BRIEF INFORMATION NOTICE RELATING WITH THE NEW TURKISH IP LAW

The new IP Law has been published in the Official Gazette and entered into force on 10.01.2017. This new IP Law has repealed the Decree Laws no. 551 (Patent Decree Law), 554 (Industrial Design Decree Law), 555 (Geographical Indication Decree Law) and 556 (Trademark Decree Law) which were in effect since 1995. However, the details and procedures of the new provisions will be regulated in the Implementing Regulation under this Law, which has not been published yet.

The new IP Law will only effect the applications filed after 10.01.2017. Therefore, the pending applications are still subject to the Decree Laws until they are registered.

The fundamental differences brought by the new IP Law are as follows:

TRADEMARKS:

➢ Co-existence of similar trademarks may be accepted, only if a notarized letter of consent is submitted to TPTO. The procedures and principles will be regulated in the Implementing Regulation. In the earlier Trademark Decree Law, letters of consent and co existence agreements were not acceptable, therefore, this is one of the major differences brought by the new IP Law.

➢ The publication period for trademark applications is 2 months with the new IP Law which was three months earlier.

➢ According to new IP Law, if a third party opposes a trademark application during the publication period, and the opponent's trademark has been registered for more than 5 years, the applicant of the opposed trademark may claim that the opponent's trademark has not been used for the related goods and services. In this case, TPTO has the right to request from the opponent either use documents or evidence showing justified reason for not using the trademark. If the opponent fails to prove use, the opposition may be rejected.

➢ The trademark renewal period has been amended. The request for renewal shall be submitted and the renewal fee paid within a period of six months *not* **before** *the last day of the month in which protection ends,* **but** **before** *the date the protection ends*. In failing this deadline, the request may be submitted within a further period of six months from *the date the protection ends*. This provision will enter into force on 10.01.2018.

> Partial renewal will be accepted. Accordingly, the renewal may be requested only for a part of the goods and services. The partial renewal may be requested with a notarized and apostilled power of attorney.

DESIGNS:

> Non-registered designs will also be protected under this Law, in case they have been released to the public firstly in Turkey. Non registered designs may be protected for 3 years beginning from the first releasing date.

> TPTO will examine the design applications, not only on procedural basis, but also with regards to novelty criteria. The examination details will be clear after the regulations are published.

> The publication period for design applications is 3 months with the new IP Law which was six months earlier.

> The request for renewal shall be submitted and the renewal fee paid within a period of six months *not* **before** *the last day of the month in which protection ends,* **but** **before** *the date the protection ends*. In failing this deadline, the request may be submitted within a further period of six months from *the date the protection ends*. This provision will enter into force on 10.01.2018.

PATENTS AND UTILITY MODELS:

> The period for requesting search on the state-of-the-art is 12 months from the application date with the new IP Law.

> It is not possible to obtain a patent without examination according to new IP Law.

> It is also provided that a Novelty Search Report will be issued for utility model applications.

> With regards to patent and utility model annuities, if the annuity payment is not effected within due date and within the 6 months period after the due date, it will be possible to pay the annuity and request restoration of the patent within 2 months after the publication of the notice regarding termination of patent rights.