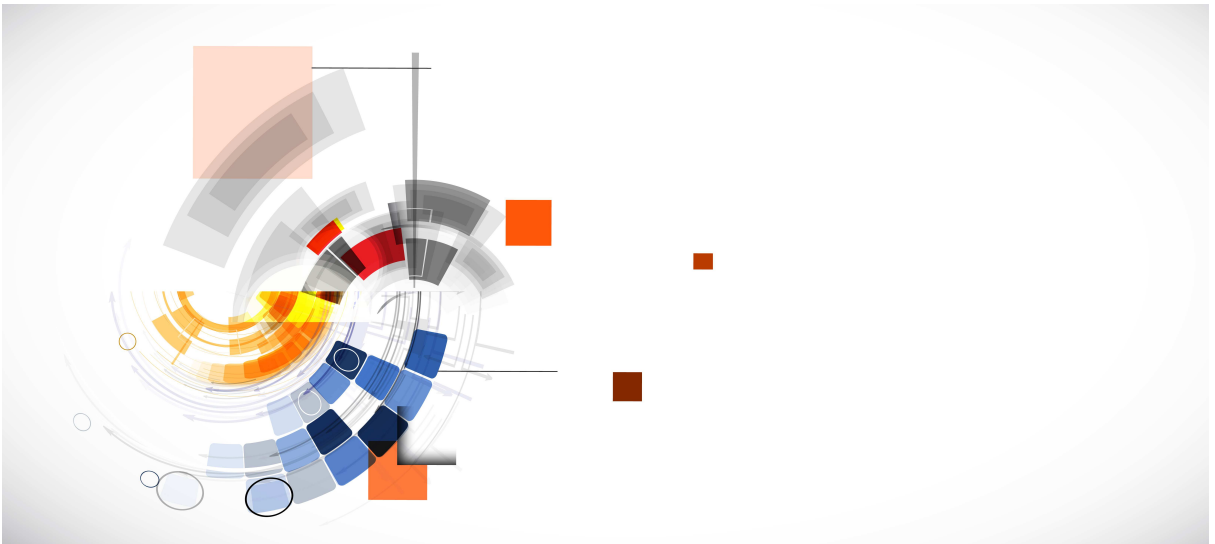


Patent – News (*)

Biotechnological Inventions

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

Biotechnological Inventions

Current Legislation

The Decree Law No: 551 on Protection of Patents, does not specifically refer to the patentability of biotechnological inventions. The Decree Law Art.5 and Art.6 define patentable inventions and non-patentable subject matters in line with Art. 52 of the EPC 1973.

Proposed Changes by the Draft IP Law

The Draft refers to the biotechnological inventions by stating that simple discoveries of human gene sequences are not patentable.

Comment

The wording of the Draft IP Law refers to Article 5 of the **Directive 98/44/EC** of the European Parliament and of the Council on the legal protection of biotechnological inventions and Rule 29 of the internal guideline of the EPO. The draft does not provide a definition of "biotechnological invention" which is still an issue to be defined and shaped by the case law.

The Turkish Intellectual Property Court recently ruled that a claimed probe and method for detecting nucleic acids are patentable as long as the patentability requirement of novelty and inventive step are met, whereas the court in the same decision ruled to the fact that gene sequences are deemed to be non-patentable. The decision is still pending before the Supreme Court.