

A CONSIDERATION ON DESIGN REGISTRATION SYSTEM IN TURKEY – 2012

Differently from the developed countries, the acceptance of the system by Turkey with a sudden and unexpected decision as a legal obligation instead of a conclusion of the intellectual and industrial development of Turkey has caused several problems. Turkish industry not having a reformist custom opted to convert the system to itself instead of complying with the system.

On the other side, *unfair competition approach* on case law relating to this subject is weakening the modern intellectual property system and preventing establishment of the system. It is not possible for these regulations to reach their aim if the Court of Appeals does not make an amendment on its precedents relating to unfair competition which was formed based on *labor principle* because according to the Court of Appeals, the provisions of intellectual property legislation and the provisions of unfair competition are cumulatively applied. The Court of Appeals implements the cumulative protection principle commonly, extensively and incorrectly without taking the relationship of specific-general provision into account. We are not expecting that there will be positively amendment on case law when the new Design Law enters into force because the unfair competition approach is a perceptivity problem and there will be no positive development unless this approach is left.

It may be said that the problem facing today on Turkish design law may continue for a time. It should be made an evaluation on the problems faced in practice since 1995 and their reasons primarily in order to eliminate these problems. One of the important points which should be regarded in such an evaluation should be the contribution made by the legal regulations in effect on the developments on process capacity of new goods and design of Turkish industry. To handle the amendment proposals on the legislation within the scope of the medium and long-term industrialization and competition strategy of Turkey beyond the legal interpretations may provide an important expansion for removing or reducing the differences between the expected results by the existing regulations and the actual situation. Besides, the development of the case law in conformity with the spirit of the system has a great importance on the settlement of the system.