as the first line of defense. With that in mind, when planning to implement a strong enforcement strategy, brand owners must seek out a combined approach to tackle infringement or counterfeiting by utilizing all means necessary at the disposal in Turkey.

TURKEY

**THE BIGGER YOU GROW,
THE STRONGER WE GET**



90⁺
YEARS

50⁺
JURISDICTIONS

1
FIRM

COUNSELING | PROSECUTION | ENFORCEMENT

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