

A GUIDE TO UTILITY MODEL PROTECTION IN TURKIYE

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Innovation is crucial, but protection is essential. Without the "inventive step," "novel products" won't be protected under the existing "patent" system. Don't let your invention go to waste or be freely copied by others. Act fast and obtain protection in time through a "utility model" application in Türkiye or other territories where applicable. This is, in fact, your last line of defense to safeguard your inventions, as such.

This booklet provides an overview and examines the fundamentals of utility model system in Türkiye, including types of inventions eligible for protection, the advantages and disadvantages of the protection, the stages of the filing and prosecution process, examples of the Patent Office communications, official statistics, enforcement of rights, strategies for businesses with a comparison with global practices, and on how to leverage this system to safeguard their intellectual property.

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With over two decades of experience in the field of intellectual property, Ersin has developed a broad range of expertise in all areas of IP protection, including patent-oriented R&D, branding, valuations, commercialization, and technological innovation. He has attended over a hundred seminars as a speaker and has authored articles on the Turkish IP system in various domestic and foreign publications.

Throughout his career, Ersin has provided counseling services to universities, domestic and international clients, and innovative firms on patent, design and trademark matters. His exceptional skill set has earned him the privilege of consulting as an expert at some state IP projects and before the Istanbul Specialized IP Courts, as well.

Ersin's diverse background in chemical engineering, combined with his experience as a research scientist, has enabled him to provide valuable insight into polymer chemistry, organic chemistry, inorganic chemistry, food chemistry, and pharmaceuticals. As one of the few certified trainers in Türkiye on the course "LES 100: Commercializing Technology through the Power of IP Licensing," he has helped train professionals in the field of IP.

Ersin is also an active member of Licensing Executives Society International (LES) and European Patent Institute (EPI). Ersin played a pivotal role in the establishment of LES-Türkiye, serving as its founding president, as well as a board member at a later stage. He was also instrumental in founding AIPPI Türkiye, and remained a member of other international IP organizations, including JIPA, MARQUES, and CIOPORA, until 2017.

KORDINAT, headquartered in Istanbul, is a boutique patent firm for providing a full range of intellectual property services for innovators, entrepreneurs, business owners, and foreign associates and companies.

The firm delivers expert, comprehensive representation to clients across a wide variety of industries and technical fields, thanks to the team of qualified Turkish IP attorneys with strong technical and legal backgrounds and vast experience dealing with the TURKPATENT, and contributes to Türkiye's innovative businesses, universities, and thriving entrepreneurial ecosystem.

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I. INTRODUCTION

As innovation continues to be at the forefront of business strategy, protecting intellectual property is crucial to maintain a competitive edge.

However, not every technical invention meets the strict requirements for patent protection, particularly the "inventive step" criterion. Longer periods of prosecution and the associated costs should also be taken into consideration.

There was a growing demand for more rapid, low-cost rights protection for such products with shorter lifespans and technologies requiring faster deployment compared to traditional patent processes. This is where the utility model system can come into play.

Turkiye introduced the Utility Model System in 1995 under Patent Decree Law No. 551 to protect "small" inventions without requiring any search or examination process. As a response to some incidents of abuse and objections raised against the system, it was revised in 2017 through the introduction of Industrial Property Law No. 6769. The revision established a utility model protection centered around a novelty search decision, avoiding the need for in-depth examination procedures.

Even if a novel product is unlikely to meet the inventive step requirement for patent protection, it may still be eligible for utility model protection in Turkiye, which grants an exclusive right to use the invention for 10 years and prevents others from using it without permission.

By filing a utility model application in a timely manner and securing protection based on a favorable search report by the TURKPATENT, businesses can safeguard their valuable inventions earlier and easier than the patent protection system and prevent competitors from freely copying their products.

The advantages of the utility model system compared to the patent system include a shorter and easier application process, lower costs, and the absence of substantive examination, among others.

However, the utility model system has certain limitations, including the inability to protect methods, processes, chemical and pharmaceutical products, and bio-technological inventions. There are also no effective third-party opposition procedures available under this system, which may require parties to seek court intervention.

The primary objective of this booklet is to serve as a comprehensive guide for inventors and businesses aiming to protect and capitalize on their innovations in Türkiye. Readers will discover detailed information on the necessary steps for filing a utility model application, including the preparation of documents and the subsequent registration procedures.

In addition to the practical aspects of utility model registration, the booklet also delves into the broader context by comparing the Turkish utility model system with the patent system, highlighting key provisions, and exploring the implications for utility model registration. Special emphasis is placed on addressing the distinct concerns and requirements of non-Turkish applicants, ensuring that they can navigate the intellectual property system with confidence.

The information in this document is intended to be general information about the topic only and it is not to be relied on as legal advice nor as an alternative to taking professional advice. Readers are encouraged to reach out to us at ip@kordinatip.com for any further information, clarification, or consultation they may need based on the content provided therein.

II. LEGISLATION

A Turkish utility model is a set of exclusive rights granted by the Turkish Patent and Trademark Office (TÜRKPATENT) for an invention, particularly a non-chemical or non-biotechnological product in any field of technology, that provides a new practical solution to a specific technical problem.

As another type of legally enforceable protection for technical inventions in Turkiye, utility models are closely tied to the Turkish patent system and support inventions that fall short of complying with the "inventive step" requirement for receiving patent protection.

Applicable Law

Both utility models and patents are subject to Industrial Property Law 6769, which came into effect on January 10, 2017, marking a new era in the Turkish industrial property landscape. They almost enjoy the same provisions under the Booklet IV of the Law, unless stated otherwise. For those filed before the said date, the rights conferred by the Decree Law No. 551 of 26 April 1995 on the protection of patents and utility models are still valid.



Utility models are protected for a period of 10 years from the filing date provided that annuities are paid. Annuities (renewal fees) are due in respect of the end of second year and each subsequent year of the anniversary, calculated from the date of filing. Late payment up to six months after the due date is subject to an additional fee.

Utility Model Rights

Same as patents, a granted invention for a utility model in Turkiye cannot be made (partly or entirely), used, distributed, imported, sold, offered for sale, kept for, or put into commercial use in any other way by others without the right holder's consent.

The right holder can assign- or transfer by succession- the utility model and conclude licensing contracts. Licensed rights cannot be extended or transferred to others without the right holder's consent. Without utility model (or patent) protection, competitors are legally free to copy, produce and market the product in Turkiye

International Harmonization

Turkiye is a party to the following international treaties forming patent and utility model infrastructure:

- Paris Convention on the industrial property protection (1925/ Stockholm 1995-1976);
- Patent Cooperation Treaty (PCT, 1996);
- Strasbourg Agreement concerning the international patent classification (1996);
- Budapest Treaty on the international recognition of the deposit of micro-organisms for patent procedure (1998); and
- European Patent Convention (EPC-2000 2007);

where the last two are irrelevant for the scope of utility model protection in Turkiye.

III. WHAT MAY BE PROTECTED ?

A utility model protects an invention which has practical utility in any field of technology, and may cover virtually any “apparatus” and “article of manufacture” same as those under patents. Unlike patents, only novelty and industrial applicability criteria apply to utility models (*Article 142*).

Novelty

The invention must not have been a part of the state of the art (prior art) -i.e. publicly known or used anywhere in the world- in order to meet the requirement of novelty. For instance, there should be no patent document (or any other disclosures) citing “all” essential features of the invention.

Industrial Applicability

The invention must be capable of being produced or used for any kind of industrial purpose (including agriculture) beyond a mere theoretical phenomenon.

Grace Period Exception

Under Turkish IP Law, an applicant is permitted to file a utility model (or patent) application within one year of publicly disclosing the invention (if priority right is claimed, within one-year before the priority date). Such disclosures are not taken into account as prior art when assessing the novelty requirement of the invention.

This grace period applies to disclosure made by the inventor; or the authority to which the patent application is submitted, without the consent or knowledge of the inventor; as well as disclosure made by a third party who obtained the information from the inventor directly or indirectly (*Article 84*).

Subject Matters, Not Eligible For Utility Model Protection

- Chemical, biological, biotechnological or pharmaceutical products.
- Methods or processes of any type.
- Computer programs. The presentation of information.
- Discoveries, scientific theories, mathematical methods, plans, game rules, mental or business activities.
- Literary and artistic works, scientific works, and creations being of aesthetic character.
- Inventions contrary to public order or to generally accepted principles of morality.

Non-Protectable Examples:

- A new type of biodegradable polymer and its synthesis process.
- A novel pharmaceutical compound for treating Alzheimer’s disease and its production method.
- A water heating method using electrolysis
- A genetically modified microorganism used for bioremediation
- A groundbreaking new type of battery with a novel composition that extends its life cycle and enhances energy storage capacity.
- A new solar cell material, with enhanced efficiency, involving complex material science processes and its fabrication method.

IV. UTILITY MODELS ./ PATENTS

This chapter is intended for those who have a basic understanding of patent matters and are interested in quickly grasping the key similarities and differences between patents and utility models in Turkiye. While both of these protection mechanisms are aimed at safeguarding inventions, their specific practices can vary from country to country.

Patents and utility models are both exclusive rights granted to their owners, providing them with the authority to prevent third parties from manufacturing, selling, using, or importing the invention without proper permission. To clarify the differences between patents and utility models, a comparison table has been furnished as a summary below:

Similarities & Differences	Patent	Utility Model
Patentability Criteria		
Novelty	Considered	Considered
Inventive Step	Considered	Not Considered
Industrial Applicability	Considered	Considered
Subject Matters Eligible for Protection		
Methods and Processes	Protected	Not Protected
Pharmaceutical Products	Protected	Not Protected
Biotechnological Inventions	Protected	Not Protected
Chemical and Biological Materials	Protected	Not Protected
Computer Programs, Business Methods	Not Protected	Not Protected
Application Process		
Search Report	Available	Available
Third Party Observations After Search Report	Available	Available
Examination Report	Available	Not Available
Post-Grant Opposition Proceedings	Available	Not Available
Other Topics		
Use/Work Requirement	Available	Available
Divisional Applications	Available	Available
Conversion from one to another	Available	Available
Annual Renewal Fees (As of 3rd year of filing date)	Available	Available
Protection Period	20 Years	10 Years

The advantages of the utility model system compared to the patent system include a shorter and easier application process, lower costs, and the absence of substantive examination, among others, while having the same rights as patents.

However, it is important to note that the utility model system has certain limitations, such as the inability to protect methods, processes, chemical and pharmaceutical products, and biotechnological inventions.

V. APPLYING FOR UTILITY MODEL

Foreign applicants may choose either of two routes for filing a utility model application in Türkiye:

- a conventional route within 12 months from the earliest priority date of a utility model or patent application, or
- through PCT National Phase Entry.

Representation

An applicant with no domicile or business seat in Türkiye should appoint a Turkish patent attorney registered before the TURKPATENT.

Filing Requirements

The requirements for filing a utility model application are the same as those for a patent, namely:

- a request for grant of a utility model on the online application form
- Particulars for the applicant/s and inventor/s and a simple statement on the right to the invention from the inventor, to be written on the application form
- a description of the invention, claims, an abstract, drawings illustrating the invention if needed, all known as the specification; and
- a payment receipt of the official fee.

A power of attorney is not required to be filed for the patent attorney's representation.

Language

Utility Model applications should be filed in Turkish. The description and claims may be filed initially in one of the official languages of the states that are parties to the Paris Convention or the Treaty Establishing World Trade Organization or applying the reciprocity principle, but a Turkish translation should be submitted within two months as of the filing date.

Cost

Despite TR official fees being reasonable, the cost for obtaining a utility model may change depending on the patent attorney's charges, translation requirements and response to search report content, if any. Allowance should also be made for annual renewal fees to be gradually increased during the 10-year period of the utility model protection.

Divisional Applications

A divisional utility model (or patent) application can be filed any time upon the applicant's request before the application is granted or refused. The Office also requires the same if the unity of invention is not met. Subject-matter of a divisional application should not extend beyond the content of the parent application

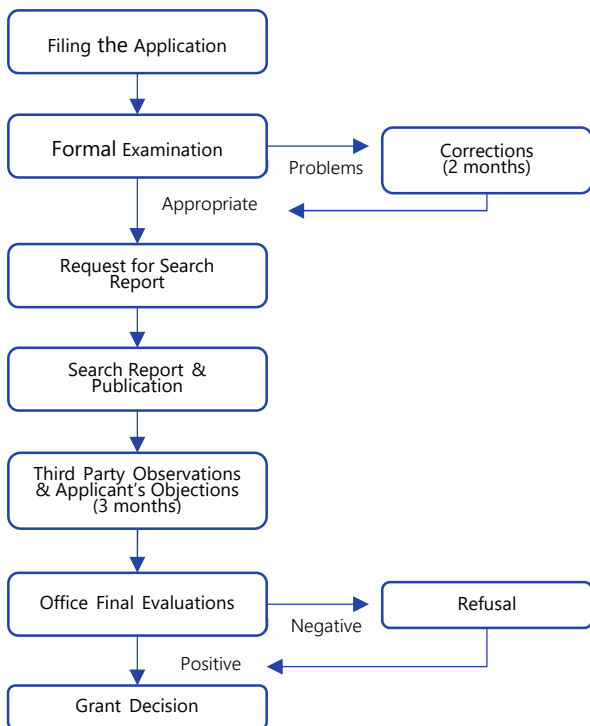
CONVERSION: It is possible to convert a utility model application into a patent application within 3 months from the notification of the search report, or vice versa, at any time before the grant decision. The latter makes sense if a patent application does not appear to meet the inventive step requirement.

CONVERSION OF A PCT NATIONALIZATION: The national entry of an international patent application under the PCT can take advantage of this provision. After filing in Türkiye, the applicant can choose to pursue utility model protection, which requires a new search report preparation stage again by the Office.

OFFICIAL FEES: Schedule of all fees for patents and utility models as well as for other types of IP filings is regularly published and updated by the TURKPATENT, and available in English and Turkish at: <http://www.turkpatent.gov.tr/>.

VI. APPLICATION STAGES

The utility model application process through TURKPATENT involves a formal examination, novelty search request, search report preparation, publication, objections to the search report (if any), and the final decision if the utility model is granted or the application is rejected. It takes at least one year. Neither a substantive examination nor an accelerated procedure is available.



Formal Examination

The TURKPATENT initially conducts a formal examination to ascertain whether the utility model application complies with all formal requirements and if the subject matter falls within the allowed categories for protection. Formal requirements typically include the correct application format, necessary documents, and accurate fee payments. Should any issues be found, the applicant is notified and allowed a two-month period from the date of notification to rectify the problems. The application will be rejected if the deficiencies remain unresolved or if the submitted corrections are deemed unacceptable.

Novelty Search Request

A request for a search report is mandatory for all utility model applications, together with a payment of search fee. The request can be submitted online either simultaneously with the application or within two months from the date the applicant is notified that the formal requirements have been met.

Search Report

The utility model search reports from TURKPATENT reveal prior art relevant to determining if an invention meets the criteria of novelty and industrial applicability, focusing on the claims. These reports follow a format similar to those prepared under PCT, but do not consider the inventive step criterion. They consist of the most significant prior art documents - typically earlier patent documents, articles and social media - as references, categorizing each according to its relevance to the utility model application in relation to the said eligibility criteria. The report does not include a written opinion but simply indicates the presence (YES) or absence (NO) of the specified criteria alongside the claim numbers.

BULUŞUN PATENT SINIFI (IPC) 65D 5/74 (2021.01)		
3. ARAŞTIRILAN ALANLAR		
B65D		
Araştırma esnasında kullanılan elektronik veritabanları ve uygun olduğu durumlarda kullanılan bazı anahtar kelimeler EPODOC, WPI, EPOQUE İngilizce ve Almanca Tm-metin Veritabanları (TXTE, TXTDE), TURKPATENT Patent Veritabanı, Espacenet		
Closure, cap, cover, lid, clip, aseptic, pack, liquid, fluid, circular, thread, screw, tooth, gear, hinge, rotate, membrane, foil, pouring spout, extend, rib, cam, angle ve bunların uygun kombinasyonları		
C. İLGİLİ DOKÜMANLAR		
Kategori	Dokümanlar	İlgili Olduğu İstem
A	EP1088765A1 (TETRA LAVAL HOLDINGS) 4 Nisan 2001 (04.04.2001) Tüm Doküman	1-6
A	EP3279103A1 (BERICAP HOLDING GMBH [DE]) 7 Şubat 2018 (07.02.2018) Tüm Doküman	1-6
A, D	EP1088764A1 (TETRA LAVAL HOLDINGS) 4 Nisan 2001 (04.04.2001) Tüm Doküman	1-6
D. FAYDALI MODEL VERİLEBİLİRLİK KRİTERLERİ		
Yenilik	EVET	İstem 1-6
	HAYIR	İstem -
Sanayiye Uygulanabilirlik	EVET	İstem 1-6
	HAYIR	İstem -

VI. APPLICATION STAGES

(Continued)

**TIMELINE FOR A REAL CASE
(STRAIGHT-FORWARD)**

09.08.2021	Application Filed and Search Fee Paid
22.08.2021	Formal Examination Completed, Applicant Informed, Search Initiated
14.04.2022	Applicant's Request For Early Publication
21.04.2022	Publication of Application (without Search Report)
02.06.2022	Search Report Delivered to Applicant
21.06.2022	Publication of Application with Search Report
29.09.2022	Grant Decision - No Objections or Third-Party Observations
21.10.2022	Publication of Grant Decision

Example: Search Report Notification

REPUBLIC OF TURKIYE

TURKISH PATENT AND TRADEMARK OFFICE

Patent Department

Number : E-39616753-110-220385985

Date : 01-Apr-2022

Subject : Patent Communication - Application No. 2021/X

PATENT ATTORNEY (NAME OF PATENT FIRM)

Reference: Your application no. 2021/XXXXXX dated 19/07/2021, and referenced PAT-XYZ

Referring to the aforementioned application, TURKPATENT is hereby providing you the Search Report along with the attachments thereof.

According to the eighth paragraph of Article 143 of Industrial Property Law No. 6769 and Article 121 of the relevant Regulation, the applicant reserves the right to object to the search report's content, while third parties may (contest by) submit(ting) written observations and supporting documents within three months from the publication of search report in the Official Gazette.

As per the ninth paragraph of Article 143, if neither your party objects nor third parties submit observations within the given timeframe, the Office will solely rely on the search report. In cases where objections and/or observations are provided, the Office will evaluate them in conjunction with the search report to arrive at a final decision.

Please be aware that annual fees must be paid each year to maintain protection for your application, beginning with the third year. These fees are due on the anniversary of the application date and can be paid with a fine within six months after the due date if not paid on time. Failure to pay within this period will result in the application becoming invalid.

Your application will be published in the Official Gazette after an 18-month period from the application or priority date (if applicable), or upon your request for early publication before this period.

Best regards,

This document is signed with a secure electronic signature.

VI. APPLICATION STAGES

(Continued)

Example: REFUSAL DECISION

.....

Referring to the a.m. application, it has been seen that your party raised an objection on 04/01/2023 against the content of search report, in accordance with the eighth paragraph of Article 143 of Industrial Property Law No. 6769 and the first paragraph of Article 121 of the Implementing Regulations.

Following the evaluation of your objection along with the search report, your application has been rejected in accordance with the provisions of twelfth paragraph of Article 143 of the said Law.

Regards

Unlike patent practice, utility models do not undergo substantive examination stages after the search report. Therefore, the TURKPATENT refrains from delving into technical justifications when issuing acceptance or refusal decisions to applicants.

That's why, refusal decisions for utility models particularly remain straightforward and follow a standardized format without providing any written opinions similar to those, for instance, prepared by the International Searching Authority under PCT.

Some applicants have questioned whether they can appeal refusal decisions for utility models, as there is no explicit mention of such an opportunity in the Law, and the decisions do not provide any clues about what the next steps could be (*unlike the grant decisions, an example of which is given in the next page*).

Despite debates on this issue, there exists a possibility for an appeal before the Upper Board of the Office based on the Article 123-(1) of the Implementing Regulations stating that "*the provisions specified for patents in the regulation shall apply to utility models if there is no explicit provision regarding them and it does not conflict with their nature*". Likewise, the Office applies the same approach to the use requirement for utility models, as stated in the grant decision, although there is no mention thereof in the law.

Utility Model Certificate (Optional)

Upon the publication of the utility model grant decision, the applicant has the option to request the issuance of an e-certificate from the Office by submitting a request online and paying the associated fee.

No Post Grant Oppositions

Unlike patents, post-grant opposition proceedings are not applicable to utility models. Invalidation actions before IP courts are the only means to challenge granted utility models, either in full or in part. In fact, the utility model system does not have an opposition system before or after the grant.

However, third-party observations against a utility model application may be filed with TURKPATENT within three months from the publication of the search report, as mentioned above. The Office's decision, taken after reviewing the novelty search report and considering third-party observations and/or applicant's objections, if available, is final, particularly for third parties. They cannot interfere with the Office's decision or receive any separate communication informing them of the decision.

VI. APPLICATION STAGES

(Continued)

Example: GRANT DECISION

.....

Referring to the a.m. application, it has been seen that neither your party raised an objection nor third parties submitted contesting observations within the given timeframe against the content of (positive) search report sent as an attachment to our communication dated 01/04/2022 and numbered 220248985, in accordance with the eighth paragraph of Article 143 of Industrial Property Law No. 6769 and the first paragraph of Article 121 of the Implementing Regulations.

Therefore, it has been decided to grant a utility model for your application following the evaluation of the search report, in accordance with the ninth paragraph of Article 143 of the said Law, and this decision and the utility model will be published in the Official Patent Bulletin.

Additionally, we provide the following information on the utility model right, as per the relevant articles of the said Law and Implementing Regulations:

The grant of a utility model does not imply a guarantee of validity and usefulness by our Office, and it does not impose any liability on the Office. The post-grant opposition procedure specified in Article 99 of Law No. 6769 is not applicable to utility models; only a request for invalidation can be initiated before the courts.

Annual fees must be paid each year to maintain your utility model protection, beginning with the third year (throughout the protection period). These fees are due on the anniversary of the application date and can be paid with a fine within six months after the due date if not paid on time. In case of failure to pay within this period, the utility model right will expire as of the last payment date.

However, if the compensation fee is paid within two months from the notification date regarding the expiration of the utility model right, the right will be reinstated as of the payment date and subsequently published in the Bulletin. Otherwise, a further request can also be made to take advantage of the provisions of the fourth paragraph of Article 101 in accordance with the first paragraph of Article 145 of Law No. 6769.

The utility model owner or the authorized person is obliged to use the invention protected by the utility model. This obligation to use is fulfilled within three years from the date of the publication related to the grant of the utility model in the relevant bulletin or four years from the filing date of the utility model application, whichever ends later. In accordance with the provisions of the first paragraph of Article 123 and the eighth paragraph of Article 117 of the Implementation Regulations of Law No. 6769, if a declaration is submitted to the Institution within this period regarding whether the utility model is used or not, this situation will be recorded in the register and published in the Bulletin. Utility models without notification of use within the said period will also be published in the Bulletin.

After the publication announcing the grant of the utility model, a request for the utility model certificate can be made by paying the issuance fee, in accordance with the tenth paragraph of Article 143 of the Law and Article 122 of the Implementing Regulations.

Please refer to the published current fee tariff as of the payment date for the service fees provided by the Turkish Patent and Trademark Office.

Regards ...

VII. GENERAL MATTERS

Annual Renewal Fees

Utility models are protected for 10 years from the filing date, provided that annuities are timely paid. Annuities are due starting from the third year and each subsequent year of the anniversary, calculated from the filing date of the application. Late payment up to six months after the due date is subject to an additional fee. If payment is not made within this period, the utility model right expires as of the last payment date, and the applicant is notified accordingly (*Article 101*). However, the applicant can still pay the annuity with a compensation fee within two months from the notification receipt date, so that the utility model rights will be reinstated as of the payment date and subsequently published in the Bulletin.

No Double Protection

The law prohibits granting multiple patents or utility models, or both, with the same scope of protection for the same invention to the same person or their successor (*Article 145*). In such a case, other pending applications should be withdrawn before the grant of the target application.

No Extended Protection Anyway

Utility models are not eligible for an extension in any circumstances beyond the 10-year period, thus no longer providing any legal protection for the invention. Likewise, after grant, there is no way to convert a utility model into a patent application, (*Article 104*) or file a divisional application therefrom (*Article 91*).

TURKPATENT's Website

A range of great resources and services is available at www.turkpatent.gov.tr, to support industrial property needs in Turkiye. These include patent searches, online filing, file tracking, registered patent attorneys, official fees and so more.

Use / Work Requirement

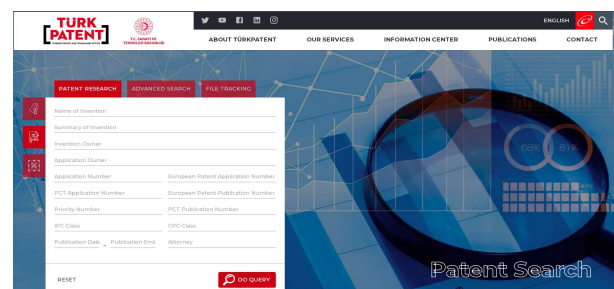
The right holder or authorized person is obliged to use the invention under utility model protection and submit a simple declaration of use (no evidence required) to the TURKPATENT within four years from the utility model filing date or three years from the publication date of the mention that the utility model has been granted, whichever is the later. The declaration of use or non-use of the invention submitted as such, or absence of any submission during the specified period, will be published in the patent bulletin (*Article 130, Article 145*).

Correction of Errors

Right holders should correct any errors in their utility model specifications promptly to ensure that they reflect the true scope of the invention. It is important to address these issues in a timely manner, especially before initiating legal action, to avoid any potential inconvenience or complications that may arise during proceedings

Utility Model Marking

When making a notice to the public on a product, its labels and packaging, or any advertising or printed material suggesting the existence of utility model protection, it is mandatory to include the utility model number. In any case, a patent or utility model owner must inform the other party of the application or registration number when asserting these rights (*Article 106, Article 145(2)*).



VIII. UTILITY MODEL SPECIFICATION

The utility model system offers mighty protection for small-scale inventions, serving an alternative to the conventional patent system, which may have uncertain outcomes or low success rates during the patent prosecution process.

Utility models protect inventions that are new and industrially applicable, but that may not be as innovative or groundbreaking as those protected by patents. In many countries, utility models are sometimes referred to as "petty patents" or "innovation patents".

While there are some differences in their requirements and scope of protection, their specifications share the same structure and content. It is important to note, however, that method claims or product-by-process claims are not permitted for utility models, which sets them apart from patents. Nonetheless, the overall composition of utility model and patent specifications are fundamentally the same.

The preparation of a utility model (or patent) application requires careful attention to detail and a thorough understanding of the legal and technical requirements. It is strongly recommended to work with a qualified patent attorney to ensure that the application is complete, accurate, and well-written. Failure to comply with the requirements can result in the rejection of the application or the loss of valuable rights

In General

When you have devised an invention or innovative idea that you believe is unique and useful, the next step is to decide whether to protect it through a patent or utility model.

However, before filing an application, it's essential to conduct an in-depth prior art search to ensure that the invention is truly novel and doesn't violate any existing patents or utility models through various online sources, such as Espacenet.

The application document requires a full disclosure of the invention, in compliance with all legal and technical requirements. Accordingly you should include a "description (*tarifname*)" that extensively outlines the invention, addressing various questions such as: How does the invention work? What are its unique and essential features? What problem does it solve? How is it different from existing solutions? Are there any specific materials or approaches involved in its implementation?

The utility model application should also include a set of "claims (*istemler*)" that outline the essential features of the invention the applicant aims to protect. These claims need to be specific, concise, and clear, specifying the exact scope of the invention. The claims should also be drafted broad enough to cover any potential variations or improvements to the invention.

Another essential component of the application is the "abstract (*özet*)" providing a concise summary of the invention with a brief overview of the key features and benefits. It should be easy to understand and typically consist of just a few paragraphs.

If the invention involves a physical product, it is also essential to include detailed illustrations or diagrams, called "figures (*şekiller*)" that provide a visual representation of how the invention works. These illustrations should be clear, accurate, and labeled with appropriate references to the accompanying text.

Full Disclosure of The Invention:

A utility model application must provide a detailed description of the invention and of the manner of making and using it in such full, clear, concise, and exact terms that any person with an ordinary level of skill in the relevant technical field can replicate and use the same.

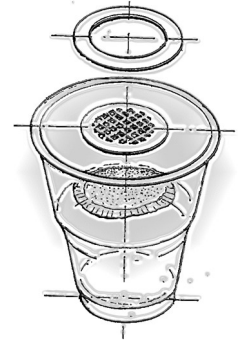
VIII. UTILITY MODEL SPECIFICATION *(Continued)*

Description (Tarifname)

This is the part where the invention is explained in detail, beginning with the main title of "DESCRIPTION" and followed by the "title of invention". The description should be clear, detailed, and not hide anything that would allow the invention to be applied to a person skilled in the relevant technical field of the invention.

Let's say you've invented "a new plastic cup preferably for hot drinks, that is designed, for instance, to confine a tea bag at the bottom of the cup". You want to apply for a utility model to protect your invention in Turkiye.

Here is a simple guide to help you prepare the description for your utility model application in Turkiye, consisting of the following recommended sections, which should be filed before TURKPATENT to ensure the clarity of the invention:



Title of The Invention

Your title should capture the essence of the invention in fewer than ten words while remaining concise and easy to understand. For instance, you may choose to call it "A Novel Beverage Cup with Confined Beverage Bags" or "Ready-to-Use and Disposable Beverage Container".

This title must be exactly the same on the APPLICATION FORM, DESCRIPTION and SUMMARY pages. Failure to do so may result in an office action due to formal requirements

Technical Field

Start by briefly describing in a few sentences the general technical field your invention falls under.

Example: The present invention relates to "beverage containers" and particularly to "a disposable beverage cup that allows for the preparation and drinking of various hot beverages without any prior preparation" ...

At this filing stage, it is important to keep in mind that the invention should not be limited solely to the use of tea bags.

Prior Art (Background of the Invention)

Next, provide some background information on the problem that the invention is designed to solve, as well as any existing solutions that are currently available.

In this case, the background could cover various topics, such as "the widespread use of traditional disposable beverage cups and the convenience of using beverage bags and ready-to-use extracts" but also potential issues that may arise, such as "the inconvenience of free floatation of the beverage bag, the need for proper placement of the bag, the risk of breakage and spillage, and the appropriate disposal of the cup and bag". You may mention further how such beverage extract-bags are used in many different settings.

In this section, it is recommended to provide a brief overview of similar inventions, technologies, or products in the domestic and international markets by referencing disclosures in relevant patent or utility model applications, articles, or other sources of information including the social media.

VIII. UTILITY MODEL SPECIFICATION *(Continued)*

Brief Explanation of the Invention

Provide a list of basic objectives of your invention followed by a brief summary thereof. Highlight its key features and advantages. For example, you could say something like *"The primary objective of the invention is to provide a ready-to-use cup with the beverage extract already available inside, confined at the bottom, which allows for easy and convenient preparation and consumption of hot beverages. Another objective of the invention is to provide a disposable beverage cup of biodegradable materials, promoting sustainability and reducing waste. In order to accomplish the said objectives, the present invention proposes a disposable cup comprising beverage content and holding means for keeping the content at the bottom of the cup."*

Following this introduction, it is typical practice to include the "all features" listed in the "claims" section, repeating them in this part of the specification. This approach ensures that the scope of the invention is not exceeded and that each feature is supported by the description. While highlighting the key features and advantages compared to conventional products, it is also essential to explain alternative embodiments without departing from the scope of the invention.

Explanation of Figures

For physical products, it is recommended to include drawings in your utility model application. You can include any drawings or diagrams that can help illustrate your invention at the end of the specification under separate pages, and explain your invention further referring these drawings. Beforehand, a brief description of each figure should be provided in a list format.

Example: Figure 1: Perspective exploded view of the beverage cup according to the invention

Throughout the patent specification, consistent and carefully selected terminology is critical for clarity and to ensure the scope of the invention is not exceeded.

Explanation of References in Figures

Each part and feature shown in the figures should be clearly labeled with a corresponding reference number. This section should provide a list of these numbers along with a brief explanation of each part or feature.

Example: 1- Liquid / 2- Cup / 3- Beverage content / 4- Holding means / 5- Meshes / 6- Ring holder / 7- Perforated circular element / 8-Locking means....

It is important to maintain consistency and use the same references throughout the entire specification.

Detailed Description of the Invention

This is where you'll provide a comprehensive explanation of the invention, including its various components, how they are configured and operate together, and how they interact with other components of the invention. During this description, explain your invention by referring to the drawings and the relevant reference sign must be written in parentheses immediately after referring to a part or feature.

Example: Figures 3 illustrates another preferred embodiment of the invention wherein the beverage content (3) are confined at the bottom of the cup (2) with holding means (4) comprising a perforated circular element (7) and a ring holder (6), the latter of which fixed by ultrasonic welding or attached with glue to the inner lower base (10) of the cup (2).

The hot liquid (1) poured into the cup (2) by passing through the meshes (5) of the perforated circular element (7), reaches to and easily interacts with the beverage content (3). Besides, this design allowing for piston-like movements via a spoon for instance provides a more rapid circulation of the liquid (1) flowing from the meshes (5), thereby producing a fast growing of color, and a rapid brewing....

VIII. UTILITY MODEL SPECIFICATION *(Continued)*

Claims (İstemler)

Your claims are the legal definition of your invention and the most important part of the utility model specification, and they define what you're claiming as your own intellectual property under the utility model protection. This is where you'll list the specific features of your invention that you believe are novel.

The wording of the claims is critical and must be carefully drafted to cover all possible variations and embodiments of the invention while avoiding claims that are too broad or too narrow. Note the followings in drafting the claims:

- They must be clear, concise, and supported by the description of the invention in the specification. Claims must be written in a specific legal language and format.
- They cannot exceed the scope of the invention described in the description (features that are not mentioned in the description cannot be mentioned in the claims and therefore cannot be protected).
- Claims must contain an independent claim including all basic features of the invention. If there are additional technical features that are desired to be protected in addition to the features in the main claim, they can be arranged as separate dependent claims.
- Each claim should consist of two parts, namely a preamble and a characterizing part. The preamble includes common technical features that are already known in the prior art preceded with introductory technical terms from the invention's title and purpose. The second part of each claim is for the novel features of the invention and is introduced after the phrase "characterized by" or "in that."

Example: 1. A disposable beverage cup (2) with a beverage content (3) characterized by comprising a holding means (4) that confines the beverage content (3) to the bottom of the cup (2) (during use, allowing for easy and convenient preparation and consumption of hot beverages).

2. The beverage cup according to claim 1, characterized in that the said holding means (4) comprising a perforated circular element (7).

3. The beverage cup according to claim 2, characterized in that the said holding means (4) further comprising a ring holder (6) attached to the inner lower base (10) of the cup (2).

.....

9. The beverage cup according to any one of the preceding claims, characterized in that the cup (2) and the holding means (4) is made of a heat-resistant and biodegradable material.

10. The beverage cup according to any one of the preceding claims, characterized by further comprising a built-in stirrer and/or sugar packet holder.

Abstract/Summary (Özet)

Finally, you'll need to provide a brief abstract of your invention, which summarizes the key points of your application. This will help others quickly understand what your invention is and why it's important. This section provides general technical information related to the invention and cannot be used to determine the scope of protection or limit the known state of the art.

Drawings (Şekiller)

You may want to include any technical drawing pages (including flowcharts and diagrams) that can help illustrate your invention at the end of the specification under separate pages, as mentioned above sections.

IX. ENFORCING UTILITY MODEL RIGHTS

Utility model right holders enjoy similar rights to patent owners, including the right to prevent unauthorized third parties from producing, using, selling, or importing products that incorporate the protected invention. The Law mainly provides for civil remedies in cases of infringement, including an injunction to stop the unauthorized use, compensation for damages, or destruction of infringing products.

Claims by Right Holders

A right holder whose industrial property right has been infringed can file a lawsuit with the following claims (*SMK 6769, Article 149*):

- Determination of whether the act constitutes infringement.
- Prevention of potential infringement.
- Termination of infringement acts.
- Elimination of infringement and compensation for material and moral damages.
- Confiscation of products, devices, or machines involved in the infringement.
- Recognition of ownership rights over confiscated products, devices, or machines.
- Announcement of the court decision in newspapers or similar media, or notification to relevant parties.

Compensation-Loss of Profits

Those who commit actions that violate industrial property rights are required to compensate the right holder for any damages caused. If the improper use or production of the industrial property right damages its reputation, the right holder may also seek additional compensation (*Article 150*).

The loss of profits is calculated using one of the following methods, as per the right holder's choice:

- The probable income that the right holder would have earned if the infringer had not competed.

- The net profit earned by the infringer.
- The license fee that the infringer would have paid if they had legally used the right through a license agreement.

Legal Jurisdiction

The competent courts handling intellectual and industrial property cases are the Intellectual and Industrial Property Civil Courts and Criminal Courts (*Article 156*).

In cases where the right holder files a lawsuit against third parties, the jurisdiction lies with the court of the plaintiff's residence, or the place where the illegal act occurred or its effects were observed. If the plaintiff does not have a residence in Turkiye, the jurisdiction lies with the court in the location of the registered attorney's office or the location of the TURKPATENT.

Precautionary Measures

IP right holders can request the court to order precautionary measures if they can prove that the subject matter of the lawsuit constitutes an infringement of their IP rights in Turkiye or that serious and effective efforts are being made to commit infringement (*Article 159*). Precautionary measures may include:

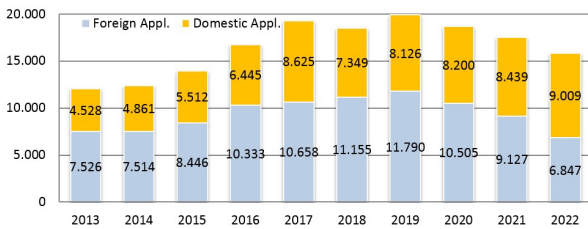
- Prevention and termination of infringing acts of the plaintiff's industrial property rights.
- Seizure of products, devices, or machines involved in the infringement.
- Provision of information and documents related to the infringement.

X. STATISTICS

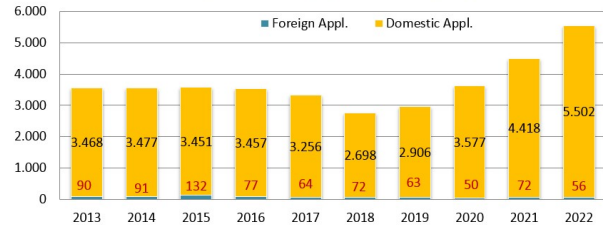
Patent and utility model filing statistics offer valuable insights into the innovation landscape and the interests of domestic and foreign entities in protecting their inventions in Turkiye. Over the past decade, "domestic" patent filings have almost doubled from 4,528 in 2013 to 9,009 in 2022, with an average annual increase rate (CAGR) of 7.9% driven by a growing innovation ecosystem and investment in research and development within the country.

In contrast, filings from "foreign applicants" reached their highest point in 2019 with 11,790 patent applications, representing a 56.7% increase from 2013, before decreasing to 6,847 in 2022. This decline is particularly evident in the EPC validations category and may be attributed to the introductory phase of the new unitary patent system, changes in international patent strategies, or economic factors.

Patent Applications (TR)



Utility Model Applications (TR)



Despite a 31.1% overall increase between 2013-2022, the total patent filings peaked in 2017 with 19,283 applications and decreased to 15,856 in 2022. On the other hand, utility model filings have been increasing steadily with an annual growth rate of about 19.0% for the past five years, sourced by domestic filings made up 99% of the total utility model applications. A closer look at the average annual filings, domestic and foreign shares, and overall trends for the past five years reveals several key observations.

Over the last five years, the average annual domestic patent filings have shown an upward trend, increasing from 7,114 in 2018 to 8,697 in 2022, reflecting the growth and strength of the local innovation ecosystem. The foreign share of total patent filings has seen a decrease from 56% in 2020 to 43% in 2022, suggesting that domestic inventors and entities are becoming more prominent in the innovation landscape.

Utility model filing trends in Turkiye over the last five years reveal a remarkable increase, growing from 3,563 in 2020 to 5,502 in 2022 with an average annual growth rate of 9.9%, while foreign filings remaining around 50 applications are almost negligible in considerations. This highlights the rising prominence of domestic innovation and the potential shift towards greater utility model protection in Turkiye's intellectual property landscape.

XI. CONCLUSION

The Turkish utility model system provides a valuable means for businesses to protect their innovations, particularly in cases where patent protection may not be suitable or reachable. By understanding the fundamentals of the system, the types of inventions eligible for protection, and the advantages and disadvantages of this form of protection, businesses can make informed decisions about how to leverage the utility model system to safeguard their intellectual property rights and maintain a competitive edge in the market.

The utility model system in Turkiye is governed by the Industrial Property Law n. 6769 and its implementing regulations. The Turkish Patent and Trademark Office (TÜRKPATENT) is the responsible office for managing the whole application process.

Utility model right holders enjoy similar rights to patent owners, including the right to prevent unauthorized third parties from producing, using, selling, or importing products that incorporate the protected invention. The Law mainly provides for civil remedies in cases of infringement, including an injunction to stop the unauthorized use, compensation for damages, or destruction of infringing products. Additionally, customs measures can be employed to prevent the importation of infringing products.

In this regards, businesses should:

- Conduct thorough prior art searches to ensure that their inventions can meet the novelty requirement;
- Consider the utility model system as an alternative to patent protection, especially for innovations with a shorter commercial life or for those that do not meet the patentability criteria;
- Seek professional advice from patent attorneys or intellectual property experts to navigate the application process and optimize the chances of success.
- Monitor competitors' patent and utility model applications to identify potential infringement risks and submit third-party observations when necessary;
- Monitor the market for potential infringement and take timely legal action to enforce their utility model rights, and
- Maintain a comprehensive IP strategy that includes utility models, patents, designs, and other forms of protection to safeguard their innovations and maintain a competitive edge in the Turkiye's market and abroad.

In contrast to popular belief, utility models may offer greater benefits than patents, against invalidation attacks. Once novelty is established and TÜRKPATENT confirms it through a prior art search report, there will be no contentious debates regarding the challenging inventive step criterion that need to be addressed by a panel of experts appointed in court proceedings.

Business should be aware that utility model systems are present in various countries around the world, including Germany, Japan, China, and several European countries, whereas some countries do not protect utility models, including the U.S., U.K., Canada, India, Netherlands and Belgium. Besides, some countries such as France do not allow international patent applications to be converted into utility models during the national phase, under PCT. While there are similarities in the general concept and purpose of utility models, the specific requirements, scope, and protection terms may differ among jurisdictions.