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**The necessity for eliminating the difference in regimens between patent and trademark attorneys depending on their being attorneys-at-law or not, for achieving unity within the profession**

Patent and trademark attorneys are divided into two groups in terms of their being attorneys-at-law or not.

- \* Patent and trademark attorneys registered in the bar as attorneys-at-law
- \* Patent and trademark attorneys who are not attorneys-at-law

It should be indicated that about 60% of the patent and trademark attorneys registered before the Turkish Patent Institute are also attorneys-at-law.

Those patent and trademark attorneys who are at the same time attorneys-at-law are bound by legislation on attorneys-at-law and in this regard by the Attorneyship Law and the Code of Conduct of the Turkish Bar Association. Should they not act in accordance with the Code of Conduct while practicing attorneyship, they are subject to sanctions foreseen in the law and regulations through the bars they are registered to. It is useful to mention a few of these sanctions as examples. As is known, prohibition of advertising is in force for attorneys-at-law (Attorneyship Law No. 1136, Article 55). Further, attorneys-at-law cannot use in their letterheads or office signboards, their titles of “patent” and/or “trademark attorney” earned through qualification exams organized by the Turkish Patent Institute because the use of such titles are deemed as advertisement and therefore banned by the bars. In fact, these titles merely show the area of specialization of the attorney at law. Thus, in Germany, attorneys-at-law who have specialized in a certain field of law through additional training are referred to as “Fachanwalt.” Another example is Article 48 of Attorneyship Law according to which attorneys-at-law may be sentenced to prison from 6 months to 1 year should they receive work through the intermediary of third parties against monetary consideration paid to them.

However, to our knowledge, there are no decisions of reference indicating applicability of the provisions of the Attorneyship Law and the Code of Conduct of the Turkish Bar Association to operations conducted by those patent and trademark attorneys who are also attorneys-at-law before the T.P.I.

On the other hand, there are no “code(s) of conduct” which are applicable to patent and trademark attorneys who are not attorneys-at-law.

In fact, no “Code of Conduct” has been put into force for the profession of “patent” and/or “trademark attorneys”.

Further, no institutions have been established as yet for organizing the professional activities of patent and trademark attorneys as well as providing discipline within the profession.

Accordingly, not only no disciplinary sanctions are available for patent and trademark attorneys who are not attorneys-at-law to be applied against any misconduct in professional activities but also no institutes have been established in Turkey so far for deciding on and practicing such sanctions as well as directing complaints/demands with regard to professional activities.

In Turkey, patent and trademark attorneys who are attorneys-at-law meet most of the internationally accepted “code(s) of conduct” criteria as of the legislation and rules they are bound by.

On the other hand, the fact that patent and trademark attorneys who are not attorneys-at-law are not bound by any kind of “code(s) of conduct” continues to create an enormous unbalance and ambiguity in the practice not only for patent and trademark attorneys, themselves but also for their clients and for the T.P.I.

It must be stated at this point that umbrella organizations that nationally represent and govern patent and trademark attorneys are always established through respective laws especially in the member states of the EPC. The lack of union in the profession or a uniform Code of Conduct and an institution to administer it in a centralized manner obviously is the key reason behind the professionally asymmetrical development of patent and trademark attorneys.

In addition, if the patent and trademark attorneys receive their trainings under a uniform syllabus, this will naturally bring unity to the development and practice of the profession. To our knowledge, such syllabus has never been applied in Turkey so far. The only known example in this regard is the certificate program organized by the Istanbul Technical University for training patent attorneys. However, although the module 1 of this program was carried out in October 2013-March 2014, the subsequent module 2 was not initiated. ITU did not provide any explanations as to why this program, is discontinued.

The only solutions to prevent the above mentioned asymmetrical developments and practice are uniform rules and syllabus for everyone. Obviously, the fact that patent and trademark attorneys are not bound by a uniform Code of Conduct and that they obtain their titles without completing a uniform syllabus, prevent them from progressing at similar levels professionally.

The qualification examination currently in practice is known to be conducted formally in order to distribute the titles of patent and trademark attorneyship and the shortcomings of this examination have been widely observed and repeatedly expressed by many colleagues in various platforms.

In the omnibus bill prepared by the Turkish Patent Institute and transmitted to the Parliament, the provisions regarding the profession of patent and trademark attorneys heavily rely on enforcement of discipline and therefore are far from providing professional unity or overcoming the difference in regimens between the two groups mentioned above.

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