

Vital Changes in Turkish Trademark Law Landscape: Administrative Trademark Cancellations Are No Longer Suspended In Turkey And Other Key Amendments As Are Now In Force

Recent Developments on Administrative Cancellations and Fee Regulations:

On January 10, 2024, the authority for trademark cancellation actions was shifted from the IP courts to the Turkish Patent and Trademark Office ("**TPTO**"). Secondary regulations to establish the rules of the proceeding, however, was missing. Since January 2024, TPTO has been accepting administrative trademark cancellation requests as "preliminary applications" while awaiting further regulations to enter into force.

Long awaited "Regulation on the Amendment of the Implementing Regulation of the Industrial Property Law " ("**New Regulation**") was officially published in the Official Gazette on March 15, 2025.

In the same issue of the Official Gazette, the TPTO also published the "Communiqué on Amendments to the Communiqué on the Fee Schedule Applicable in 2025" ("**Communiqué**"), implementing significant revisions to the TPTO's fee structure on renewals and classification.

Below is a summary of the key changes introduced by the New Regulation and Communiqué respectively.

What does the New Regulation Bring?

The New Regulation mainly provides a comprehensive framework for administrative trademark cancellation proceedings, establishing procedural steps, timelines, evidentiary requirements, applicable fees, and the authority responsible for reviewing cases. The key provisions of these new rules are outlined below.

- **Filing Authority for the Trademark Cancellation Requests:** Authority for trademark cancellation requests will be the TPTO .
- **Respondent in Trademark Cancellation Requests:** According to the New Regulation trademark cancellation requests must be filed against the individual or legal entity listed as the trademark owner in the TPTO's official registry at the time of the request. If ownership is transferred during the proceedings, the request will proceed against the new owner recorded in the TPTO's registry.

- **Requirement of Filing Seperate Actions per Trademark:** According to the New Regulation, if a trademark owner has more than one vulnerable trademark, still, cancellation requests must be filed separately for each trademark. Whilst, in the previous system it was possible to challenge multiple trademarks of the same owner in a single action before the IP Courts.
- **Initial Examination:** The New Regulation states that, upon receipt of a cancellation request, the TPTO will conduct an initial procedural examination to determine whether the prerequisites are met, such as whether the grace period has expired. If the preliminary conditions are not met, the cancellation request will be rejected without any notification being issued.
- **Timing to Submit Evidence:** According to the Art 2, paragraph 30/A, subparagraph 7 of the New Regulation, once the cancellation request is deemed procedurally valid, the TPTO will grant the trademark owner one month to submit their response and evidence. An additional one-month extension may be granted upon request. Failure to submit the requested materials within this period will result in the cancellation request being evaluated based on the existing documentation.
- **Examination of Evidence:** Under Article 2, paragraph 30/B, subparagraph 1 of the New Regulation, the TPTO accepts proof of use only for the specific goods for which the trademark owner provides evidence for. The owner must demonstrate use for each good subject to the cancellation request individually and this proof will not extend to similar goods, even if they belong to the same class. Consequently, only the specific goods for which the owner has substantiated use will be exempt from cancellation.
- **Fees – Official Fees and Escrow Fees:** The official fees for a cancellation request are calculated under two separate categories: **(i)** the filing fees and **(ii)** escrow fees. Escrow fees is a brand new regulation that never existed in practice before. According to the New Regulation if the cancellation request is fully rejected, the escrow amount is refunded, upon request, to the trademark owner. Conversely, if the request is fully accepted, the escrowed amount is refunded, upon request, to the applicant. In cases where the TPTO issues a partial cancellation decision, no refunds are made to either party.
- **Withdrawing of a Cancellation Request:** The cancellation request may be withdrawn before a decision is issued by the TPTO. The required document for this process is a simply signed Power of Attorney. Additionally, any fees held in escrow will be refunded in the event of a withdrawal.

- **Effective date of the Cancellation:** The trademark cancellation will typically take effect from the date the request is filed. However, if the cancellation is intended to apply to a period prior to the filing, the desired effective date must be explicitly specified in the request.
- **Publication of TPTO's Cancellation Decision:** The cancellation decisions issued by the TPTO are recorded in the trademark registry and published in the Official Trademark Bulletin, along with pertinent details, including the effective date of the cancellation.

What will Happen to the Preliminary Application that were Filed between January 10, 2024 to March 15, 2025?

Preliminary applications submitted prior to the entry into force of the New Regulation will be exempt from the obligation to pay escrow fees. Notably, no escrow payment will be required for applications filed between the period of January 10, 2024, to March 15, 2025. However, if any other procedural deficiencies are identified, the applicant will be notified and asked to address them.

What are the Other Amendments Introduced to Turkish Trademark Law by the Communiqué?

As noted above, the Communiqué was also published on the same day as the New Regulation, which highlighted two important developments, particularly concerning renewal fees and filing fees for sub-classes of Class 35. The details of these developments are provided below.

- **Partial Renewal Fees:** The Communiqué introduced a brand new fee system as to renewals. According to the this new system trademark registrations covering more than two classes will incur an additional renewal fee for each class beyond the second. Previously, renewal fees were the same for all trademarks, regardless of the number of classes covered.
- **Additional Fees are Required for Sub-classes of Class 35:** The Communiqué also introduced a differentiated fee structure based on the sub-classes of goods subject to retail and wholesale services under Class 35. Thus, if services in Class 35 involve goods from more than two classes, an additional fee will be charged for each extra class beyond the second. Previously, applications within Class 35 were subject to a single flat fee, regardless of the number of classes of goods subject to the retail services.

Conclusion

The long-awaited amendments to administrative trademark cancellations mark the first significant step toward unblocking the system, which has been effectively stalled since January 2024. While these changes provide long-overdue clarity, they also introduce significant legal and practical uncertainties. The escrow account fee raises constitutional and tax law concerns.

Furthermore, the Communiqué was entirely unexpected by practitioners, while the revisions to renewal fees are widely considered to lack legal justification. Additionally, uncertainties remain regarding the implementation of additional fees for multi-class trademark applications, particularly for IR trademarks filed through WIPO.

As the system resumes, practical challenges are expected, and further clarifications will likely emerge. To mitigate risks and safeguard trademark rights, close monitoring of ongoing developments is essential.



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