

## **Amendments to the Statutory Decree no 554**

**Article 8** - If a design for which protection is requested is shared with the public by the designer or successor or a third person authorized by these persons or is shared with the public as a result of abuse of the relationship with the designer or successors in the twelve month period before the application date or in case of priority request, in the **twelve month period before the date of the priority**, this disclosure does not affect the innovative and distinctive character of the design within the scope of articles 6 and 7.

**Article 26, f.3**– In applications for a two dimensional design, postponement of publication will be requested within the scope of article 35. If there is a **request for postponement** of publication of the design and the nature of the design does not allow for implementation of clause (b) of the first paragraph, a sample of the product which is designed in place of the visual representation specified in clause (b) or on which the design is implemented.

**Article 32 Paragraph 4** – In case of a change in the notification address, the new address should be notified in written to the Institute. In case of failure in such notification, notifications delivered to the latest address recorded at the Institute will be considered duly served.

**Article 48/A** Within the scope of this Statutory Decree;

a) those who make false identity declarations as the owner of the design right, who remove the mark attached on an object or package with a patent or a utility model without authorization or who falsely identify themselves as the patent or utility model application or patent or utility model owner will be sentenced to imprisonment from one year to two years or a heavy fine from fourteen billion liras to twenty seven billion liras or both,

b) those who transfer, grant, give as a pledge and make a transaction on any of the rights listed in article 39 or a related license even though they know or are expected to know that they are not available or they do not have authority on the same, and those who attach a mark on the object or package put to sale or on commercial papers or advertisements to give the impression that it is related to a protected design right although they are not the owner of a protected design right or their protection period has expired or it has been decided for nullity or termination of the design right or who use such markings and writings in announcements and advertisements will be sentenced to imprisonment from two years to three years or a heavy fine from twenty seven billion liras to forty six billion liras or both,

c) those who commit one of the acts listed in article 48 will be sentenced to imprisonment from two years to four years or a heavy fine from twenty seven billion liras to forty six billion liras or both and their workplaces will be shut down for at least one year and they will be excluded from commercial operations for the same duration.

If the crimes listed in clauses (a), (b) and (c) are committed by employees of an enterprise directly or upon order during their service, the employees and the enterprise owner, manager or representative and the person who administers the enterprise under whichever title, who fail to prevent the crime will be penalized the same. If any of the crimes listed in article 48 is committed while executing the works of a legal entity, the legal entity will be severally responsible for the expenses and the fine. The provisions of articles 64, 65, 66 and 67 of the Turkish Penal Code no 765 will be applicable for those involved in the action depending on the nature of the incident. Litigation for the aforementioned crimes is initiated upon complaint.

In implementation of the provisions of this article, clause number (8) of the first paragraph of article 344 of the Code of Criminal Procedures no 1412 will not be applicable. Other than the person whose rights arising from the design protection are violated, for crimes listed in article 48, the Institute, and when a false declaration is made as the design right owner and when a mark or statement is attached on the goods produced or put to sale by them or others or on packages or commercial papers or announcements to give the impression that it is related to a protected design right or is used in announcements and advertisements for such purposes although they are not the owner of the design right or the protection period of the design right has expired or the same has become null or terminated, the organizations and consumer associations subject to the Law no 5590 and dated 8.3.1950 or the Law no 507 dated 17.7.1964 will also have the right to file a complaint. The complaint should be filed in two years from the date when they are informed of the incident and the offender.

Complaints for these crimes will be considered urgent work. The provisions of article 36 of the Turkish Criminal Code no 765 and the Code of Criminal Procedures no 1412 will be applicable in seizure, confiscation or annihilation of objects production or use of which requires penalization and the tools, equipment, devices, machinery and other medium used to produce the concerned objects due to violation of the design right application or the rights arising from the design right protection.

**Article 58** - The competent court in cases specified in this Statutory Decree is specialized courts. These courts have a single judge. It will be determined by the High Council of Judges and Prosecutors upon the recommendation of the Ministry of Justice which of the civil courts of first instance and criminal courts of first instance will be commissioned as specialized courts and the scope of their jurisdiction.

The competent court in cases to be brought against all decisions of the Institute taken according to this Statutory Decree and against the Institute by third parties damaged by the decisions of the Institute will be the specialized courts of Ankara among those listed in the first paragraph of this article.

**Article 62**– Determination of Evidences

**Article 65** - The provisions of the Code of Civil Procedure will be applicable for requests for determination and other conditions for provisional injunction.