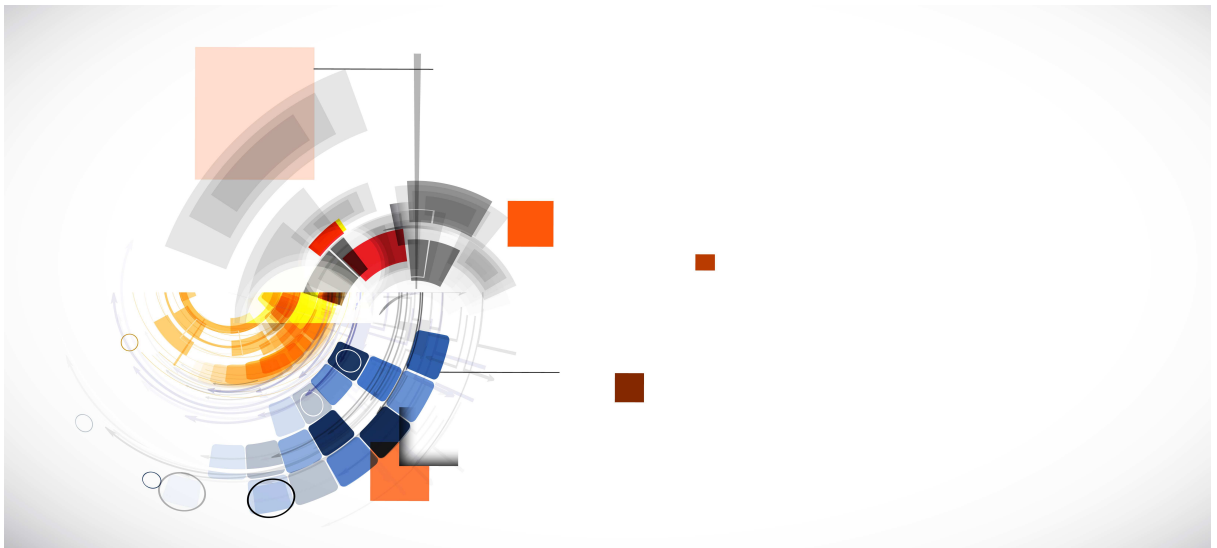


## Trademark – News (\*)

### Non-use, Cancellation Claims can be filed before the Turkish Patent Institute

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

## Non-use, Cancellation Claims can be filed before the Turkish Patent Institute

### Current Legislation

According to the current Turkish Decree Law No. 556 on Trademarks, it is possible to institute a court action for the cancellation of a registered trademark on the basis of **non-use**, if the trademark has not been put to use without a justifiable/legitimate reason or if the use has been suspended during an uninterrupted period of five years.

The cancellation requests based on **non-use** can only be claimed before the IP Courts whereas the Turkish Patent Institute is not entitled to prosecute such requests.

### Proposed Changes by the Draft IP Law

In accordance with the Draft IP Law a trademark can be cancelled on the basis of non-use if the trademark has not been put to use without a justifiable/legitimate reason or if the use has been suspended during an uninterrupted period of five years upon a request to be filed before the Turkish Patent Institute.

Upon notification, the trademark owner will be entitled to submit its replies and evidences within one month. The Institute can grant an extension of one month for submission of the use evidences if requested. The Institute may also ask additional evidences where if necessary.

**The Turkish Patent Institute will become entitled to handle the non-use cancellation request after a transition period of 7 years.**

### Comment

The proposed change will enable the 3<sup>rd</sup> parties to contest a trademark on the basis of non-use before the Turkish Patent Institute instead of a Court. The Institute will be entitled to rule the total or partial cancellation a registered trademark. However, such decision of the Institute can still be contested before the specialized IP Court.