

# Copyright

in 28 jurisdictions worldwide

Contributing editors: Stuart Sinder,  
Jonathan Reichman and James Rosini

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<b>Overview</b> Justin Kyal, Stuart Sinder and Jonathan Reichman <i>Kenyon &amp; Kenyon LLP</i>	3
<b>Australia</b> Kristin Stammer and Helen Macpherson <i>Freehills</i>	4
<b>Austria</b> Axel Anderl <i>Dorda Brugger Jordis</i>	9
<b>Belgium</b> Jan Ravelingien and Pieter De Grauwe <i>Marx Van Ranst Vermeersch &amp; Partners</i>	14
<b>Canada</b> Janet M Fuhrer, D Paul Tackaberry and David Lam <i>Ridout &amp; Maybee LLP</i>	18
<b>Chile</b> Claudio Magliona <i>Garcia Magliona y Cia Ltda</i>	24
<b>Colombia</b> Daniel Peña <i>Cavelier Abogados</i>	30
<b>Denmark</b> Thorbjørn Swanstrøm <i>Awapatent AS</i>	35
<b>Estonia</b> <i>Elise Vasamäe Aavik &amp; Partners Law Office</i>	40
<b>France</b> Bruno Ryterband <i>Cabinet Bruno Ryterband</i>	46
<b>Germany</b> Astrid Gérard and Stefan Schweyer <i>Preu Bohlig &amp; Partner</i>	53
<b>Hungary</b> Katalin Horváth <i>Sár and Partners Attorneys at Law</i>	59
<b>India</b> Pravin Anand and Munish Mehra <i>Anand and Anand, Advocates</i>	67
<b>Japan</b> Yasufumi Shiroyama <i>Anderson Mōri &amp; Tomotsune</i>	72
<b>Korea</b> Jay Young-June Yang, Jai-Wook Lee and Chang-Hwan Shin <i>Kim &amp; Chang</i>	77
<b>Malaysia</b> Benjamin J Thompson <i>Thompson Associates</i>	81
<b>Mexico</b> Luis C Schmidt <i>Olivares &amp; Cia</i>	85
<b>Netherlands</b> Martin Hemmer <i>AKD Prinsen Van Wijmen</i>	91
<b>Nigeria</b> Olugboyega Kayode <i>David Garrick, Kayode &amp; Co</i>	95
<b>Portugal</b> César Bessa Monteiro <i>ABBC – Azevedo Neves, Benjamim Mendes, Bessa Monteiro, Carvalho &amp; Associados, Sociedade de Advogados RL</i>	99
<b>Russia</b> Yuriy Korchuganov and Ekaterina Ermakova <i>MGAP Attorneys at Law</i>	105
<b>South Africa</b> Charné le Roux and Vuyiswa Dlamini <i>Adams &amp; Adams</i>	110
<b>Spain</b> Fernando González and Hector Romero <i>Hammonds LLP</i>	115
<b>Sweden</b> Hans-Olov Dahlén <i>Advokatfirman NorelidHolm</i>	120
<b>Switzerland</b> Brendan Bolli, Sven Capol, Barbara Gehri and Felix Locher <i>E Blum &amp; Co AG</i>	125
<b>Turkey</b> M N Aydin Deris, Banu Barbur, Okan Can and Elif Dincer <i>Deris Patents &amp; Trademarks Agency AS</i> <i>Deris Law Office</i>	131
<b>United Kingdom</b> Patricia Jones <i>Hammonds LLP</i>	137
<b>United States</b> Jonathan Reichman <i>Kenyon &amp; Kenyon LLP</i>	143
<b>Venezuela</b> Magdaly Sanchez-Aranguren and Patricia Hoet Limbourg <i>Hoet Pelaez Castillo &amp; Duque</i>	149

# Turkey

M N Aydin Deris, Banu Barbur, Okan Can and Elif Dincer

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## Legislation and enforcement

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### 1 What is the relevant legislation?

Turkey has the following legislation concerning copyright protection:

- the Law on Intellectual and Artistic Works (Copyright Act) No. 5,846 of 5 December 1951, as amended by Law No. 5,101 on 3 December 2004;
- the Law on the Evaluation, Classification and Support of Cinema Films; and
- a number of regulations concerning the implementation and enforcement of the above Copyright Acts, including the Regulation No. 26,171 of 17 May 2006 regarding the recording and registration of intellectual and artistic works.

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### 2 Who enforces it?

The administrative procedure for copyright formalities is implemented by the Ministry of Culture and Tourism (the ministry) – specifically by the General Directorate of Copyright and Cinematography located in Ankara. Copyright enforcement, however, is effected by the judicial authorities.

Copyright infringement actions are heard before specialist courts for intellectual and industrial property rights located in the cities of Istanbul, Ankara and Izmir. In other cities, actions are heard by the local civil commercial court or, in the absence of such a court, the local ordinary civil court of first instance acting as specialist courts.

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## Agency

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### 3 Is there a centralised copyright agency? What does this agency do?

The General Directorate of Copyright and Cinematography, a subdivision of the ministry, is the centralised government agency acting in the field of copyright.

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## Subject matter and scope of copyright

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### 4 What types of works are copyrightable?

According to article 1B of the Copyright Act, a work qualifying for protection under the Act: 'is any kind of intellectual and artistic creation carrying the characteristics of its author and is considered as scientific, literary, musical, fine art (artistic) or cinematographic.'

The work enjoying copyright protection shall bear the characteristics and particulars of its author. No particular test is applicable for determining the characteristics or particulars of the author. The Copyright Act also provides protection for computer software and databases.

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### 5 What types of rights are covered by copyright?

The author of a work protected by copyright has economic rights and moral rights. Economic rights give the author the right to adapt, reproduce, distribute, communicate, broadcast or otherwise dispose of the work. Moral rights allow the author to communicate the work to the public, put his or her name on the work and prohibit its modification.

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### 6 What may not be protected by copyright?

According to the general principles in the Copyright Act, original or creative works shall be subject to copyright protection.

The issue of originality is assessed and evaluated on a case-by-case basis within the context, and in relation to, the characteristics reflecting the personality of the author. Article 2, paragraph 2, of the Copyright Act excludes from protection the concepts or principles on which any element of a computer program is based including those on which its interface is based. This is because they are not deemed works that can enjoy copyright protection under the Copyright Act.

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### 7 Do the doctrines of 'fair use' or 'fair dealing' exist?

The Copyright Act includes the doctrines of 'fair use' and restricts the rights of the copyright holder for reasons of public policy.

Public policy restrictions include:

- use of the work as evidence before the court or other authorities in criminal proceedings; and
- reproduction of photographic works for judicial reasons.

Public interest restrictions include:

- use of officially published law texts, regulations and court decisions;
- reproduction of a public recitation with the aim of providing news or broadcasting; and
- free use of published works for educational purposes provided there is no direct or indirect commercial profit arising from the use.

Quotations may be used provided that they are clearly referenced. The use of the published daily news is a further restriction.

Personal fair use also restricts the rights of the author provided that such use is not detrimental to the author's legitimate rights.

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### 8 What are the standards used in determining whether a particular use is fair?

The standards used for determining whether a particular use constitutes fair use, and the circumstances when work can be used are contained within the Copyright Act. There is a proviso that use must not be commercial and must not be detrimental to the normal use of

the work. Any use that is not compatible with the doctrine of fair use can be prohibited by the copyright holder.

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9 Are architectural works protected by copyright? How?

Article 2, paragraph 1(3), of the Copyright Act provides that architectural works as well as all architectural and urban designs, and projects and plastic models, are protected by copyright. This provision also states that all photographic works, maps, plans, models and blueprints of a technical and scientific nature having no aesthetic characteristic are protected by copyright.

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10 Are performance rights covered by copyright? How?

The Copyright Act defines ‘performing artists’ as any person who interprets, presents, explains, speaks, plays or expresses a work in a variety of manners in an original or novel way, without any prejudice to the moral and economic rights to the owner of the work.

Performing artists have the right to be known as owner of their performances and to prevent them from being altered or impaired in a manner detrimental to their reputation (moral rights). Also, performing artists that interpret a work with the authorisation of its author have the exclusive right to record their performance and to reproduce, distribute, communicate, rent, lent and to broadcast their recordings (economic rights).

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11 Are ‘neighbouring rights’ recognised? How?

The following rights fall within the scope of neighbouring rights according to the Copyright Act in Turkey:

- the rights of performing artists;
- the rights of record companies producing the sound recording for the first time; and
- the rights of broadcasting organisations.

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12 Are moral rights recognised?

Moral rights are recognised in articles 14 to 17 of the Copyright Act and respectively give the copyright owner the exclusive right to:

- determine whether the work shall be disclosed to the public and if so, to decide the timing and the manner of the publication (the right of disclosure);
- decide whether the work shall be published in its name, pseudonymously or anonymously;
- prohibit the reduction, insertion and other modification of the work as well as of the name of owner of the work without its authorisation (the right of integrity); and
- request access to the original copy of work temporarily from subsequent rights holders.

Furthermore, the right of disclosure and the right of integrity of the work are inalienable in the sense that they cannot be waived by a contract if the manner of disclosure and the manner of alteration harms the reputation of the owner or the nature and characteristics of the work.

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Copyright formalities

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13 Is there a requirement of copyright notice?

The use of copyright notice is not required by the Copyright Act. It is, however, required by the recent implementation of Regulation No. 26,171 of 17 May 2006 in respect of works for which copyright registration or recording is mandatory (see question 18).

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14 What are the consequences for failure to display a copyright notice?

Since the notice (and the mandatory copyright registration) is declaratory rather than constitutive evidence for the assessment of ownership in a copyright dispute, failure to display a copyright notice has no effect on such assessment. Nevertheless, use of the notice may be important because it informs the public that the work is protected by copyright, identifies the copyright owner and shows the year of first publication. In the event that the copyright is infringed, a proper notice of copyright shall have the effect of refuting a defence based on infringement in good faith.

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15 Is there a requirement of copyright deposit?

There has never been and is at present no requirement of copyright deposit in respect of literary works according to the Copyright Act. According to Law No. 5,224 on the Support of Cinema Films through Evaluation and Classification, which came into force on 14 July 2004, however, it is mandatory to provide the ministry with films and any other necessary information and documents to form ‘an inventory of cinema films’. Paragraph 2 of the same article further states that ‘the ministry may form an archive and information department’ thereafter.

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16 What are the consequences for failure to make a copyright deposit?

Failure to deposit shall not affect the validity of the copyright protection. However, the deposit of cinema and music works is required under the mandatory recording of the work for obtaining the certificate of operation for their wholesale distribution and display to the public.

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17 Is there a system for copyright registration?

Regulation No. 26,171 of 17 May 2006, regarding the recording and registration of intellectual and artistic works, provides a system for registration of all kinds of artistic work, which is administered by the ministry and the General Directorate of Copyright and Cinematography in Ankara. The registration of these rights would enable the recording of the licence to use and assign the work before the Ministry.

The recording or registration of copyright based on declarations does not have a constitutive effect for the establishment of copyright; it only serves as evidence of the existence of the copyright. It is therefore further mentioned in article 13 that: ‘The ministry shall not carry any responsibility for such recording or registrations.’

On the other hand, according to Law No. 5,224 on the Support of Cinema Films through Evaluation and Classification, cinema works that are produced within Turkey or subject to importation have to be evaluated and classified by the Council of Evaluation and Classification within the Ministry. They are recorded and registered and granted a certificate of operation prior to their wholesale, distribution and display to the public.

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18 Is copyright registration mandatory?

According to the Copyright Act, copyright is born with the creation of the work and benefits the author without being subject to any other formality, ceremony or registration. Nevertheless, article 13 of the Copyright Act, last modified by Law No. 5,101 of 12 March 2004, provides a dual system of mandatory and optional recording and registration.

**Mandatory recording and registration**

Authors of cinematographic and musical works and movie and record producers have to record their works independently from

the establishment of the right itself. In other words, the purpose of registration is solely to evidence their authorship and to follow up any authorisations the authors may have given in respect of the use of the economic rights of their works. Mandatory registration in this instance is not concerned with preventing copyright infringement.

#### Voluntary recording and registration

Authors may apply to record and register all their works protected within the scope of the law. By doing so, registration will evidence their authorship and will enable the follow-up of any authorisations they may have given in respect of the use of the economic rights of the works.

#### 19 How do you apply for a copyright registration?

According to the final paragraph of article 13 of the Copyright Act: *All fees regarding the registration or recording procedures in this law shall be determined by the ministry. All procedures and guidelines for the registration and recording of such rights, determination of fees and other issues are to be determined in the implementing Regulation to be issued by the ministry.*

The ministry issued an implementing Regulation on 14 November 2002 on the basis of the former article 13, which only provided a mandatory registration system for cinematographic and musical works. Until recently, the ministry had not issued an implementing Regulation further to the last modification of article 13 establishing the dual system.

The ministry has recently issued and put into force implementing Regulation No. 26,171 based on the new article 13 of the Copyright Act of 17 May 2005, providing the procedures and guidelines for the recording or registration of all works.

According to this Regulation, the authors of cinematographic and musical works, for which recording or registration is mandatory, have to file an application form and the following documents with the offices of the ministry in the relevant city:

- a 'producer document', which is obtainable from the ministry upon evidence of the applicant's commercial activity;
- an undertaking indicating the ownership of the work in accordance with the Copyright Act that acknowledges civil and criminal responsibilities where evidenced otherwise;
- a certificate obtained from the Council of Evaluation of Classification of Cinema Films in respect of cinematographic works;
- the scenario and dialogue script and the genuine music notes and lyrics for cinematographic works, and the genuine music notes and lyrics for musical works;
- the advertising poster or board for cinematographic works, and the cover and sample of all promotional materials, if any, for musical works;
- a digital recording of the work (DVD, VCD or audio CD); and
- the receipt showing payment of the official registration or recording fees.

In relation to the voluntary recording or registration of works, the authors, in addition to the application form and the documents mentioned under the first, second and fourth points above, have to submit:

- the source codes for computer programs in the specified form (the specified form varies on the basis of the characteristics of the computer programs);
- the data recordings for databases (requirements vary);
- two digital recordings for all other works; and
- a digital recording with detailed description for artistic works.

According to the information obtained from the ministry, such applications have been filed with and accepted by the head offices of the

ministry in Ankara since February 2007 and are currently being prosecuted within two to three weeks as of their filing.

#### 20 What are the fees to apply for a copyright registration?

The official fee for the mandatory registration of local cinematographic and musical works is 250 liras. The registration of imported cinematographic and musical works is 59.90 liras. The official fee for the voluntary registration of works has been determined as 69,90 liras.

#### 21 What are the consequences for failure to register a copyrighted work?

As the registration does not have any constitutive effect, failure to register has no negative effect on copyright ownership.

Cinematographic or musical works for which recording or registration is mandatory will not be granted a certificate of operation for their wholesale, distribution and display to the public.

#### Ownership and transfer

#### 22 Who is the owner of a copyrighted work?

According to article 8, paragraph 1, of the Copyright Act, 'the author of a work is its creator'.

#### 23 May an employer own a copyrighted work made by an employee?

Article 18, paragraph 2, as amended by Law No. 4,630 provides that:

*The rights originating from the works created by civil servants, employees and workers in the course of their duties or work shall be used by their employers or by those having appointed them unless otherwise agreed by special contract between them or otherwise construed from the nature or particularity of the work or employment.*

According to general opinion, whereas the employer is entitled to use the economic rights, the employee who has created the work continues to be the owner of the moral rights including the right to claim that his or her name appears on the artwork, the right of disclosure and publication, and the right to prevent unauthorised alteration to the work, etc.

Although ownership of economic rights by the employer was clearly mentioned in article 8 of the old version of the Copyright Act No. 5,846, ownership of the economic rights is not mentioned as such in amended article 18, which instead states that 'all rights shall be used by the employers and by those having appointed them'. In our opinion, however, the absence of 'economic rights' in amended article 18 should not be interpreted to mean that the use of both the moral and economic rights rest with the employer owing to the general acceptance of the non-transferable character of the moral rights.

#### 24 May a hiring party own a copyrighted work made by an independent contractor?

The agreements and the disposal of the economic rights of the copyrighted work should be in writing and the type of these rights shall be expressly mentioned in writing to be valid. Therefore, the simple of act of hiring an independent contractor for the creation of an artistic work is not sufficient for the automatic transfer of the rights to the copyrighted work. The creator shall clearly mention which of the economic rights have been transferred to the hiring party.

On the other hand, although economic rights in relation to work not yet created shall not be transferred, thus any agreement in this respect is null, an undertaking or commitment with respect to the disposal formalities is valid even though the work has not yet been created.

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**25** May a copyrighted work be co-owned?

According to article 9 of the Copyright Act, 'if a work created by more than one person can be divided in parts, each person shall be deemed the author of the part created by him'. Each person may request that others cooperate in their exercise of moral or economic rights on the whole work and permission can be granted by the court where any person refuses to cooperate.

According to article 10 of the Copyright Act, 'if a work -created by the contributions of more than one person constitutes an indivisible whole, the community of authors shall be deemed the author'. Since this type of work consists of a work created with the inseparable efforts and collaborations of a group of persons, moral and economic rights of the work of collaboration are to be used by the community of authors (the rights on cinematographic works are reserved).

The community of authors is governed by the provisions of the Code of Obligations regarding ordinary partnership.

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**26** May rights be transferred?

The author or his or her successors can transfer or assign in part or in whole the legally recognised economic rights of the work, whether limited or unlimited in time, place or content, and whether or not for monetary consideration. Economic rights in relation to work not yet created shall not be transferred.

Although not expressly indicated in the Copyright Act, moral rights are absolutely non-transferable and therefore any transfer of such rights is to be considered as invalid in accordance with the provisions of the Code of Obligations.

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**27** May rights be licensed?

It is possible for the author or his or her successors to transfer or assign the right to dispose of the economic rights to a third party, in other words to license. A licence can be non-exclusive or exclusive. Unless otherwise established either by law or by contract, all licences are deemed non-exclusive. Non-exclusive licences are governed by the provisions on leases whereby exclusive licences are ruled by the provision on usufruct.

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**28** Are there compulsory licences? What are they?

There are no compulsory licences according to the Copyright Act.

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**29** Are licences administered by performing rights societies? How?

The obligations of the performing rights societies can mainly be separated under three main headings as:

- the administration of rights;
- to behave equitably while administering the rights; and
- to provide information to the ministry.

Although the Copyright Act does not explicitly mention that performing rights societies are authorised with the administration of licences, one may say that this duty surely falls under the administration of rights obligations, which bears a very wide scope (including the preparation and enforcement of collective and solitary agreements, following the rights, appealing to courts, etc). To manage the licences, performing rights societies must be authorised with a separate power of attorney prepared and signed by the member, who is the rights owner.

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**30** Is there any provision for the termination of transfers of rights?

The transfer of copyrights can be terminated by reverting the right to the author and by the author's renunciation of this right.

The rights holder may renounce the transfer of rights and terminate the agreement when the transferee does not benefit from, and does not use, the economic rights as it should, within a specified or reasonable period, thereby not fulfilling the interests of the rights holder.

If the author or his or her heirs have transferred an economic right for a specific purpose or for a specified period, the right reverts to the author when the purpose has been attained or the period has expired. This provision does not apply in the event of the bankruptcy or death of the transferee unless the right is to be personally exercised by him or her.

Moreover, the author or his or her heirs may renounce the economic rights by an official deed provided that there is no prejudice to previous obligations.

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**31** Can documents evidencing transfers and other transactions be recorded with a government agency?

According to the Regulations, the authorisation to assign and use the economic rights can be registered before the ministry upon request. The following documents must be provided:

- an undertaking indicating the authorisation to assign and use the economic rights, and acknowledging the civil and criminal responsibilities where evidenced otherwise;
- an identification such as an identity card for individuals or a commercial registry extract for legal persons;
- a signature circular of the person or persons who represent the entity;
- a digital recording of the work (DVD, VCD or audio CD); and
- the receipt showing payment of the official registration or recording fees.

Additionally, the documents evidencing transfers and other transactions on cinematographic works can be requested and duly recorded before the ministry for the latter to grant authorisation of operation in accordance with Law No. 5,224 (see question 18).

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**Duration of copyright**

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**32** When does copyright protection begin?

Copyright begins with the creation of the work. It benefits the author without being subject to any other formality, ceremony or registration.

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**33** How long does copyright protection last?

Copyright protection runs for the lifetime of the author and for 70 years after his or her death.

If the work is created by joint authors, the 70-year period will begin from the death of the last surviving author.

The protection period for works which are made public for the first time following the death of the author is 70 years after the death of the author. This period will commence on the first day of the year following the author's death.

If the copyright is owned by a legal entity, the term of protection is 70 years from the date on which the work was made public.

If the protected work is a database, the protection period is 15 years from the date when the work was made public. If substantial amendments are made to the database causing substantial change in the content and investment, the amended version will be protected as a new database.

34 Does copyright duration depend on when a particular work was created or published?

The protection period starts from the date on which the work was made public. A protection term that is deemed to start on the date which the work is made public is counted from the first day of the year following the year during which the work has first been made public.

35 Do terms of copyright have to be renewed? How?

Terms of copyright protection are neither renewable nor extendible.

Copyright infringement and remedies

36 What constitutes copyright infringement?

The infringement of economic and moral rights will constitute a copyright infringement.

The infringement of economic rights includes adapting, reproducing, distributing, performing, broadcasting or otherwise disposing of the work without the consent of the copyright holder.

Infringement of moral rights includes:

- unauthorised communication of the work to the public;
- failure to put the author's name on the work;
- putting a name other than the author's name on the work; and
- modifying the work without the consent of the author.

37 Does secondary liability exist for copyright infringement? What actions incur such liability?

There is no specific clause with regard to secondary liability in the Copyright Act. Accordingly, the general rules of Turkish Criminal Law as to accessory to a criminal act should be applied to secondary liability cases. In view of that, any person who does the following shall be punished as an accomplice:

- induces the infringement or strengthens the decision of infringement or promises help after commitment of the infringing act;
- shows how to commit the infringing act or provides the infringer with the tools for committing the infringing act; or
- aids before or during the act of infringement to expedite the infringing act.

38 What remedies are available against a copyright infringer?

It is possible to:

- institute civil action for stopping the copyright infringement;
- claim material and moral damages; and
- request the confiscation and destruction of the infringing or pirated goods.

It is possible to request injunctive measures within the scope of the civil proceedings by evidencing the danger of (imminent) copyright infringement that may cause substantial damage. The court will need to be convinced that there is a high probability of such an infringement. The courts are conservative and have the discretion to refuse claims for injunctive measures and they may request the deposit of a guarantee for ordering such injunctions.

The injunctive measures may be requested either before or within the context of the civil action. Should the injunctive measures be requested before the institution of the civil action and the court reaches a favourable decision, the main civil action shall be instituted within 10 days of the date of the order for the injunctive measures. Otherwise, the order for injunctive measures will remain without effect.

It is also possible to institute a specific non-adversarial action for the determination of the facts. This can be an ex parte action for the determination of the infringement. If affirmative, it will serve as

evidence within the context of the main civil or criminal actions. An interlocutory injunction may also be requested within the context of the action for determination of evidence.

Copyright infringement is also a criminal offence and it is possible to request the seizure of infringing products. Criminal proceedings can be brought against the infringer by filing a complaint with the public prosecutor.

Where a complaint is favourably received, the public prosecutor may order the police to seize the infringing goods. Criminal proceedings, initiated by the public prosecutor, can be brought if the copyright infringement is determined by the seizure of the goods. The infringing goods seized by the police will be kept in judicial custody until the end of the criminal proceedings.

Local security forces can ex officio initiate proceedings against and prosecute those involved in the selling of copies of musical and cinematographic works and non-periodical publications on the street or in similar open areas without banderoles (stickers denoting that copies are legitimate); there is no requirement for the copyright holder to bring the proceedings or complaint. The person involved in such an offence is convicted through criminal proceedings.

It is possible to request customs to suspend the release of the infringing goods. During routine clearance, the customs authorities, in cases of clear indications of copyright infringement, may suspend the release of the goods. Likewise, the copyright holder may also put customs on alert for a period of 30 days by filing an application for a possible copyright infringement for incoming and outgoing goods.

39 Is there a time limit for seeking remedies?

Civil claims are subject to a one-year and 10-year limitation period. The one-year limitation period runs from the date when the infringement becomes known to the copyright holder. Should the copyright holder become aware of the act of infringement after the one-year period, he or she may still ask for compensation within a 10-year period. Where the infringing act also constitutes a criminal offence (which has a longer limitation period) the longer period will be the valid period for the purposes of the civil proceedings.

The limitation period for filing a complaint for the criminal proceeding expires within six months of learning of the infringing act.

40 Are monetary damages available for copyright infringement?

It is possible to ask for the compensation of moral and material damages. If a work is translated without the author's consent, published in the absence of a contract with the author, published in excess of the number agreed in an existing contract, adapted or broadcast by radio or television, or performed without the consent of the copyright holder, three times the amount that the infringer would have paid the copyright holder if the parties had concluded a contract for use of the copyright may be claimed. It is possible to evidence such amount by precedent contracts.

41 Are attorneys' fees and costs available for copyright infringement?

Although attorneys' fees and official costs are claimable, the fees awarded do not reflect the real attorneys' fees as they are calculated according to the minimum attorney tariffs, which are issued at a national level by the bar.

42 Are there criminal copyright provisions? What are they?

Acts punishable as criminal offences	Imprisonment	Fines (Turkish liras)
Infringement of moral rights	2 to 4 years	50,000 to 150,000
Infringement of economic rights. Any person who adapts, reproduces the work, sells, offers for sale or commercially distributes copies of a reproduced work or its adaptation, imports copies of a work either by legal or illegal means, disseminates or displays publicly or disseminates or assists in dissemination including digital transmission of a work, hires or lends a work	3 months to 4 years	10,000 to 150,000
Any person who intentionally keeps infringing goods in his or her premises for commercial purposes, assigns an economic right or a licence in the absence of authorisation, commercially possesses or distributes the apparatus serving for unauthorised removal of the software protection	2 to 4 years	50,000 to 150,000
Any person who, reproduces or disseminates copies of works, productions and records identical to the producer's name and trademark	3 to 6 years	20,000 to 150,000
Any person who sells the reproduced copies of a performance, recording or production reproduced without permission in open areas	3 months to 2 years	5,000 to 50,000
Manufacturing, using and taking advantage of fake banderoles (stickers of authenticity)	3 to 6 years	50,000 to 250,000
The abusive use of banderoles or obtaining banderoles with fake documents	2 to 4 years	20,000 to 200,000
Violation of the sui generis database rights	2 to 4 years	50,000 to 100,000

43 Is online copyright infringement actionable?

The provisions of the Copyright Act also apply to copyright infringements that occur online. The Copyright Act provides that the copyright holder is entitled to either authorise or prohibit the sale, distribution and presentation of the work through wires or wireless devices and the transmission of these works to the public by such means. The Copyright Act No. 5,846 as amended on 3 March 2004 has provided the right to prohibit the online copyright infringements. According to the additional article 4 of the Act, copyright owners who allege an infringement are entitled to ask the content provider to stop the infringement. Should the content providers not stop the infringement within three working days the copyright holder is

entitled to ask the public prosecutor to order the service provider to suspend the service to the content provider. The service providers shall continue to provide the service if the content provider stops the infringement.

44 How may copyright infringement be prevented?

Copyright infringement can be prevented with a determined attitude for its protection and by taking effective action against counterfeiters. The recent amendments to the Copyright Act have enabled copyright holders to register their copyrights for the purpose of having a declarative certificate attesting the copyright. Such registration will avoid the problems of evidencing the existing copyright before the judicial authorities and is likely to simplify the enforcement procedure. Registration is highly recommended for efficient enforcement of copyright against infringers.

Relationship to foreign rights

45 Which international copyright conventions does your country belong to?

Turkey is a party to the following international conventions:

- the Berne Convention, of which Turkey is a signatory of the Paris text of 1971;
- Trade-Related Aspects of Intellectual Property Rights (TRIPs);
- the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, adopted at Rome;
- the WIPO Performances and Phonograms Treaty – WPPT; and
- the WIPO Copyright Treaty – WCT.

Turkey is not a party to the Universal Copyright Convention.

46 What obligations are imposed by your country's membership of international copyright conventions?

In Turkey, the principle of national treatment is applied on the basis of the provisions of the Berne Convention. Article 88, paragraph 1(3), of the Copyright Act reads:

*This Law is applicable to all works of foreigners which have not been communicated to the public or which have been communicated to the public for the first time outside Turkey with the proviso that there are appropriate provisions to this effect in an international convention of which Turkey is signatory.*

Moreover, being a party to TRIPs, Turkey provides copyright protection to software and databases and has extended the protection to performers' works as well as to producers of recording and broadcasting organisations.

# Deris Patents & Trademarks Agency AS

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