

TURKMENISTAN

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PART 1 PATENTS

§1.01 SUMMARY

[A] Kinds of Patents

- National patent
- Restricted patent
- Eurasian patent

[B] Duration of Patents

- National patent: 20 years from the date of filing the application
- Restricted patent: 10 years from the date of filing the application

[C] Patentable / Not Patentable

- A device, method, composition of matter, strain, culture of plant and animal cells, and other technical solutions, as well as their use according to a new purpose, may be regarded as a subject matter of an invention.
- The exceptions as mentioned in Rule 39 PCT apply, except that treatment of the human body is patentable and biological materials are patentable.
- Algorithms and programs for computers are not patentable.

[D] Novelty

- Absolute (worldwide) novelty applies.
- Six months grace period preceding the filing date applies.

[E] Filing Requirements and Application Procedure

- Filing languages: any
- Language of translation: Turkmen
- Time limit for filing translation: 3 months
- A patent is granted after limited or full substantive examination. Full substantive examination must be requested within 5 years of filing the application.

[F] Specific Aspects of Regional Patents

- Turkmenistan is a member of EAPC and Eurasian patents may cover Turkmenistan.

[G] Specific Aspects of International Patent Applications (PCT)

- Time limit for entering national phase: 31 months from priority date. Missed term may be reinstated during 3 months on payment of a fee.
- Time limit for filing translation: 31 months from priority date (plus 3 months extension).

[H] Governmental Websites

- Official website of the Turkmenistan Patent Office. www.tmpatent.org, however it is not in operation yet

§1.02 DETAILED INFORMATION

[A] Conventions and Legislation

[1] Conventions

- Paris Convention for the Protection of Industrial Property (1883), as from 25 December 1991;
- Patent Cooperation Treaty (1970), as from 25 December 1991;
- Eurasian Patent Convention for the Protection of Inventions (1995);
- Strasbourg Agreement Concerning the International Patent Classification (1971), as from 7 March 2007; and
- WIPO Convention (1967), as from 25 December 1991
- Patent Law Treaty from April 19, 2021.

[2] Laws

- Law of Turkmenistan ‘On Legal Protection of Inventions dated 11 November 2017

[B] Kinds of Patents

- National patent, granted after full substantive examination, which must be requested within five years from the filing date of the application
- Restricted patent, granted after limited substantive examination
- Eurasian patent.

[C] Duration of Patents

A national patent for invention is valid within twenty years from the date of filing an application for an invention with the Turkmenistan Patent Office, subject to payment of annual maintenance fees.

A restricted patent for an invention is valid within ten years from the date of filing an application for an invention with the Turkmenistan Patent Office, subject to payment of annual maintenance fees.

[1] Patent term extension/ Supplementary protection certificate

Term extension is not possible.

[D] Requirements for Renewal

Annual fees shall be paid for a whole year not later than the first month of the year during which a national patent or a restricted patent is valid. Fees shall be paid by the applicant, patent owner, or any third parties, unless otherwise is stipulated by an international treaty to which Turkmenistan is a party.

The first payment of patent annuity fees is carried out simultaneously with payment of fee for registration of invention.

The Turkmenistan Patent Office provides for a six-month grace period upon expiration of established term for payment of fees.

Restoration is possible up to three years after failure to pay maintenance fees.

[E] Patentable / Not Patentable

A device, method, composition of matter, strain, culture of plant and animal cells, and other technical solutions, as well as their use according to a new purpose may be regarded as subject matter of an invention.

Treatment of the human body is patentable.

Biological materials are patentable.

Otherwise the exceptions as mentioned in Rule 39 PCT apply.

The following shall not be regarded as inventions:

- (a) discoveries, scientific theories, and mathematical methods;
- (b) methods for organizing and managing property;
- (c) reference designations, schedules; rules;
- (d) algorithms and programs for computers;
- (e) methods of performing mental operations;
- (f) projects and layouts for constructions, buildings, territories;
- (g) solutions relative to appearance of articles only, aesthetic creations;
- (h) circuit topologies;
- (i) plant and animal varieties;
- (j) solutions contrary to public order, humanity or morality, or seriously prejudicial to the environment.

The subject matters listed in items d), h) shall be protected on the basis of the Law of Turkmenistan ‘On Legal Protection of Algorithms, Computer Programs, Data Bases, and Topologies of Integrated Microcircuits’ (1994).

Plant and animal varieties are protected on the basis of the Law of Turkmenistan ‘On Legal Protection of Selection Achievements’ (2011).

[1] Chemical compositions

Chemical compositions are patentable.

[2] Pharmaceuticals

Pharmaceuticals are patentable.

[3] Second use

A second medical (as well as non-medical) use is patentable.

[4] Treatment of the human body

Treatment of the human body is patentable.

[5] Biological materials

Biological materials are patentable.

[6] Plant varieties

Plant varieties are not patentable as invention, but as a separate subject matter under the Law of Turkmenistan ‘On Legal Protection of Selection Achievements’ (2011).

[7] Software-related inventions

Computer programs as such cannot be patented as inventions, but the fact that the computer program or algorithm is a part of the invention shall not prevent the patentability of the invention. Software-related inventions may be protected under the Law of Turkmenistan ‘On Legal Protection of Algorithms, Computer Programs, Data Bases, and Topologies of Integrated Microcircuits’ (1994).

[8] Business methods

Rules and methods of economic activity are non-patentable.

[9] Immoral inventions or inventions contrary to public order

Inventions contrary to public interests, humanity or morality, as well as inventions, which damage the environment, are non-patentable.

[10] Semiconductors

The three-dimensional geometrical structure of the elements of an integrated microcircuit (‘topography’) is protected as a copyright subject matter in accordance of the Law of Turkmenistan ‘On Legal Protection of Algorithms, Computer Programs, Data Bases, and Topologies of Integrated Microcircuits’ (1994).

[F] Novelty

Absolute (worldwide) novelty applies.

A technical solution claimed as an invention shall be granted legal protection, if the same is novel, involves inventive step and industrial applicability. An invention shall be considered to be new if it does not form part of the state of the art. An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art. The state of the art shall be held to comprise everything made available to the public before the priority date of an invention. An invention shall be considered as susceptible of industrial application if it can be made or used in any kind of industry.

[1] Grace period

A six-month grace period applies, for disclosures by or from the inventor.

Such disclosure of information pertaining to an invention made by an author, applicant, or any person who received this information directly or indirectly from the author or the applicant, under which information about the true nature of the invention became available to the public, shall not be construed as a circumstance prejudicial to patentability of the invention, provided that an application for the invention is filed with the Turkmenistan Patent Office not later than six months from the date of disclosure of information. The burden of proof shall be borne by the applicant.

[G] Ownership and related rights

[1] Applicant

An inventor(s) of an invention, an employer or assignee(s) thereof may be considered as an applicant(s).

[2] Assignment

A patent for an invention may be subject to assignment within the entire duration thereof. The right based on a patent may be assigned in full or in part.

The patent assignment agreement shall be registered with the Turkmenistan Patent Office.

The following documents are required to proceed with registration of patent assignment:

- (1) two originals of deed of assignment signed and sealed by the contracting parties, or notarized copies thereof; and
- (2) power of attorney in the name of the representative.

Legalization of the documents is not required.

[3] Licenses

Any person that is not a patent owner shall be entitled to use a patented invention only upon the patent owner's consent on the grounds of a license agreement. According to the license agreement, the patent proprietor (licensor) undertakes to transfer the right to use the patented invention within the scope provided for by the agreement to another person (licensee).

The patent (restricted patent) license agreement for use of invention shall be registered with the Turkmenistan Patent Office.

The following documents are required to proceed with registration of patent license:

- (1) two originals of license agreement signed and sealed by the contracting parties, or notarized copies thereof; and
- (2) power of attorney in the name of the representative.

Legalization of the documents is not required.

[4] Pledge and Seizure

The patent legislation of Turkmenistan does not provide for registration of pledge agreement for inventions or seizure of patents.

[H] Filing Requirements*[1] Obligation to file first with national office*

An application for an invention created in Turkmenistan may be filed in foreign countries or with an international organization after four months from the date of filing the relevant application with the Turkmenistan Patent Office, unless the applicant is notified within said period that the application contains information constituting state secret.

A Eurasian application for an invention may be filed without preliminary filing of the relevant application with the Turkmenistan Patent Office, if the Eurasian application for an invention created in Turkmenistan is filed through the Turkmenistan Patent Office.

An international application for an invention may be filed without preliminary filing of the relevant application with the Turkmenistan Patent Office, if the international application for an invention created in Turkmenistan was filed with the Turkmenistan Patent Office as a receiving Office.

[2] Minimum requirements for obtaining filing date / Provisional applications

In order to be accorded a filing date, an application for an invention shall contain:

- a request for the grant of a patent or restricted patent designating an author (co-authors) of the invention and a person (persons) in whose name (names) a patent or restricted patent is claimed, together with its (their) place of residence or location (in Turkmen);
- a description of the invention disclosing the latter as full as it is sufficient to carry out the invention by a person skilled in the art (in any language);
- a set of claims expressing the true nature of the invention, said set of claims being fully based on the description and determining a scope of rights for which protection is sought (in any language);
- drawings and any other materials, where they are necessary to comprehend the true nature of the invention (in any language);
- an abstract comprising a brief summary of the invention (in any language).

[3] Request for grant

A request for the grant of a patent or restricted patent shall be filed in the official language of Turkmenistan.

Other application documents may be submitted in another language with their translation into the official language or the Russian language attached thereto.

Documents submitted in another language shall be deemed to have been filed as of the date of their receipt by the Turkmenistan Patent Office, provided that their translation was received within three months from the filing date of the application for an invention.

[4] Appointment of Representative

Parties concerned shall be entitled to deal with the Turkmenistan Patent Office directly, through proxies or patent attorneys duly registered with the Turkmenistan Patent Office.

Foreign persons, as well as citizens of Turkmenistan living or having permanent residence outside Turkmenistan shall exercise their rights in dealing with the Turkmenistan Patent Office via patent attorneys duly registered with the Turkmenistan Patent Office, unless otherwise is stipulated by international treaties to which Turkmenistan is a party.

[5] Power of Attorney / Designation of inventor / Other documents

An application for an invention shall be supplemented with a power of attorney, if the application is filed by a representative of the applicant. The power of attorney shall be furnished with the Turkmenistan Patent Office within three months from the filing date of the application.

A document confirming the payment of a patent fee in the prescribed amount, or a document confirming grounds for exemption from a patent fee or for reduction of the fee amount, or for delay of payment should be attached to the application.

Documents attached to the application for an invention shall be furnished with the Turkmenistan Patent Office within three months from the filing date of the application.

[6] Priority

Priority may be established upon the filing date of the first application filed in a State – Member of the Paris Convention provided that the convention application has been filed with the Turkmenistan Patent Office within twelve months from the filing date of the first application.

A request for convention priority may be filed when filing the application for an invention or within three months from the date of filing the application with the Turkmenistan Patent Office.

In addition to the application for an invention claiming convention priority, a certified copy of an original application shall be attached and shall be filed not later than four months after the receipt of the convention application with the Turkmenistan Patent Office. If there are several original applications, copies of all these applications shall be attached.

The Patent Office may request a translation of the priority document.

No exhibition priority is available.

[7] Allowable language(s) upon filing / Language(s) of procedure

Upon filing, the request for grant of the application, including the name and address of the applicant should be in Turkmen.

The specification of the invention and claims may be filed in any language. A translation into Turkmen shall be submitted to the Patent Office within three months after filing date. This time limit may be extended for another three-month period at the request of the applicant and on condition of payment of the respective fee.

The language of procedure is Turkmen.

[8] Description

The description must disclose the invention in sufficient details for it to be carried out.

[9] Claims

The claims must define the essence of the invention and be completely supported by the description. Multiple dependency of claims is allowed. Additional claim fees are payable for additional independent claims after the first.

[10] Abstract

The abstract must contain a summary of the essence of the invention. It will serve for the purpose of technical information.

[11] Drawings

Drawings shall be presented where they are necessary for understanding of the claimed invention.

[12] Payment of fees

The application fee must be paid within three months from the filing date of the application.

Any action on which the fee is stipulated is effected by the Turkmenistan Patent Office only after payment of the corresponding fee. Evidence of payment of the prescribed fees should be submitted to the Office.

[I] Application Procedure*[1] Filing Authority*

An application for an invention shall be filed with the Turkmenistan Patent Office.

[2] Online filing

No online filing is available in Turkmenistan Patent Office.

[3] Formal examination

The application for an invention shall be subjected to formal examination after three months from the date of filing the application with the Turkmenistan Patent Office.

The formal examination shall be carried out within a further month and shall include the examination of:

- presence of necessary documents and compliance with the requirements applicable thereto;
- compliance of the claimed technical solution with subject matters that can be granted legal protection;
- compliance with the requirement of unity of invention;
- correct classification of an invention according to the International Patent Classification;
- compliance with legality and procedure of claiming priority.

Where the application for an invention satisfies the formal examination requirements, the applicant is forwarded a notification of acceptance for consideration, in which the established filing date thereof is indicated.

[4] Search

The information search is carried out by the Turkmenistan Patent Office during the limited patent examination and patent examination. Information search is carried out among information available in the world before the priority date of the claimed invention and among applications including Eurasian applications which were not withdrawn and have a positive result of the Formal Examination.

[5] Obligation to submit prior art, corresponding foreign search results and/or application numbers

There is no obligation to submit corresponding foreign search results and application numbers to the Turkmenistan Patent Office.

However the applicant can submit to the Turkmenistan Patent Office a copy of an opinion of the Competent Examining Authority as a document supporting patentability of the claimed invention to the request for patent examination.

[6] Substantive examination

Applications for a patent of invention that positively underwent the formal examination shall be subjected to limited substantive examination and then (if requested) full substantive examination. A decision to grant a restricted patent shall be made upon the limited substantive examination. A decision to grant a national patent shall be made after the full substantive patent examination.

The limited substantive examination shall be carried out within six months from the completion of the formal examination and shall include:

- additional examination of applicant's compliance with the applicable requirements;
- examination of compliance of the claims as filed with the applicable requirements;
- examination of compliance of the additional materials with the applicable requirements;
- examination of compliance of the claimed invention with the conditions of patentability on the grounds of the state of the art provided in the application materials by the applicant, on the grounds of non-withdrawn applications for an invention, published applications for an invention, along with Turkmenistan patents and patents of the Eurasian Patent Office having an earlier priority date.

The request for full substantive patent examination shall be filed within five years from the filing date of the application for an invention. The full substantive examination checks compliance of the claimed invention with the conditions of patentability set forth by the law.

It is possible to obtain an extension of time for up to six months to respond to any office action.

[7] Accelerated examination / grant

The applicant shall be entitled to request the accelerated limited examination provided that the applicable fee is paid. The accelerated limited examination shall be carried out within three months from the receipt of such a request.

[8] Amendments and corrections

The applicant shall be entitled to amend and alter the application documents without changing the true nature of invention prior to a decision to grant a patent to this application or a decision to refuse to grant a patent.

[9] Third party observations

An interested person may file a motivated appeal against grant of a patent before completion of examination. The examiner will simply consider the facts of the observation during examination of the application and may take them into account.

No ‘third party observation’ during prosecution of an application is stipulated.

[10] Grant

The Patent Office registers the invention patent (restricted patent) after it has received a document confirming payment of registration and grant fee, and the annual fees from the year of filing to the year of grant of the patent

The Turkmenistan Patent Office shall grant a patent or a restricted patent for the claimed invention to the applicant and publish relevant information about the granted patent or restricted patent in a bulletin.

[11] Opposition / Re-examination

Not applicable in this jurisdiction.

[12] Appeal

Where the applicant disagrees with a decision of the formal, limited or full substantive patent examination, the applicant shall be entitled to file an appeal with the Board of Appeal within three months from the date of forwarding the decision.

[13] Unity of invention

Where the application for an invention is filed in violation of the requirement of unity of invention, the applicant shall be invited to report within three months following the date of the relevant notice forwarded to the applicant, which of the claimed inventions is to be considered, and amend materials of the original application, if necessary. The other inventions sought to be patented may be executed as divisional applications.

[14] Divisional applications / Continuation applications

Divisional applications may be filed before exhaustion of right to file an appeal against an Official Decision of Rejection of the parent application, or before the data of registration of the invention upon the allowed parent application into the Official Register of Inventions. A request for examination of a divisional patent application should be filed within five years from the filing date of that application.

Continuation applications are not applicable in this jurisdiction.

[15] Conversion

Upon the request of a patent owner, a restricted patent may be converted into a patent, if the invention satisfies the conditions of patentability provided by the law. Conversion of a pending application is not possible.

[16] Publication / Public File Inspection

Following eighteen months from the filing date of the application for an invention, or, if priority is claimed, from the priority date, the Turkmenistan Patent Office shall publish a mention of the application in the bulletin, except when the application is withdrawn or a decision to grant a patent or restricted patent, or a decision to refuse to grant a patent or restricted patent was made in regard thereto.

The Turkmenistan Patent Office shall publish the mention of the grant a patent or restricted patent for an invention in the bulletin within six months from the date of its recordal in the register.

The Official Bulletin of the State Service on Intellectual Property under the Ministry of Economy and Development of Turkmenistan, is an official periodical for the publication of mentions of industrial property objects registered in Turkmenistan.

[17] Withdrawal to prevent publication

The applicant can withdraw their application to prevent its publication.

[J] Nullity and Revocation

A patent or a restricted patent, within the entire duration thereof, may be contested and invalidated in full or in part according to an opposition filed by any person on the grounds that:

- (a) the registered invention fails to satisfy the conditions of patentability provided for by the law;
- (b) the claims comprise features that were absent in the original application materials;
- (c) an inventor of the invention or a patent owner were designated falsely in the patent.

A patent (restricted patent) shall be early terminated:

- on the grounds of a petition filed by a patent owner with the Turkmenistan Patent Office;
- from the receipt of such a petition. Where the patent (restricted patent) is granted for a group of inventions, the patent (restricted patent) shall be terminated only with respect to the inventions mentioned in the petition;
- if a maintenance fee for a patent (restricted patent) is not paid – from the expiration of the established term.

[K] Use Requirement

Introduction of a product (article of manufacture) produced using the patented invention into economic circulation, as well as use of a method protected by a patent, shall be construed as a use of the invention.

Article 31 of Law of Turkmenistan on Legal Protection of Inventions provides for compulsory license for non-use of patent. The period of such non-use should be five years from the date of grant of patent (restricted patent).

The invention shall be deemed to be used in a product or a method, if the product comprises, and the method employs each feature of the invention set forth in the independent claim, or a feature equivalent thereto.

[L] Marking

Marked products have no implications for awarding compensation in case of past infringement.

[M] Infringement

[1] Infringing acts / Non-infringing acts

Infringement of the exclusive right to an invention consists of:

- using the patented invention without the consent of a patent owner;
- making, using, importing, offering for sale, selling, and otherwise introducing into economic circulation or storing for this purpose a product in which the patented invention is used;
- making, using, importing, offering for sale, selling, and otherwise introducing into economic circulation or storing for this purpose a product obtained directly by a method protected by the patent. In the absence of proof to the contrary, the new product shall be deemed to have been produced by the patented method;
- making, using, importing, offering for sale, selling, and otherwise introducing into economic circulation or storing for this purpose a device, in functioning (operation) of which according to the purpose thereof the patented method is carried out automatically;
- carrying out the patented method or offering for use thereof;
- inducing third parties to perform the above-listed actions.

The following shall not be deemed to constitute infringement of the exclusive right of a patent owner:

- using a product or a device, in which the patented invention is used, in a construction, in ancillary equipment or in operating vehicles of foreign countries (water, air, motor, railway transport and space technology) with the proviso that said means are temporarily or accidentally present in the territory of Turkmenistan and said product or article are used for a vehicle. Such actions shall not be recognized as infringement of the exclusive right of a patent owner to vehicles of foreign countries that confer the same rights with respect to vehicles registered in Turkmenistan;
- performing a research study or an experiment over a product, method, or article in which the patented inventions are used;
- using the patented invention in force majeure circumstances (natural disasters, catastrophes, accidents) provided that a patent proprietor is duly notified within a month and is paid adequate compensation;
- using the patented invention to satisfy personal, family, household needs or any other needs that are not associated with business activities, if the purpose of such use is not to derive profit (income);
- one-time making prescription medicaments at the chemist's with the use of the patented invention;

- using, offering for sale, selling, or otherwise introducing into economic circulation or storing for this purpose a product, in which the patented invention is used, if said product has been introduced into economic circulation in Turkmenistan by a patent proprietor or by any other person upon the patent proprietor's consent.

[2] *Prior user rights*

Any person that has been using in good faith an identical solution created independently of its author in Turkmenistan or has made necessary arrangements shall retain the right to free use of the same without extending the scope of such use.

[3] *Remedies*

The claimed invention shall be granted interim protection from the publication of the mention of application to the date of its recordal in the register. As soon as a patent or restricted patent is obtained, a person using the claimed invention when its interim protection is effective shall pay a patent or restricted patent owner remuneration which amount is to be agreed by the parties. Interim protection shall not be deemed to take effect, if a decision to refuse to grant a patent or restricted patent is made.

Any person using the patented invention in violation of applicable legislative provisions shall be regarded as an infringer of the exclusive right of the patent owner and shall be responsible in conformity with the law of Turkmenistan.

A person unlawfully using the patented invention, upon the request of the patent owner or a court order, shall:

- acknowledge the rights of the patent owner;
- cease actions infringing the rights of the patent owner;
- repair damages, including loss of profit, or pay remuneration.

A remuneration amount shall be determined by a court order or shall be agreed by the parties:

- compensate for moral damage;
- publish a court order to restore business reputation of the patent owner.

The court shall be entitled to resolve to seize counterfeit goods.

[4] *Penal provisions*

The criminal liability for illegal use of the patented invention is established by the Criminal Code of Turkmenistan that provides *inter alia* a fine and corrective work.

[5] *Enforcement and Customs*

Customs control with respect to protection of the exclusive rights shall be carried out by relevant customs authorities in conformity with the customs legislation of Turkmenistan. Customs measures are not available at present in Turkmenistan with respect to enforcement of patent rights.

[N] Restoration after unintentional lapse

- Failure to pay maintenance fee
Validity of a patent or restricted patent for an invention terminated due to failure to pay the maintenance fee may be restored upon the request of the patent owner and payment of the restoration fee. The request shall be submitted to the Turkmenistan Patent Office within three years from the termination of the patent or restricted patent.
- PCT priority right
Provided that a PCT application and a request for restoration is filed at the Receiving Office in this jurisdiction within fourteen months from the priority date, restoration of priority right under Rule 26*bis*.3 in the international phase of the PCT application may be possible.

If a priority right for a PCT application was restored by another Receiving Office, this may be recognized under Rule 49*ter*.1 PCT for the national phase application in this jurisdiction. Also a review of negative decision on the request for restoration by the other Receiving Office may be requested in the national phase.

Furthermore, if a PCT application was filed within fourteen months from the priority date, but no request for restoration of priority right was filed at the Receiving Office, a request for restoration of priority right under Rule 49*ter*.2 PCT may be filed at the Designated Office within one month from the applicable time limit for the entry into the national phase.

[O] Specific Aspects of Regional Patents*[1] Filing Authority*

A Eurasian Patent Application can be filed with the Eurasian Patent Office (Moscow) directly or through the Turkmenistan Patent Office.

A Eurasian application for an invention created in Turkmenistan may be filed without preliminary filing of the relevant application with the Turkmenistan Patent Office, if the Eurasian application for an invention created in Turkmenistan is filed through the Turkmenistan Patent Office.

[2] Appointment of Representative

Where the applicant does not have their residence or principal place of business in the territory of any Contracting State (including Turkmenistan), they shall be required to be represented by Eurasian patent attorney. Persons having their residence or principal place of business in the territory of any Contracting State (including Turkmenistan) may file Eurasian applications and act in all proceedings before the Eurasian Office, either personally or through any representatives.

[3] Validation

A Eurasian patent is a unitary patent. No special validation procedure is stipulated. A Eurasian patent shall be valid in Turkmenistan provided the prescribed maintenance fee in respect of Turkmenistan is duly paid.

[4] Authentic text

Eurasian Patent Office issues a Eurasian patent. The text of the Eurasian patent is issued in Russian and is valid in Turkmenistan just after issue. There is no need to furnish translation of the text of the Eurasian patent into any other language.

[5] Amendments and corrections

Any amendments and corrections in the Eurasian patent can be made by the Eurasian Patent Office only.

[6] Publication

Eurasian Patent Office publishes information on the granted Eurasian patents. No other publication of the Eurasian patents is provided.

[7] Provisional protection

An invention in respect of which a Eurasian application has been filed shall enjoy provisional legal protection on the territory of Turkmenistan within the scope of published claims during the period between the date of publication of the application and the date of publication of the Eurasian patent.

[8] Simultaneous protection

Eurasian patents having earlier priority date shall constitute the part of prior art with respect to inventions claimed in the applications filed with the Turkmenistan Patent Office.

The same invention may be protected simultaneously by both a national patent and a Eurasian patent.

[9] Conversion

Within six months from the date of the Eurasian Office's notice on refusal to grant a Eurasian patent or notice on refusal to allow an appeal lodged, the applicant may file a request with the Eurasian Office for conversion of the Eurasian application into a national application of any Contracting State. A Turkmenistan patent for an invention may be issued to a Eurasian application transformed according to the Eurasian Patent Convention into a national patent application. Such application shall be regarded as duly executed national application for an invention filed with the Turkmenistan Patent Office having the same filing date and the same priority date as the Eurasian application.

A Turkmenistan patent for an invention may be issued to a Eurasian application, where the Eurasian patent issued thereto was lapsed earlier due to failure to pay the applicable fee for maintaining the patent in Turkmenistan.

The owner of such Eurasian patent shall be entitled to apply for a Turkmenistan patent for an invention within five years from the filing date of the Eurasian application or within three years from the lapse of the Eurasian patent, whichever period expires last.

[10] Payment of fees

All fees in respect of Eurasian application and Eurasian patent shall be paid to the Eurasian Patent Office in Russian rubles.

No validation procedure, and hence no validation fee are provided by the Eurasian Patent Convention in respect of a Eurasian patent. Maintenance fees for a Eurasian patent granted under the Eurasian Patent Convention in respect of Turkmenistan shall be paid by a patent owner or by any other third party in an amount by 25% larger than the established annual fee for the Turkmenistan patent.

[P] Specific Aspects of International Patent Applications (PCT)*[1] Receiving Office*

Turkmenistan Patent Office can be a competent Receiving Office for nationals and residents of Turkmenistan. International application can be filed with the Turkmenistan Patent Office in Russian or in English languages followed by translation into Turkmen.

[2] International Searching Authority

European Patent Office or Russian Patent Office (Rospatent) can be a competent International Search Authority with respect to the international applications filed with the Turkmenistan Patent Office.

[3] International Preliminary Examining Authority

European Patent Office or Russian Patent Office (Rospatent) are the competent International Preliminary Examination Authorities with respect to the applications filed with the Turkmenistan Patent Office. EPO may be a competent International Preliminary Examination Authority only if the international search has been performed by that Office.

[4] National phase / Regional phase

- Time limit for entering national phase (Chapter I): Thirty-one months from priority date.
- Time limit for filing translation (Chapter I): Thirty-one months from priority date (plus three months extension).
- Time limit for entering national phase (Chapter II): Thirty-one months from priority date.
- Time limit for filing translation (Chapter II): Thirty-one months from priority date (plus three months extension).

An international application designating Turkmenistan shall be entered into the national phase, if the applicant within thirty-one months from the priority date of the international application files a request for the grant of a patent (restricted patent) with the Turkmenistan Patent Office.

[5] Payment of fees

National filing fee should be paid within three months from the international application has entered into the national phase.

[Q] Fees*[1] Table of official fees*

1 USD = 3.50 TMT (year 2011)

	TMT
Filing, publication and limited examination of the application for an invention:	
– per one independent claim	350
– per each independent claim that exceeds one claim	100
Amendments to the application documents after three months from the receipt of the application; correction of mistakes	100
Early publication of application on request of applicant	240
Patent examination of the claimed invention on the basis of available references	
Extension of term for:	420
response to examiner's inquiry, filing request for examination, appeal against official action (for each month)	170
Registration of the invention, grant and publication of a patent (restricted patent)	1,140
Transformation of the restricted patent into a patent after the patent examination	420
Registration of a license agreement (for each patent (restricted patent) under the agreement)	800
Registration of an assignment agreement (for each patent (restricted patent) under the agreement)	560
cancelled	
Restoration of the patent (restricted patent)	520
Consideration of an appeal against decision of the formal examination to reject an application by the Board of Appeal	420
Consideration of an opposition to the decision of the limited examination on the application for an invention by the Board of Appeal	870
Consideration of an opposition to the decision of the patent examination on the application for an invention by the Board of Appeal	1,820
Consideration of a request to invalidate the patent (restricted patent) by the Board of Appeal	3,320
Maintenance fees for the patent (restricted patent) within years of duration from the filing date of the applications (manat):	

Year	1	2	3	4	5	6	7
Fees	170	260	350	430	520	610	700

Year	8	9	10	11	12	13	14
Fees	780	870	960	1,050	1,130	1,220	1,310

Year	15	16	17	18	19	20
Fees	1,400	1,570	1,750	1,920	2,100	2,270

[R] Transitional Provisions

With respect to any former provisional patent for an invention (granted under the former patent law), which five years' term has not yet expired, or not later than three years from the expiration of the provisional patent, the Turkmenistan Patent Office shall, upon the request of a patent owner, transform the provisional patent into a restricted patent and enter the appropriate record in the register.

[S] Specific Patent Issues

Not applicable in this jurisdiction.

[T] Governmental Websites

- Official website of the Turkmenistan Patent Office www.tmpatent.org, however it is not in operation yet.
- The function of the patent office is realized by the “State Service for Intellectual property of the Ministry of Finance and Economics” - <https://fineconomic.gov.tm/static-pages/6/30> and <https://fineconomic.gov.tm/legal-acts/11>
- Information on those websites is scarce and in Turkmen and Russian only.

PART 2 TRADEMARKS**§2.01 SUMMARY****[A] Duration of Registration**

- 10 years from the receipt of the application, renewable for 10 year terms.

[B] Registrable / Not Registrable

- Word, figurative, three-dimensional, and other designations or combinations thereof may be registrable as trademarks.

[C] Application Procedure

- Trademarks are registered after conducting formal and substantive examination Registration may be refused on absolute and relative grounds.

[D] Governmental Websites

- Official website of the Turkmenistan Patent Office www.tmpatent.org, however it is not in operation yet.
- The function of the patent office is realized by the “State Service for Intellectual property of the Ministry of Finance and Economics” - <https://fineconomic.gov.tm/static-pages/6/30> and <https://fineconomic.gov.tm/legal-acts/11>
- Information on those websites is scarce and in Turkmen and Russian only.

§2.02 DETAILED INFORMATION

[A] Conventions and Legislation

[1] Conventions

- Paris Convention for the Protection of Industrial Property (1883), as from 25 December 1991;
- Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (1989), as from 28 September 1999;
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1957), as from 7 June 2006;
- Agreement Establishing an International Classification of the Figurative Elements of Marks (1974), as from 7 June 2006; and
- WIPO Convention (1967), as from 25 December 1991.

[2] Laws

- Law of Turkmenistan ‘On Trademarks’ dated 8 June 2019

[B] Duration of Registration

Registration of a trademark shall be effective during ten years from the receipt of the application by the Turkmenistan Patent Office.

[C] Requirements for Renewal

The term of registration of a trademark may be extended for each subsequent ten years upon the request of the owner filed with the Turkmenistan Patent Office within the last year of duration of registration, provided that the applicable fee is duly paid.

There is a grace period of six months for late payment of a renewal fee.

[D] Registrable / Not Registrable

Word, figurative, three-dimensional, and other designations or combinations thereof may be registrable as trademarks. A trademark can be registered in any colour or colour combination.

The following signs shall not be registered:

- (1) which are not distinctive or consisting only of elements which are: letters or numbers having no specific graphical representation; lines, simple geometrical figures; having entered the public domain as designations of goods of a definite kind; being generally accepted symbols and terms; indicating the type, quality, quantity, properties, purpose, and value of goods as well as the venue and time of their manufacture or sale;
- (2) which consist only of the following elements:
 - names of States; national coats of arms, flags and other national emblems;
 - abbreviated or full names of international intergovernmental organizations, their coats of arms, flags and other symbols;
 - official signs and hallmarks of warranty and control seals, awards and other marks of distinction, or those so similar to other trademarks so as to raise confusion.

- (3) which are or contain: signs being false or which may cause confusion among the consumers with regard to the goods or their producer; signs being contrary to the interests of society or to the principles of humanity or morality;
- (4) which are identical or confusingly similar to the official names or images of highly valuable objects of culture of Turkmen peoples or objects of world culture or nature;
- (5) which are identical or similar to protected in Turkmenistan industrial designs, names of plant/animal varieties, national Internet domains;
- (6) which are identical or similar to works of science, literature or art without approval of the owners thereof.

A trademark may be registered in any colour or a combination of colours.

[1] Colour marks

Colour or combination of colours ‘as such’, are not registrable. However, a trademark can be registered in any colour or colour combination.

[2] Three-dimensional marks

Three-dimensional signs are registrable.

[3] Collective marks

Physical persons doing business and/or legal persons doing business shall be entitled to register a collective mark in Turkmenistan serving to designate goods possessing uniform qualitative or other common characteristics and manufactured and/or sold by persons that form said organization.

[4] Certification / guarantee marks

Not applicable in this jurisdiction.

[5] Associated marks

Not applicable in this jurisdiction.

[6] Series of marks

Not applicable in this jurisdiction.

[7] Other marks

According to Turkmen Trademark Law, word, design, 3D, and other designations and combinations thereof, are protectable. As to other designations, Trademark Regulations refer, for instance, to sound and lighting (flashing) signs. Fragrances and tastes are mentioned neither in the law nor in the Regulations and no such marks have been registered until now in Turkmenistan, so registrability is uncertain but theoretically possible.

[E] Ownership and related rights*[1] Applicant*

A trademark may be registered in the name of a legal or physical person manufacturing goods or rendering services.

[2] Establishment of rights “first-to-file / first-to-use”

The first to file rule is used.

[3] Assignment

The exclusive right to a trademark may be assigned by its owner under an agreement to another interested person with respect to all goods or part thereof, for which the said trademark is registered.

A trademark assignment agreement shall be registered with the Turkmenistan Patent Office to be effective.

The following documents are required to proceed with registration of trademark assignment agreement:

- (1) two originals of deed of assignment signed and sealed by the contracting parties, or notarized copies thereof; and
- (2) power of attorney issued in the name of the representative.

Legalization of the documents is not required.

[4] Licenses and Registered Users

The trademark owner (licensor) may assign the right to use a trademark for all goods or a part thereof, with respect to which the trademark is registered, to another person (licensee) under a license agreement.

A trademark license agreement shall be registered with the Turkmenistan Patent Office and shall take effect from the registration date.

The following documents are required to proceed with registration of trademark license agreement:

- (1) two originals of trademark license agreement signed and sealed by the contracting parties, or notarized copies thereof; and
- (2) power of attorney issued in the name of the representative.

Legalization of the documents is not required.

[5] Pledge and Seizure

The law does not provide for registration of pledge or seizure agreements in relation to trademarks in the trademark register.

[F] Filing Requirements*[1] Request for registration*

A request for registration (application) shall contain:

- a request for official registration of a designation as a trademark indicating the name, location or residence of the applicant;
- the representation of the mark (the claimed designation) and the description thereof;
- a list of goods, for which official registration of the trademark is sought, grouped according to the International Classification. The wording ‘all goods and/or services’ is not allowed;
- a description of figurative elements of the trademark according to the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks;
- a Power of Attorney.

The document confirming the payment of the applicable filing fee shall be submitted together with the application.

[2] Classification

Goods and services for which the official registration of the trademark is sought should be grouped in the application according to International Classification of Goods and Services under the Nice Agreement, Edition 11..

Figurative elements of the trademark should be classified according to the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks.

[3] Multi-class applications

Multi-class applications are allowed

[4] Appointment of Representative

Applicants residing outside Turkmenistan are to be represented by the Turkmenistan patent attorneys.

[5] Power of Attorney

Where the application is filed through a patent attorney, a power of attorney certifying the respective authorities of the patent attorney should be attached to the application. The power of attorney shall be furnished with the Turkmenistan Patent Office within two months from the filing date of the application.

[6] Priority

Convention priority may be claimed along with filing the application or within two months after filing (the Convention application is to be filed within six months from the Convention priority date).

A priority document (a certified copy of the first application upon which the priority is claimed) is to be filed with the Turkmenistan Patent Office within three months from filing date of the application.

In respect of marks displayed at an official or officially recognized international exhibition held on the territory of a Member State of the Paris Convention, priority may be claimed as from the day of start of display at the exhibition provided the application for registration is filed within three months from that day.

The following shall be attached to the application or submitted to the Office within three months after filing the application, where earlier priority is claimed:

- a certified copy of the first application filed by the applicant in a Member State to the Paris Convention, if the applicant claims convention priority. Translation of the priority document shall be submitted at the request of the Office;
- a certified document confirming the display of exhibits using the claimed trademark at an official or at an officially recognized international exhibition, if the applicant claims priority of exhibition.

[7] Graphical representations

Any signs which are visually perceptible are to be graphically represented when applying for registration. Twenty prints of the mark in black & white and in colour (if appropriate), size 5 × 5 to 8 × 8 cm should be submitted with the application.

[G] Application Procedure

[1] Filing Authority

An application for registration of a trademark in Turkmenistan shall be filed with the Turkmenistan Patent Office.

[2] Online filing

Not available in this jurisdiction.

[3] Search

The search for prior trademarks registered or claimed for registration is a part of substantive examination of the claimed designation (Article 11(2) of the Law of Turkmenistan on Trademarks).

[4] Examination

An application shall be examined by the Turkmenistan Patent Office, and the examination shall include formal examination and substantive examination of the claimed designation of the trademark.

Following two months from the date of filing the trademark application with the Turkmenistan Patent Office, the application shall be subject to formal examination within a month's term, if the required documents are on file. Upon the formal examination, the applicant shall be notified about acceptance of the application for consideration or forwarded a motivated refusal.

The application accepted for further examination shall be published in the Official Bulletin.

The claimed designation shall be examined as to substance not earlier than after six months from the priority date. The application may be rejected on absolute and relative grounds. As a result of the examination, protectability of the claimed designation shall be determined and a decision to register the same as a trademark or to refuse the registration shall be made.

It is possible to obtain an extension of time for up to six months to respond to any office action.

[5] Registration

The Turkmenistan Patent Office registers the trademark in the Register on the grounds of the examiner's decision on registration of the trademark and the document confirming payment of the applicable fee.

[6] Opposition / Observations

After publication of the application and before a decision on the trademark application is made, any interested person, subject to payment of the prescribed fee, can file a reasonable objection against the trademark registration.

[7] Appeal

The applicant may contest a decision of the formal examination, a decision to recognize the application as withdrawn, or an examiner's decision by filing a motivated appeal with the Board of Appeals of the Turkmenistan Patent Office within three months from the forwarding date of the corresponding decision.

[8] Alteration after Registration

Registration of a trademark may be amended in connection with certain changes in the name of a trademark owner and/or the address thereof, reduction of the list of goods with respect to which the trademark is registered, change in separate elements of the trademark that do not affect the essence thereof, as well as any other changes pertaining to the official registration of a trademark.

[9] Publication / Public File Inspection

Information relative to the official registration of a trademark and all subsequent changes entered into the Register shall be published in the Official Bulletin of the Turkmenistan Patent Office within six months from the date of said registration or amendments to the Register.

The Official Bulletin of the State Service on Intellectual Property under Ministry of Economy and Development of Turkmenistan, is an official periodical for the publication of mentions of industrial property objects registered in Turkmenistan.

[H] Nullity and Revocation

Registration of a trademark may be contested and invalidated in full or in part:

- within the entire duration thereof, where the official registration of the trademark was carried out in violation of the protectability requirements or if actions of the trademark owner were acknowledged to be an act of unfair competition;
- within five years from registration of the trademark, where the mark is identical or confusingly similar to trademarks or someone else's marks widely known in Turkmenistan, or protected appellations of origin.

Any person concerned shall be entitled to file within the established term an opposition to validity of the state registration of a trademark with the Turkmenistan Patent Office.

Legal protection of a trademark and a collective mark shall be lapsed:

- in connection with registration expiry;
- where the owner abandons the trademark.

Registration of a trademark and a collective mark shall be terminated earlier according to a decision of the Board of Appeals of the Turkmenistan Patent Office or a court order.

[I] Use Requirement

[1] Before registration

There is no obligation to use before registration.

[2] After registration

Registration of a trademark may be terminated earlier with respect to all goods or a part thereof due to continuous non-use of the trademark within any three years from the registration of the same. A request for non-use cancellation of the trademark may be filed with the Board of Appeals of the Turkmenistan Patent Office by any person concerned after said three years provided that this trademark is not used prior to filing of such a request.

Using a trademark on goods or with respect to services for which the trademark is registered and/or on labels, packages of goods by the trademark owner or a person to whom this right was conferred (transferred) under a license agreement shall be construed as a use of the trademark. The use of a trademark in advertising, printed matters, on signs, in displaying exhibits at exhibitions and fairs held in Turkmenistan, as well as on the Internet, may be regarded as the use of the trademark.

[J] Marking

The trademark owner shall be entitled to put a marking in the form of the Latin letter 'R' inside a circle or a word designation 'registered trademark' giving notice to the public that the used trademark is registered and protected in Turkmenistan. Marking is voluntary: Marked products have no implications for awarding compensation in case of past infringement.

[K] Infringement

[1] Infringing acts / Non-infringing acts

The following actions – committed without authorization of the trademark owner – shall be deemed to infringe the exclusive right of the trademark owner:

- making, using in advertising, printed matters, on official letterheads, on signs, in displaying exhibits at exhibitions and fairs held in Turkmenistan;
- importing, offering for sale, selling, and otherwise introducing into economic circulation in Turkmenistan or storing and/or conveying for this purpose;
- using and/or placing when work is done and services are rendered;
- using in domain names and/or via other addressing modes;
- other actions with respect to the trademark owner or goods denoted by the trademark that harm the trademark owner or consumers of goods.

Registration of a trademark does not entitle the owner to exclude other persons from using the trademark in regard to goods that were introduced on the market in Turkmenistan directly by the trademark owner or upon their consent (national exhaustion of rights).

[2] Remedies

An unlawful use of a trademark, or a designation confusingly similar thereto, shall entail liability provided for by the laws of Turkmenistan. A person unlawfully using the trademark, upon the request of the trademark owner or a court order, shall:

- cease using the trademark;
- restore the situation existing prior to the trademark infringement;
- repair damages, including loss of profit, or pay remuneration determined by a court order or as may be agreed by the parties;
- publish a court order in mass media to restore business reputation of the trademark proprietor;
- remove the unlawfully used trademark or a designation confusingly similar thereto from a commodity or a package thereof.

The court shall be entitled to order seizure of counterfeit goods.

[3] Penal provisions

Unauthorized use of a trademark may be considered as an administrative or criminal (if on a large scale) offence. Article 1661 of the Code on Administrative Offences of Turkmenistan states that unlawful use of a trademark shall entail the administrative fine in the amount of USD 220–USD 550 for individuals, USD 360–USD 1,100 for officials with confiscation of counterfeit products, or without such confiscation. If the damages caused by unlawful use of a trademark is ‘significant’, criminal charges may be brought against the infringer. According to Article 247 of the Criminal Code of Turkmenistan, the infringer might face a fine in the amount of USD 1,750–USD 3,500, or corrective works for up to two years.

[4] Enforcement and Customs

Customs control with respect to protection of rights of owners of trademarks, service marks, appellations of origin, as well as holders of an exclusive license and other exclusive rights to intellectual property shall be carried out by relevant customs authorities in conformity with the customs legislation of Turkmenistan. According to Chapter 37 of the Custom Code of Turkmenistan, a trademark owner can file a request for entering their trademark into the Customs Register of IP subject matters. The request may be filed for a term up to five years each time. The customs authorities suspend the release of the goods presumably bearing the mark included into the Customs Register and notify the trademark owner of importation of

such goods into Turkmenistan. The trademark owner can collect samples, make photos and conduct examination regarding the referred goods.

[L] Well-known and Reputed Marks

No provisions

[M] Trademarks and Trade Names

Designations identical to a trade name (a part thereof) protected in Turkmenistan with respect to identical goods, and a plant /animal variety name, the rights to which emerged in other persons in Turkmenistan before the priority date of the trademark applied for official registration, cannot be registered as trademarks.

In case of a conflict between a trademark and ‘senior’ trade name – ‘senior’ right to the trade name will prevail and the trademark may be invalidated in connection with the same or similar goods/services upon the trade name owner.

[N] Trademarks and Domain Names

Designations identical to a domain name, the rights to which emerged in other persons in Turkmenistan before the priority date of the trademark applied for registration, cannot be registered as trademarks.

In case of a conflict between a trademark and ‘senior’ domain name – ‘senior’ domain name will prevail and the trademark may be invalidated in connection with the same or similar goods/services upon the domain name owner.

[O] Trademarks and Appellations of Origin / Trademarks and Geographical Indications

A separate law on “Appellation of Origin was adopted on 8 June 2019. Designation, consisting totally or partially from geographical names, which can be interpreted as an indication of place of goods manufacturer, shall not be registered as trademarks.

Designations identical or confusingly similar to appellations of origin protected in Turkmenistan cannot be registered as trademarks with respect to any goods, save as the said designations are included as non-protectable elements in the trademarks that are registered with regard to the same goods in the name of persons having the right to use such appellations of origin.

[P] Restoration after unintentional lapse

Not provided by the Turkmenistan Trademark Law.

[Q] Specific Aspects of Regional Trademark Registration

Not applicable in this jurisdiction.

[R] Specific Aspects of International Trademark Registration

A trademark shall be registered in countries parties to the Protocol Relating to the Madrid Agreement by filing an international application with the World Intellectual Property Organization (WIPO) International Bureau. Turkmenistan has made Declarations extending refusal to eighteen months, and for payment of individual fees.

[S] Fees*[1] Table of official fees*

1 USD = 3.50 TMT (year 2011)

	TMT
Filing the application for a trademarks	110
Examination of the claimed designation	770
Surcharge per each class of goods/services that exceeds one class	350
Making changes in the application after two months from filing	110
Trademark registration and issuance of a certificate	1,200
Amendments to the trademark registration:	
Name of the TM owner	250
Address of the TM owner Limiting the list of goods	250
Individual elements of TM	320
Other changes	350
Registration of a trademark assignment agreement	525
Registration of a license agreement (per each trademark)	630
Extension of the trademark registration for one class	1,750
	+875 for each additional class
Consideration of appeal against official action at the Board of Appeals	1,200
Consideration of a request for invalidation of the trademark registration by the Board of Appeals	3,000

[T] Transitional Provisions

A collective mark and a request for official registration thereof may correspondingly be transformed into a trademark and a request for official registration thereof, and vice versa.

[U] Specific Trademark Issues

Not applicable in this jurisdiction.

[V] Governmental Websites

The official website of the Turkmenistan Patent Office Is www.tmpatent.org but it is not operative yet.

- The function of the patent office is realized by the “State Service for Intellectual property of the Ministry of Finance and Economics” - <https://fineconomic.gov.tm/static-pages/6/30> and <https://fineconomic.gov.tm/legal-acts/11>
- Information on those websites is scarce and in Turkmen and Russian only.

PART 3 UTILITY MODELS

§3.01 SUMMARY

[A] Duration of Registration

- No utility model laws applicable in this jurisdiction.

[B] Registrable / Not Registrable

- No utility model laws applicable in this jurisdiction.

[C] Novelty

- No utility model laws applicable in this jurisdiction.

[D] Filing Requirements and Application Procedure

- No utility model laws applicable in this jurisdiction.

[E] Governmental Websites

- No utility model laws applicable in this jurisdiction.

§3.02 DETAILED INFORMATION**[A] Conventions and Legislation***[1] Conventions*

No utility model laws applicable in this jurisdiction.

[2] Laws

No utility model laws applicable in this jurisdiction.

[B] Duration of Registration

No utility model laws applicable in this jurisdiction.

[C] Requirements for Renewal

No utility model laws applicable in this jurisdiction.

[D] Registrable / Not Registrable

No utility model laws applicable in this jurisdiction.

[E] Novelty

No utility model laws applicable in this jurisdiction.

[1] Grace period

No utility model laws applicable in this jurisdiction.

[F] Ownership and related rights*[1] Applicant*

No utility model laws applicable in this jurisdiction.

[2] Assignment

No utility model laws applicable in this jurisdiction.

[3] Licenses

No utility model laws applicable in this jurisdiction.

[4] Pledge and Seizure

No utility model laws applicable in this jurisdiction.

[G] Filing Requirements

No utility model laws applicable in this jurisdiction.

[1] Obligation to file first with national office

No utility model laws applicable in this jurisdiction.

[2] Minimum requirements for obtaining filing date

No utility model laws applicable in this jurisdiction.

[3] Request for registration

No utility model laws applicable in this jurisdiction.

[4] Appointment of Representative

No utility model laws applicable in this jurisdiction.

[5] Power of Attorney / Designation of creator / Other documents

No utility model laws applicable in this jurisdiction.

[6] Priority

No utility model laws applicable in this jurisdiction.

[7] Allowable language(s) upon filing / Language(s) of procedure

No utility model laws applicable in this jurisdiction.

[8] Description

No utility model laws applicable in this jurisdiction.

[9] Claims

No utility model laws applicable in this jurisdiction.

[10] Abstract

No utility model laws applicable in this jurisdiction.

[11] Drawings

No utility model laws applicable in this jurisdiction.

[12] Payment of fees

No utility model laws applicable in this jurisdiction.

[H] Application Procedure

No utility model laws applicable in this jurisdiction.

[1] Filing Authority

No utility model laws applicable in this jurisdiction.

[2] Online filing

No utility model laws applicable in this jurisdiction.

[3] Examination

No utility model laws applicable in this jurisdiction.

[4] Amendments and corrections

No utility model laws applicable in this jurisdiction.

[5] Registration

No utility model laws applicable in this jurisdiction.

[6] Accelerated registration

No utility model laws applicable in this jurisdiction.

[7] Opposition / Re-examination

No utility model laws applicable in this jurisdiction.

[8] Appeal

No utility model laws applicable in this jurisdiction.

[9] Unity of creation

No utility model laws applicable in this jurisdiction.

[10] Divisional applications

No utility model laws applicable in this jurisdiction.

[11] Branched-off applications

No utility model laws applicable in this jurisdiction.

[12] Conversion

No utility model laws applicable in this jurisdiction.

[13] Publication / Public File Inspection

No utility model laws applicable in this jurisdiction.

[14] Withdrawal to prevent publication

No utility model laws applicable in this jurisdiction.

[I] Nullity and Revocation

No utility model laws applicable in this jurisdiction.

[J] Use Requirement

No utility model laws applicable in this jurisdiction.

[K] Marking

No utility model laws applicable in this jurisdiction.

[L] Infringement

No utility model laws applicable in this jurisdiction.

[1] Infringing acts / Non-infringing acts

No utility model laws applicable in this jurisdiction.

[2] Prior user rights

No utility model laws applicable in this jurisdiction.

[3] Remedies

No utility model laws applicable in this jurisdiction.

[4] Penal provisions

No utility model laws applicable in this jurisdiction.

[5] Enforcement and Customs

No utility model laws applicable in this jurisdiction.

[M] Restoration after unintentional lapse

No utility model laws applicable in this jurisdiction.

[N] Utility Model Application Based on International Patent Application (PCT)

No utility model laws applicable in this jurisdiction.

[O] Fees

No utility model laws applicable in this jurisdiction.

[1] Table of official fees

No utility model laws applicable in this jurisdiction.

[P] Transitional Provisions

No utility model laws applicable in this jurisdiction.

[Q] Specific Utility Model Issues

No utility model laws applicable in this jurisdiction.

[R] Governmental Websites

No utility model laws applicable in this jurisdiction.

PART 4 INDUSTRIAL DESIGNS**§4.01 SUMMARY****[A] Duration of Registration**

- Design patent: 5 years (maximum) from the date of filing the application

[B] Registrable / Not Registrable

- An industrial design is an aesthetic-structural solution that determines appearance of an article of industry.

[C] Novelty

- Absolute (worldwide) novelty applies.
- A 6-month grace period preceding the filing date applies.

[D] Application Procedure

- A design patent is granted after formal and substantive examination. Substantive examination is conducted after expiration of 6 months from filing the application.

[E] Governmental Websites

- There is no official website of the Turkmenistan Patent Office www.tmpatent.org but it is not operative yet.
- The function of the patent office is realized by the “State Service for Intellectual property of the Ministry of Finance and Economics” - <https://fineconomic.gov.tm/static-pages/6/30> and <https://fineconomic.gov.tm/legal-acts/11>
- Information on those websites is scarce and in Turkmen and Russian only.

§4.02 DETAILED INFORMATION

[A] Conventions and Legislation

[1] Conventions

- Paris Convention for the Protection of Industrial Property (1883), as from 25 January 1991;
- Locarno Agreement Establishing an International Classification for Industrial Designs (1968), as from 7 June 2006;
- Geneva (1999) Act of the Hague Agreement Concerning the International Registration of Industrial Designs, as from 16 March 2016; and
- WIPO Convention (1967), as from 25 December 1991.

[2] Laws

- Law on Legal Protection of Industrial Designs dated 4 November 2017

[B] Duration of Registration

Initial term five years from the filing date, extendible each time for five years until the maximum term of fifteen years.

[C] Requirements for Renewal

Renewal fee shall be paid during last six months of the relevant term of validity. Fees shall be paid by the design patent proprietor, or any third parties, unless otherwise is stipulated by an international treaty to which Turkmenistan is a party.

The first payment of patent annuity fee is carried out simultaneously with payment of fee for registration of industrial design.

The Turkmenistan Patent Office provides for a six-month grace period upon expiration of established term for payment of fees.

Restoration is possible up to 3 years after failure to pay maintenance fees.

[D] Registrable / Not Registrable

An industrial design is an aesthetic-structural solution that determines appearance of an article of industry.

The following shall not be regarded as industrial designs:

- (a) simple geometric figures including simple geometric 3D figures;
- (b) shapes that are borrowed in full without creative work;
- (c) articles in which only dimensions and proportions are changed in comparison with the prototype, or number of elements is changed.

[E] Novelty

Absolute (worldwide) novelty applies.

An object claimed as an industrial design shall be granted legal protection, if the same is novel, original, and industrially applicable.

A design shall be considered to be novel if the combination of its essential features or identical design is not known from information available to the public before the priority date of the design. Essential features of the design shall include features determining aesthetic and/or ergonomic particulars of appearance of the article, in particular, shape, configuration, ornament, and combination of colours.

Industrial designs patented in Turkmenistan as well as design applications of other persons filed with the Turkmenistan Patent Office and having an earlier priority date shall be taken into account in estimating novelty.

A design shall be considered to be original, if essential features thereof determine creative nature of the article's distinctions.

A design shall be deemed to be industrially applicable, if it can be reproduced repeatedly.

[1] Grace period

A six-month grace period applies, for disclosures by or from the inventor.

Disclosure of information pertaining to an industrial design made by an author, applicant, or any person who received this information directly or indirectly from the author or the applicant, under which information about the true nature of the design became available to the public, shall not be construed as a circumstance prejudicial to patentability of the industrial design, provided that a design application is filed with the Turkmenistan Patent Office not later than six months from the date of disclosure of information. The burden of proof shall be borne by the applicant.

[F] Ownership and related rights

[1] Applicant

The author(s) of a design, the employer, or assignee(s) thereof may be considered as an applicant(s).

[2] Assignment

A design patent may be subject to assignment within the entire duration thereof. The right based on a design patent may be assigned in full or in part.

The assignment agreement shall be registered with the Turkmenistan Patent Office.

The following documents are required to proceed with registration of deed of assignment:

- (1) two originals of deed of assignment signed and sealed by the contracting parties, or notarized copies thereof; and
- (2) power of attorney in the name of the representative.

Legalization of the documents is not required.

[3] Licenses

Any person that is not a patent proprietor shall be entitled to use a patented design only upon the patent proprietor's consent on the grounds of a license agreement. According to the license

agreement, the patent proprietor (licensor) undertakes to assign the right to use the protected design within the scope provided for by the agreement to another person (licensee).

The design patent license agreement for use of a design shall be registered with the Turkmenistan Patent Office.

The following documents are required to proceed with registration of design patent license:

- (1) two originals of license agreement signed and sealed by the contracting parties, or notarized copies thereof; and
- (2) power of attorney in the name of the representative.

Legalization of the documents is not required.

[4] Pledge and Seizure

The legislation of Turkmenistan does not provide for registration of Pledge or Seizure Agreements for industrial designs in the Turkmenistan design register.

[G] Filing Requirements

[1] Request for registration

A design application shall contain:

- a request for the grant of a design patent designating an inventor (co-inventors) of the design and a person (persons) in whose name (names) a design patent is claimed, together with its (their) place of residence or location;
- a set of reproducible images of an article (articles) giving a full idea of appearance of the design (designs);
- a drawing of perspective view of an article, ergonomic scheme, confection chart, where they are requisite for disclosing the true nature of the design;
- short description of the design if this is necessary for disclosing its features.

A request for the grant of a design patent shall be filed in the state language.

Other design application documents may be submitted in another language with their translation into the state language or the Russian language attached thereto.

Documents submitted in another language shall be deemed to have been filed as of the date of their receipt by the Turkmenistan Patent Office, provided that their translation was received within three months from the filing date of the design application.

In addition to the design application claiming convention priority, a certified copy of an original application shall be attached and shall be filed not later than four months after the receipt of the convention application by the Turkmenistan Patent Office. If there are several original applications, copies of all these applications shall be attached.

[2] Classification

International Classification for Industrial Designs established by the Locarno Agreement is used in the Turkmenistan Patent Office as a means of classification for industrial designs.

[3] Appointment of Representative

Parties concerned shall be entitled to deal with the Turkmenistan Patent Office directly, through proxies or patent attorneys duly registered with the Turkmenistan Patent Office.

Foreign persons, as well as citizens of Turkmenistan living or having permanent residence outside Turkmenistan shall exercise their rights in dealing with the Turkmenistan Patent Office via patent attorneys duly registered with the Turkmenistan Patent Office, unless otherwise is stipulated by international treaties to which Turkmenistan is a party.

[4] Power of Attorney

A design application shall be supplemented with a power of attorney, if the application is filed by a proxy of the applicant, as well as a document confirming the payment of a patent fee in the prescribed amount, or a document confirming grounds for exemption from a patent fee or for reduction of the fee amount, or for delay of payment.

Documents attached to the design application (including the power of attorney) shall be furnished with the Turkmenistan Patent Office within three months from the receipt of the application.

[5] Priority

Priority may be established upon the filing date of the first application filed in a State – Member of the Paris Convention provided that the convention application has been filed with the Turkmenistan Patent Office within six months from the filing date of the first application.

A request for convention priority may be filed when filing the design application or within three months from the date of filing the application with the Turkmenistan Patent Office.

In addition to the design application claiming convention priority, a certified copy of an original application shall be attached and shall be filed not later than four months after the receipt of the convention application by the Turkmenistan Patent Office. If there are several original applications, copies of all these applications shall be attached.

No exhibition priority is available.

[6] Description

The description shall disclose in the verbal form the external appearance of a design shown in the illustrations. Description starts with a title of the industrial design. Before the title a Locarno class of the design is indicated.

If a group of industrial designs is claimed (within the framework of the same creative idea), sections of the descriptions should contain relevant information in respect of each industrial design of the group.

[7] Graphical representations

Images (photographs, drawings or other reproductions including but not limited to computer scripts) must be filed giving a full and detailed impression of the outer appearance of the product made according to the claimed design.

An application for three-dimensional industrial design must contain three photographs of perspective view, three of each additional view of the design, that is, front view, rear view, top view, bottom view, side view. Size of photos is 18×24 cm, 13×18 cm or 9×12 cm. Instead of photographs, it is possible to submit good quality drawings or computer generated pictures.

For planar industrial design only one view is sufficient.

A set of designs should be presented on the perspective view completely, that is, with all designs belonging to the set. Each design of the set must be submitted also separate sets of images in all the necessary views.

In the case of an application for variants, sets of photographs must be filed for each variant.

If required for disclosing the substance of the design: two copies of a technical drawing of the design giving a general view, or of an ergonomic scheme or a pattern-card.

[8] Multiple deposits

The design application shall relate to a single design or a group of designs satisfying the requirement of unity of design. Provided these conditions are met, unlimited deposits are allowable.

[H] Application Procedure

[1] Filing Authority

A design application shall be filed with the Turkmenistan Patent Office.

[2] Online filing

No online filing is available in this jurisdiction.

[3] Search

The information search is carried out by the Turkmenistan Patent Office during the substantive examination.

The information search is carried out among the information available in the world before the priority date of the claimed industrial design and among applications which were not withdrawn and have a positive result of the Formal Examination.

[4] Examination

The Turkmenistan Patent Office subjects design applications to formal and substantive examination.

The design application shall be subjected to formal examination after three months from the date of filing the application with the Turkmenistan Patent Office.

The formal examination shall be carried out within a further month and shall include the examination of:

- presence of necessary documents and compliance with the requirements applicable thereto;
- compliance of the claimed aesthetic-structural solution with subject matters that can be granted legal protection;
- compliance with the requirement of unity of design;
- correct classification of the design according to the International Classification for Industrial Designs;
- compliance with lawfulness and procedure of claiming priority.

Where the design application satisfies formal examination requirements, the applicant is forwarded a notification of acceptance for consideration, in which the established filing date thereof is indicated.

Design applications that positively underwent formal examination shall be subjected to substantive examination.

Substantive examination shall be carried out on expiration of six months from the filing date of the design application. The substantive examination checks compliance of the claimed design with the conditions of design patentability set forth by the law in Article 6.

A decision to grant a design patent shall be made after substantive examination.

It is possible to obtain an extension of time for up to six months to respond to any office action.

[5] Registration

As soon as a document confirming payment of a fee for the registration and grant of a design patent has been received, the Turkmenistan Patent Office shall register the design with the state register of designs.

The Turkmenistan Patent Office shall grant a design patent for the registered design to the applicant and publish relevant information about the granted design patent in a bulletin.

[6] Opposition / Re-examination

Any interested person may file a motivated objection against registration before the grant of a patent. The applicant will be notified of the receipt of the objection.

[7] Appeal

Where the applicant disagrees with a decision of the formal or substantive patent examination, the applicant shall be entitled to file an appeal with the Board of Appeal within three months from the date of forwarding the decision. This term may be extended by six months maximum.

[8] Publication / Deferred Publication / Public File Inspection

Following six months from the filing date of the design application, or, if priority is claimed, from the priority date, the Turkmenistan Patent Office shall publish a mention of the design application in the bulletin except where the design application is withdrawn or a decision to grant a design patent or a decision to refuse to grant a design patent was made in regard thereto. No delayed publication of a design application is provided by the law.

The Turkmenistan Patent Office shall publish the mention of the grant of a design patent in the bulletin within six months from the date of its recordal in the register.

The Bulletin is an official periodical of the State Service on Intellectual Property under the Ministry of Economy and Development of Turkmenistan, for the publication of mentions of industrial property objects registered in Turkmenistan.

[I] Nullity and Revocation

A design patent, within the entire duration thereof, may be contested and invalidated in full or in part according to an opposition filed by any person on the grounds that:

- (a) the registered industrial design fails to satisfy the conditions of patentability provided for by the law;
- (b) the inventor of industrial design or a design patent proprietor were designated falsely in the patent.

A design patent shall be early terminated:

- on the grounds of a petition filed by a patent proprietor with the Turkmenistan Patent Office – from the receipt of such a petition.
- if a maintenance fee for a design patent (restricted design patent) is not paid – from the expiration of the established term.

[J] Use Requirement

There is no requirement of obligatory use.

[K] Marking

Marked products have no implications for awarding compensation in case of past infringement.

[L] Infringement

[1] Infringing acts / Non-infringing acts

Infringement of the exclusive right to an industrial design consists of:

- using the patented design without the consent of a design patent proprietor;
- making, using, importing, offering for sale, selling, and otherwise introducing on the market or storing for this purpose a product in which the patented design is used;
- inducing third parties to perform the above-listed actions.

Any person using the patented design in violation of applicable legislative provisions shall be regarded as an infringer of the exclusive right of a design patent proprietor and shall be responsible in conformity with the law of Turkmenistan.

The following shall not be deemed to constitute infringement of the exclusive right of a design patent proprietor:

- using a product or an article, in which the patented design is used, in a construction, in ancillary equipment or in operating vehicles of foreign countries (water, air, motor, railway transport and space technology) with the proviso that said means are temporarily or accidentally present in the territory of Turkmenistan and said product or article are used for a vehicle. Such actions shall not be recognized as infringement of the exclusive right of a patent proprietor to vehicles of foreign countries that confer the same rights with respect to vehicles registered in Turkmenistan;
- performing a research study or an experiment over a product, method, or article in which the patented design is used;
- using the patented design in force majeure circumstances (natural disasters, catastrophes, accidents) provided that a patent proprietor is duly notified within a month and is paid adequate compensation;

- using the patented design to satisfy personal, family, household needs or any other needs that are not associated with business activities, if the purpose of such use is not to derive profit (income);
- using, offering for sale, selling, or otherwise introducing on the market or storing for this purpose a product, in which the patented design is used, if said product has been introduced on the market in Turkmenistan by a patent proprietor or by any other person upon the patent proprietor's consent.

[2] Prior user rights

Any person that has been using in good faith an identical solution created independently of its inventor in Turkmenistan or has made necessary arrangements, shall retain the right to free use of the same without extending the scope of such use.

[3] Remedies

A person unlawfully using the patented design, upon the request of the design patent proprietor or a court order, shall:

- acknowledge the rights of the design patent proprietor;
- cease the actions infringing the rights of the design patent proprietor;
- restore damages, including loss of profit, or pay compensation.

Amount of compensation shall be determined by a court order or shall be agreed by the parties:

- compensate for moral damage;
- publish a court order to restore business reputation of the design patent proprietor.

The court shall be entitled to resolve to seize counterfeit goods.

[4] Penal provisions

The criminal liability for illegal use of the patented design is established by Article 153 of the Criminal Code of Turkmenistan that provides *inter alia* the fine up to USD 2,000 and corrective work for up to two years.

[5] Enforcement and Customs

Customs measures are not available in Turkmenistan with respect to enforcement of industrial design rights.

[M] Restoration after unintentional lapse

Failure to meet a time limit. A design patent terminated due to failure to pay the maintenance fee may be restored upon the request of the design patent proprietor during three years from termination of protection. Beyond this, no restoration is possible.

[N] Specific Aspects of Regional Design Registration

Not applicable in this jurisdiction.

[O] Specific Aspects of International Design Registration

As from 16 March 2016, International Design Registration according to the Hague Agreement is effective in Turkmenistan.

[P] Design and Copyright Protection

Irrespective of design patent protection, a work of design art shall be protected through the copyright law.

[Q] Fees

[1] *Table of official fees*

1 USD = 3.50 TMT (year 2011)

	TMT
Filing and formal examination of the design application:	
– per one variant of the design	170
– per each variant of the design that exceeds one variant	50
Substantive examination of the claimed design	520
Four each additional design in the group	150
Registration of the design, grant and publication of a design patent (restricted design patent)	1,400
Transformation of the restricted design patent into a design patent after the patent examination	420
Registration of a license agreement (for each design patent (restricted design patent) under the agreement)	800
Registration of an assignment agreement (for each design patent (restricted design patent) under the agreement)	560
Grace period of six months for payment of the patent registration fee	
For each month	210
Grace period of five months for payment of patent maintenance fee	240
Consideration of appeal against decision of formal examination to reject a design application by the Board of Appeal	420
Consideration of appeal against decision of substantive examination on the design application by the Board of Appeal	1,820
Consideration of appeal against invalidation of patent (restricted design patent) by the Board of Appeal	3,320

Maintenance fees for the design patent (restricted design patent) within years of duration from the filing date of the design application (USD):	
Years 1–5	\$500
Years 6–10	\$1,125
Years 11–15	\$1,750

[R] Transitional Provisions

Not applicable

[S] Specific Industrial Design and Model Issues

An application for an industrial design created in Turkmenistan may be filed in foreign countries or with an international organization.

[T] Governmental Websites

- Official website of the Turkmenistan Patent Office. www.tmpatent.org, however it is not in operation yet.
- The function of the patent office is realized by the “State Service for Intellectual property of the Ministry of Finance and Economics” - <https://fineconomic.gov.tm/static-pages/6/30> and <https://fineconomic.gov.tm/legal-acts/11>
- Information on those websites is scarce and in Turkmen and Russian only.

