

Middle East Intellectual Property Newsletter Vol. 108
Measures Against Fraudulent or Bad Faith Trademark Filings: Türkiye and Pakistan

Introduction:

This newsletter outlines the legal mechanisms available in Türkiye and Pakistan to address fraudulent or bad-faith trademark filings. It highlights how each jurisdiction treats such filings during examination and the remedies available to right holders after filing or registration. The overview sections provide procedural context necessary to understand how these measures operate in practice.

Türkiye

1. Overview of the Trademark System

First-to-File Principle

Türkiye adopts a first-to-file trademark system. Trademark rights are acquired through registration, and ownership is determined by filing priority under Industrial Property Law No. 6769¹ ("IP Law").

Multi-Class Applications

Türkiye allows multi-class trademark applications, enabling applicants to designate multiple classes of goods or services in a single application (Article 5 of the IP Law).

Filing Routes

Trademark protection in Türkiye may be obtained through:

- Direct national filing with the Turkish Patent and Trademark Office (TÜRKPATENT), and
- International registration under the Madrid Protocol, to which Türkiye is a contracting party.

There is no regional trademark registration system applicable.

Duration of Trademark Rights

A registered trademark is protected for 10 years from the filing date and may be renewed indefinitely for successive 10-year periods (Article 23 of the IP Law).

Examination

TÜRKPATENT conducts substantive examination of trademark applications. Examination covers:

- Absolute grounds for refusal, including lack of distinctiveness, descriptiveness, and public order or morality concerns (Article 5), and
- Relative grounds, which are examined upon opposition (Article 6). Examination of Art. 6, namely the examination of "relative grounds" is conducted only if an opposition is filed against the trademark application, not ex officio.

Treatment of Fraudulent or Bad-Faith Applications

Bad faith is expressly recognized under Turkish law. Pursuant to Article 6(9) of the IP Law, trademark applications filed in bad faith may be refused upon opposition. In addition, trademarks registered in bad faith may be invalidated at any time, without being subject to a limitation period (Article 25).

2. Trademark Search Methods

¹ <https://www.wipo.int/wipolex/en/legislation/details/22592>

Türkiye provides access to a public online trademark database maintained by TÜRKPATENT.

- **Website:** TÜRKPATENT Online Trademark Search System²
- **Information available:**
 - Application and registration status (pending, registered, refused, invalidated)
 - Application number and registration number
 - Mark representation
 - Class(es)
 - Applicant name
- **Languages supported:** Turkish and English
- **Search capabilities:**
 - Keyword search
 - Class-based search
 - Applicant name search

3. Measures Upon Discovering That a Third Party Has Filed or Registered a Mark Identical or Similar to One's Own

(1) Submission of Information to the Trademark Office

Turkish trademark law does not provide a formal third-party observation mechanism during examination. Challenges must therefore be pursued through opposition or post-registration proceedings. There is a third-party observation mechanism applicable under Turkish practice. However, this mechanism cannot be used if an identical trademark is filed, and in such case, opposition or post-registration proceedings should be pursued. Specifically, according to the Art. 17 of Turkish IP Code, everyone can file their observations against the trademark from its publication until registration; arguing the Art. 5 conditions of absolute grounds of refusal have occurred, other than the ground of Art 5/1-ç; namely "identity/strictly similarity to an earlier mark".

(2) Opposition Proceedings

Overview

Trademark applications published in the Official Trademark Bulletin are subject to opposition.

Competent Authority

Turkish Patent and Trademark Office (TÜRKPATENT)

Persons Eligible to File

Any interested party

Time Limit

Oppositions must be filed within two months from the publication date (Article 18 of the IP Law).

Grounds for Filing

² <https://www.turkpatent.gov.tr/bultenler>

- Conflict with earlier trademark rights
- Likelihood of confusion
- Bad-faith filing (Article 6(9))

Appeal Mechanism

Decisions may be appealed before the Re-Examination and Evaluation Board and subsequently before the Ankara IP Courts.

Other Relevant Notes

Bad faith is an explicit and frequently relied-upon opposition ground in Turkish practice.

(3) Invalidation Proceedings

Overview

Registered trademarks may be invalidated through court action.

Competent Authority

Specialized Intellectual Property Courts

Persons Eligible to File

Any interested party

Time Limit

- No limitation period applies where invalidation is based on bad faith (Article 25)
- For trademarks that cannot be considered as filed in bad faith, statute of limitations is 5 year after registration date. If this period has already passed, a non-use action can be filed against the trademark.

Grounds for Filing

- Registration contrary to Articles 5 or 6
- Bad-faith registration

Appeal Mechanism

Court decisions are subject to appeal in accordance with Turkish procedural law.

(4) Non-Use Cancellation Proceedings

Overview

A trademark may be revoked for lack of genuine use.

Competent Authority

Turkish Patent and Trademark Office (as of 2024 practice)

Persons Eligible to File

Any interested party

Time Limit

Non-use for five consecutive years without legitimate reason (Article 26).

Other Relevant Notes

Non-use revocation is often used alongside invalidation actions in bad-faith scenarios.

(5) Other Procedures for Revoking or Extinguishing Rights

Trademarks may also be revoked if they become misleading, deceptive, or generic as a result of the proprietor's actions or inactivity (Articles 26 and 27).

the prescribed fees (please note that, the results obtained through that search are not official). (ii) The second method is by filling a request for an official search on form TM-55 along with the prescribed fee. The results obtained through this method are official.

- **Information available:**
 - Application and registration status
 - Application number and registration number
 - Mark representation
 - Class(es)
 - Applicant name
- **Languages supported:** English
- **Search capabilities:**
 - Keyword search
 - Class-based search
 - Applicant name search

The database is intended for preliminary searches and does not replace comprehensive clearance searches.

3. Measures Upon Discovering That a Third Party Has Filed or Registered a Mark Identical or Similar to One's Own

(1) Submission of Information to the Trademark Office

The Trademarks Ordinance does not provide a formal third-party observation mechanism during examination. Challenges must therefore be pursued through opposition or post-registration proceedings.

(2) Opposition Proceedings

Overview

Trademark applications are published in the Trademarks Journal and are subject to opposition.

Competent Authority

Registrar of Trademarks, IPO-Pakistan

Persons Eligible to File

Any interested party

Time Limit

Oppositions must be filed within two months from the publication date, with extensions available upon request (Section 28).

Grounds for Filing (Section 29)

- Conflict with earlier registered or pending trademarks
- Likelihood of confusion or deception
- Dishonest adoption or bad-faith filing

Appeal Mechanism

Decisions of the Registrar may be appealed before the High Court (Section 114).

Other Relevant Notes

Bad faith is typically assessed through factual circumstances, including prior use, knowledge of earlier rights, and intent to mislead consumers.

(3) Invalidation Proceedings

Overview

A registered trademark may be cancelled or invalidated through post-registration proceedings.

Competent Authority

Registrar of Trademarks or the High Court

Persons Eligible to File

Any aggrieved party

Time Limit

No statutory limitation applies where registration was obtained without sufficient cause or through dishonest conduct (Section 80).

Grounds for Filing

- Registration contrary to Sections 14 or 17
- Lack of entitlement or dishonest adoption
- Registration remaining on the register without sufficient cause

Appeal Mechanism

Decisions are appealable before the High Court.

(4) Non-Use Cancellation Proceedings

Overview

A trademark may be removed from the register for non-use.

Competent Authority

Registrar of Trademarks or the High Court

Persons Eligible to File

Any aggrieved party

Time Limit

Non-use for five consecutive years following registration, without bona fide intention to use or actual use (Section 73).

Other Relevant Notes

Non-use cancellation is commonly pursued alongside invalidation actions in cases involving speculative or defensive trademark filings.

(5) Other Procedures for Revoking or Extinguishing Rights

In addition to statutory cancellation mechanisms, trademark owners may pursue passing off actions before the courts where a registration or use amounts to misrepresentation causing damage to goodwill, particularly in cases involving dishonest or bad-faith conduct.

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