

How are Intellectual Rights Regulated under Turkish law?

When we talk about Intellectual Property Rights, we will be talking about Copyright. The Code On Intellectual And Artistic Works no 5846 dated 1951 is the fundamental legal regulation in this field. This Code has been amended several times in seventy years to reflect current global application. It encompasses types of artistic and intellectual works, adaptations and collections, published works, authorship, rights of author, limitations, disposal inter vivos, renunciation, attachment and pledge, inheritance, civil and criminal actions, related rights and prevention of infringement, unfair competition, pictures and portraits and conflict of laws.

What are the fundamentals of Intellectual Rights under Turkish Law?

Unlike industrial rights, intellectual rights do not have to be registered or confirmed by an authority in order for them to be protected under the law. The protection starts with creation and publication of the work to the public as a general rule. In current exercise, registration or confirmation of such rights are generally used to prove the ownership especially for the creation of date rather than a legal obligation for protection.

The code covers the moral and economic rights, of authors who create intellectual and artistic works and performers who perform or interpret such works, phonogram producers that make the first fixation of sounds, producers that make the first fixation of films and radio-television organizations, the rules and procedures regarding transactions on such rights, ways of legal recourse and sanctions.

Original pieces of work, which carry the characteristics and originality of the author, are protected if they fall under the scope of the specified categories in accordance with the Code. Works which are under of protection of the Code are:

- works of science and literature
- works of music
- works of fine art
- works of cinema

Each category of work has a separate sub-category under the Code.

The author of a work is the person who has created it. The author of an adaptation or collection is the person who has made the adaptation, provided that the rights of the original author are reserved. In the case of cinematographic works, the director, the composer of original music, the scriptwriter and the dialogue writer are joint authors of the work. For cinematographic works which are produced with the technique of animation, the animator is also among the joint authors of the work.

The economic and moral interests of authors in their intellectual and artistic works are protected under the Code.

The moral rights of the author are:

- Authority to Disclose the Work to the Public
- The Authority to Designate the Name
- Prohibition of Modification
- Rights of the Author against Persons Who Own or Possess a Work

The economic rights of the author are:

- Right of Adaptation
- Right of Reproduction
- Right of Distribution
- Right of Performance
- Right to Communicate a Work to Public by Devices Enabling the Transmission of Signs, Sounds and/or Images

The term of protection shall last for the lifetime of the author and for 70 years after his death. The author or his heirs may transfer to others the economic rights granted them by law, unrestricted or restricted as regards duration, place or scope, with or without consideration.

The authority only to exercise the economic rights may also be granted to another person, which is license.

Any person whose moral and economic rights have been infringed may bring an action against the infringer to cease the infringement. These actions consist of both compensation cases and criminal cases.