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TURKEY: International Registrations Subject to Disparate Treatment in Opposition Proceedings

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The new Turkish Intellectual Property (IP) Code came into force on January 10, 2017 (**as previously reported in the *INTA Bulletin* on February 15, 2017, Vol. 72, No. 3 and on October 15, 2017, Vol. 72, No. 18**), and introduced a major change to Turkish trademark law and practice with respect to the non-use defense in opposition and litigation proceedings. Under the new law, the Turkish Patent and Trademark Office must notify the applicant of an opposition filed against its application and the applicant can raise the non-use defense within one month of the notification date of the opposition, on the condition that the trademark on which the opposition is based has been registered for more than five years at the date on which the opposition was filed.

However, the Office has not yet implemented a procedure for notifying oppositions filed against the designation of an international registration (IR) to the holders thereof. As such, the IR holder does not currently have the opportunity to reply to the opposition or the non-use defense, against the opposition, even if it appoints a local representative before the Office. The applicant (the IR holder) is only notified through the World Intellectual Property Organization (WIPO) after the Turkish designation is totally or partially refused as a result of the opposition procedure before the Office. At that stage, it is too late to raise the non-use defense.

This is in sharp contrast to the practice of the European Union Intellectual Property Office (EUIPO), where the IR holder is notified of oppositions filed against its European Union trademark designation and a copy of the opposition is sent if the IR holder appoints a representative before WIPO, even if its place of business is outside the European Economic Area.

Under these circumstances, the recommended course of action for IR holders designating Turkey is to monitor their Turkish designation once it has been received by the local Office in order to defend it during any opposition proceedings by filing responses and claiming non-use within the deadline for doing so, as applicable.

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