

THE

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**Digital Media,
New World, New People**

**Gökçe Yaralı Welcomes
New Senior Partner Dr. Hanlı**
Digital Media & New Opportunities

Regulation for Implementation of Industrial Property Law

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DIGITAL MEDIA, NEW WORLD, NEW PEOPLE

Digital media, which is on the agenda of the world for a long time, is a field that we heard a lot about yet not so familiar with. We can compare the digitalizing world to a community of primitive men that changed its life-style from nomadism to sedentism. The changing order requires new rules and new sanctions to ensure compliance with them. As a fresh and new field, digital world is advantageous to establish a new order. What we should do now is to examine the new rules and legal consequences of not following these rules.

What is “Digital Media”?

Digital media is an umbrella term that contains web sites, mobile applications, social media; technologies of augmented reality, virtual reality, e-commerce platforms and more. It is a new generation of media that covers for all kinds of texts, audios, videos and other visuals that exist on a digital platform. While people use the identities they created in the digital world more often through social media, companies are in the need of using different methods to reach people and to protect their commercial interests. In terms of digital marketing; brand management, social media management, seo (search engine optimization) and online advertising stand out more than the other fields. Some companies prefer to work with digital media agencies to keep up with this field which has no limits.



Digital Media & Law

Digital media needs the rules of many different legal areas to establish a fair and safe order that is similar with the physical world. Intellectual Property Law, (Copyright, Plagiat) Press and Media Law, (Freedom of Quotation and Exceptions), Unfair Competition, Internet Law, e-Commerce Law, Prevention of Crimes Committed in Internet, Personal Data Protection Law are the prominent legal fields that should be paid attention to. Today, most of the problems concerning digital media arises from not providing enough protection for copyrights and personal data.

Copyright infringements are widespread through digital platforms, as reaching to publications and sharing them is very easy through internet. The activities of a standard internet user which seem very innocent might lead to severe economic and legal consequences. Today, content providers still actively fighting against pirate broadcasting. For instance, blocking access to websites is a common legal remedy to be taken in case of websites that pirate broadcasting with contents in Torrent format which took the place of hawkers that sold cds in the past. However, legal regulations are still not sufficient and we cannot prevent some of the problems since internet is such a fast and variable platform.

With each share made on the internet, data of people and legal entities are transferred to the digital platforms. With the Law on Protection of Personal Data came into effect within the scope of Turkish legislation, various regulations introduced on processing and transferring personal data. Data supervisors and data processors shall not take any action outside of the scope of consent taken from the data owners. Companies and brands have legal responsibility in their capacity of data supervisors and data processors towards to users of their digital platforms such as their websites, mobile applications etc. In case of not fulfilling their obligations, they can be obligated to pay administrative penalties in high amounts and can face penal sanctions.

What to Watch-out For ?

In order to protect their economic interests and to establish compliance with laws, companies should pay special attention to to below stated issues for their activities on the field of digital media:

1. The websites and mobile applications that are in service shall include an user agreement and privacy policy. Unless it indicated otherwise, it would be appropriate to state that all rights related to the intellectual property belong to the company.
2. The companies need to get consent from their digital platforms users about processing of their data. And companies should not take any action outside of the scope of the consent of their users.
3. For protection of trademark rights, registration to related registry shall be made on the areas of activities. As international interactions and trade increased with internet, the possibility of trademark registration abroad should be taken into consideration.
4. A digital marketing strategy should be established and attention should be paid to providing active communication with the consumers.

The companies should not share any unaccredited content. When a content allowed to be shared, the resources should be shown completely and necessary references should be made.

GOKCE YARALI WELCOMES NEW SENIOR PARTNER DR. HANLI

DIGITAL MEDIA & NEW OPPORTUNITIES

How would you define digital media ?

Digital Media is that all written, audio and visual elements which generates normal course of media (as news, magazines, article, commentary, text, graphic, photograph, cartoon, design, advertisement, video, etc.) take place/ transmitted over online communication platform, such as internet or computer networks.

How do you think the digitalization of the media affects the quality of news and its content?

Instead of giving a direct answer to this question, we can indirectly answer that the digitalization of the media can arouse suspicion in terms of its credibility, since the publishing a newspaper can be much cheaper and easier than Radio/TV broadcasting. However, "The E-Newspaper content belongs solely to its publisher".

Is it desirable to access information this easy ?

The right information is valuable if it is easily accessible. However, since this situation creates information pollution, choosing the right information still presents a concern. In this case, it is not easy to access/select the right information anyway. For example, what one newspaper says right might be called wrong by another newspaper.



Is there some truth in the statements of publication of newspaper and magazines will be put to an end in near future?

We do not agree with these statements. Because, the archiving of other media resources does not provide the guarantee of content that provided by archiving a newspaper or magazine.

What advice can you give to companies for the use of online media?

We can advice that it is the most convenient way to quickly and selectively access to the news especially related to their sectors. For instance, one year's earnings can be earned in one day by instantly learning Russia's Nickel stock release to the market through the correct digital media and delaying the order of Stainless Steel accordingly, rather than learning it through TV news maybe or next day's Newspapers.

Who is Dr. Hakan HANLI ?

Dr. Hanlı, being a member at Ankara-İstanbul, Brussels & New York Bar Associations and CCBE, ABA, IBA & The Law Society of England & Wales, oversees and encourages law firms' academic, legal excellence and development. Dr. Hanlı is engaged in extensive expertise and collaboration with European & International institutions.

Dr. Hanlı's Turkish, European and International laws' expertise is emerging from its experiences in various areas of laws; such as Business, Societas Europaea / Commercial, Corporate Governance, Competition/Anti-Trust, Merger & Acquisition, Joint Venture, Capital Markets, Banking, Islamic & Project Finance, Foreign Investment & Exchange, Financial Leasing, Administrative, Customs, Privatization, Telecommunications, Innovation & Information Society/ Industry (ICT), Media & Entertainment, Energy & Mining, Environment, Employment, Property, Real Estate & Construction, Transportation, Aviation & AeroSpace, Maritime & Shipping, Medical & Pharmaceutical, Insurance, Consumer Protection, Sports (FIFA/UEFA/CAS), Insolvency & Bankruptcy, Mediation, Arbitration & ADR among others.

Dr. Hanlı counsels local and international institutions and corporations on Turkish legislative reforms vis-à-vis European Acquis during the Harmonization Process, Privatization of State Economic Enterprises, and further, advises on various draft laws, directives, regulations for the Independent Regulatory Agencies' & Authorities' consultation process and acts on Legislative & Regulatory Lobbying.

Dr. Hanlı was awarded with the highest quality mark of "1st Prize" as "OUTSTANDING TURKISH LAWYER", "OUTSTANDING EUROPEAN LAWYER" & "GLOBAL TOP TEN COUNSEL OF THE WORLD"



Regulation for Implementation of Industrial Property Law

Regulation for Implementation of Industrial Property Law (Regulation) came into effect on April 24, 2017 by publishing on the Official Gazette. The purpose of the Regulation is to provide protection for the rights related to trademark, geographical sign, design, patent, utility model that regulated by the Industrial Property Law (Law) and regulate procedures and principles that will be used for other related transactions regarding the rights regulated by the Code.

For further information please contact us at contact@gokce.av.tr



In brief, it is regulated that trademark application process is completed electronically by filling in an application form and giving the required information and documents to Turkish Patent and Trademark Office (Office). In this context, the date of trademark application is the date, hour and minute that the Office received the related documents. In case of a deficiency in the personal information required for application, signature, application form, trademark application or application fee, two (2) months period shall be granted by the Office to the applicant to correct its deficiencies. Any related person can object to trademark applications that published on the bulletin of the Office within two (2) months period from the date of publication. There is one (1) month period limit for the applicant to issue an opinion for the objection on its trademark application. According to Article 19 of the Code regulates that a trademark that is the same or similar with a subsequent trademark that registered or applied on an earlier date and therefore under the danger of confusion with the latter can object to registration and application of that trademark.

The aggrieved parties that have suffered from decisions of the Office on trademark application and registration process can object to them within two (2) months period from the date of notification of the decisions.

The Regulation also regulates patent application process. In this context, the required information and documents shall be prepared; in case of a deficiency in the application the applicant shall correct its deficiencies within two (2) months period without a notice from the Office. The Office only examines the applications on whether the required information and documents fully provided by applicants and make a procedural review. If a deficiency detected during procedural review, the related deficiencies shall be corrected within two (2) months period from the date of notification of the Office; otherwise the application shall get rejected. Any related person can object to patent within six (6) months period from the date of publication of it on the bulletin with paying the relevant objection fee.

In this context, the applicant has three (3) months period to issue an opinion for the objection or to make necessary changes on the related documents.

The regulation regulates that trademark, design, and patent can be seized separately from businesses; therefore this situation do not prevent transfer of trademark, design and patent rights to others. Likewise, it is regulated that pledges can be put on trademark, design and patent; therefore it shall be registered to the related registry and it shall be reported to Pledged Moveable Property Registry.

It is possible to reach the Regulation's Turkish version from the link below:

<http://mevzuat.basbakanlik.gov.tr/Metin.aspx?MevzuatKod=7.5.23528&MevzuatIliski=0&sourceXmlSearch=s%C4%B1nai>

<http://mevzuat.basbakanlik.gov.tr/Metin.aspx?MevzuatKod=7.5.23528&MevzuatIliski=0&sourceXmlSearch=s%C4%B1nai>



Answers. Not theories.

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About our firm

Gokce Yaralı Attorney Partnership is an Istanbul-based law firm offering legal services across a broad range of practice areas including mergers and acquisitions, joint ventures, private equity and venture capital transactions, banking and finance, capital markets, insurance, technology, media, telecoms and internet, e-commerce, data protection, intellectual property, regulatory, real property, and commercial litigation. Please visit our web site at www.gokce.av.tr for further information on our legal staff and expertise.

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