

11 U.S.T. 388

TURKEY

Interchange of Patent Rights and Technical Information for Defense Purposes: Filing of Classified Patent Applications

TIAS 4456

11 U.S.T. 388

March 17, 1959; September 16, 1959, Date-Signed

September 16, 1959, Date-In-Force

STATUS:

[*1] Agreement effected by exchange of notes
Signed at Ankara March 17 and September 16, 1959;
Entered into force September 16, 1959.

PROCEDURES FOR RECIPROCAL FILING OF CLASSIFIED PATENT APPLICATIONS IN THE UNITED STATES OF AMERICA AND TURKEY

TEXT:

8 The American Ambassador to the Turkish Minister of Foreign Affairs

No. 1934 ANKARA, *March 17, 1959.*

EXCELLENCY:

I have the honor to refer to the Agreement between the Government of the United States of America and the Government of the Republic of Turkey to Facilitate Interchange of Patent Rights and Technical Information for Defense Purposes, which was signed at Ankara on May 18, 1956, n1 and to the discussions between representatives of our two Governments regarding procedures for the reciprocal filing of classified patent applications under the terms of Articles VI and III of this Agreement. I attach a copy of the procedures prepared during the course of these discussions and agreed to by those representatives.

-----Footnotes-----

n1 TIAS 3809; 8 UST 597.

-----End Footnotes-----

I am now instructed to inform [*2] you that the enclosed procedures have been agreed to by the Government of the United States of America. I would appreciate it if you would confirm that they are also acceptable to your Government. Upon receipt of such confirmation, my Government will consider that these procedures shall thereafter govern the reciprocal filing of classified patent applications, in

accordance with the terms of the aforesaid Agreement.

Please accept, Excellency, the renewed assurances of my highest consideration.

Enclosure:

Copy of Procedures.

9 January 1959

1. *General*

The following procedures are in implementation of Article III of the Agreement between the Government of the United States and the Government of the Republic of Turkey to Facilitate Interchange of Patent Rights and Technical Information for Defense Purposes which was signed on May 18, 1956, and entered into force on April 2, 1957. The purpose of these procedures is to facilitate the filing of patent applications involving classified subject matter of defense interest, by inventors of one country in the other country, and to guarantee adequate security in such other country for the inventions disclosed by such applications. These [*3] procedures are based upon the following understandings with respect to basic security requirements:

(a) Each Government has authority within its jurisdiction to impose secrecy on an invention of defense interest which it considers to involve classified matter.

(b) The authority of each Government, when acting as the originating Government, to impose, modify or remove secrecy orders shall be exercised only at the request, or with the concurrence, of national defense officials of that Government, or pursuant to criteria established by national defense agencies of that Government.

(c) Secrecy orders shall apply to the subject matter of the inventions concerned, and prohibit unauthorized disclosure of the same by all persons having access thereto.

(d) Adequate physical security arrangements shall be provided in all Government departments, including Patent Offices, handling inventions of defense interest and all persons in these departments and offices required to handle such inventions shall have been security cleared.

(e) Each Government shall take all possible steps to prevent unauthorized foreign filing of patent applications which may involve classified subject matter of defense interest. [*4]

(f) Permission for foreign filing of a patent application involving classified subject matter of defense interest shall remain discretionary with each Government.

(g) The recipient Government shall assign to the invention involved a classification corresponding to that given in the country of origin and shall take effective measures to provide security protection appropriate to such classification.

0 (h) Where patent applications covered by a secrecy order are handled by patent agents or attorneys in private practice, arrangements shall be made for the security clearance of these agents or attorneys and such of their employees who may be involved, prior to their handling such applications or

information relating thereto, as well as for adequate physical security measures in their offices.

(i) When secrecy has been imposed on an invention in one country and the inventor has been given permission to apply for a patent in the other country, all communications regarding the classified aspects of the invention shall pass through diplomatic or other secure channels.

2. *Applications Originating in the United States*

The following provisions shall apply when, for defense purposes, a [*5] United States patent application has been placed in secrecy under the provisions of Title 35, United States Code, Section 181, n1 and the applicant wishes to file a corresponding application in Turkey:

-----Footnotes-----

n1 66 Stat. 805.

-----End Footnotes-----

(a) The applicant shall petition the United States Commissioner of Patents for modification of the secrecy order to permit filing in Turkey. This petition will be prepared in conformance with paragraph 5.5 or Part 5, Title 37, Code of Federal Regulations, the provisions of which are incorporated herein by reference.

(b) Permission to file a classified patent application in Turkey is conditional upon the applicant agreeing to:

(1) Make the invention involved or any information relating thereto available to the Turkish Government for purposes of defense;

(2) Waive any right to compensation for damage which might arise under the laws of Turkey by virtue of the mere imposition of secrecy on his invention in Turkey, but reserving any right of action for compensation [*6] provided by the laws of Turkey for use by the Turkish Government of the invention disclosed by the application.

(c) Upon obtaining permission to file in Turkey, the applicant shall forward the documents for the foreign application to the defense agency which initiated the secrecy order.

(d) The defense agency shall transmit, through diplomatic channels, the documents received from the applicant, simultaneously, as follows:

(1) One copy to the Military Attache at the Turkish Embassy in the United States for use by the Turkish Government for defense purposes; and

1 (2) One copy to the appropriate section of the United States Embassy in Turkey. The letter transmitting the documents to the United States Embassy in Turkey shall indicate

the security classification given to the application in the United States, state that the invention involved or information relating thereto has been made available to the Turkish Government for purposes of defense, and state that the applicant has authorization to file a corresponding application in Turkey under the provisions of Title 35, United States Code, Section 184. It shall also include instructions for [*7] the Embassy to inquire of appropriate Turkish Ministry of Defense officials as to whether the Turkish attorney or agent designated by the applicant is security cleared in accordance with the provisions of subparagraph 1(h), supra.

- (e) If the designated attorney or agent is not security cleared, the Turkish Ministry of Defense shall so inform the appropriate section of the American Embassy, which shall forward such information to the United States defense agency which initiated the secrecy order. It shall then be necessary for the designated attorney or agent to become security cleared, if time permits, or for the patent applicant to select another attorney or agent and submit his name through the United States defense agency to the American Embassy in Turkey.
- (f) When a security cleared attorney or agent has been designated, the Embassy shall transmit the documents to him by personal delivery or in any other manner consistent with Turkish security regulations.
- (g) The Turkish attorney or agent shall then file the application in the Turkish Patent Office.
- (h) The Government of Turkey shall then place the application in secrecy.
- (i) The applicant shall submit as soon as possible to [*8] the initiating agency the serial number and filing date of the foreign application.

3. Applications Originating in Turkey

The following provisions shall apply when, for defense purposes, a Turkish patent application involving classified subject matter of defense interest has been placed in secrecy under the provisions of Turkish law, and the applicant wishes to file a corresponding application in the United States of America:

- (a) The applicant shall send a written request to the Turkish Director of Industrial Property, Ministry of Industry, asking permission to file such an application in the United States of America.
- (b) Permission to file a classified patent application in the United States shall be conditional upon the applicant agreeing to:

(1) Make the invention involved or any information relating thereto available to the United States Government for purposes of defense;

2 (2) Waive any right to compensation for damage which might arise under the laws of the United States by virtue of the mere imposition of secrecy on his invention in the United States, but reserving any right of action for compensation provided by the laws of the United States for use by the United [*9] States Government of the invention

disclosed by the application.

(c) Upon obtaining permission to file in the United States, the applicant shall forward to the Turkish Ministry of Defense, four copies of the foreign patent application, all in conformance with Turkish security regulations.

(d) The Turkish Ministry of Defense shall retain one copy and transmit, through diplomatic channels, the remaining documents received from the applicant, simultaneously, as follows:

(1) One copy to the Military Attache in the United States Embassy in Turkey for use by the United States Government for defense purposes; and

(2) Two copies to the Military Attache at the Turkish Embassy in the United States. The letter transmitting the documents to the Military Attache at the Turkish Embassy in the United States shall indicate the security classification given to the application or patent in Turkey and state that the invention involved and information relating thereto has been made available to the United States Government for purposes of defense, in accordance with provisions of Title 35, United States Code, Section 181-188, inclusive. It shall also include [*10] instructions for the Military Attache to inquire of the Secretary, Armed Services Patent Advisory Board, Patents Division, Office of the Judge Advocate General, Department of the Army, Washington 25, D.C., as to whether the American attorney or agent designated by the applicant is security cleared in accordance with the provisions of subparagraph 1(h), supra.

(e) If the designated attorney or agent is not security cleared, the Secretary, Armed Services Patent Advisory Board, shall so inform the Military Attache, who shall forward such information to the Turkish Ministry of Defense. It shall then be necessary for the designated attorney or agent to become security cleared, if time permits, or for the patent applicant to select another attorney or agent and submit his name through the Turkish Military Attache to the Secretary of the Armed Services Patent Advisory Board.

(f) When a security cleared attorney or agent has been designated, the Turkish Military Attache shall transmit the documents to him by personal delivery or in any other manner consistent with United States security regulations. The designated attorney or agent shall then file the application in the United States [*11] Patent Office and shall forward to the Secretary of the Armed Services Patent Advisory Board a copy of the application as filed, as well as a copy of the document issued by Turkey to the patent application permitting him to file in the United States.

(g) The Government of the United States shall then place the application in secrecy.

4. Subsequent Correspondence Between Applicant and Foreign Patent Office

(a) All subsequent correspondence of a classified nature between an applicant in either country and the patent office in the other country shall be through the same channels as outlined for the original application.

(b) Unclassified formal notification such as statements of fees, extensions of time limits, etc., may be sent by the patent offices directly to the applicant or his authorized representative without any special security arrangements.

5. *Removal of Secrecy*

(a) A secrecy order shall be removed only on the request of the originating Government.

(b) The originating Government shall give the other Government at least six weeks notice of its intention to remove secrecy and shall take into account, as far as possible, any representations made by the other Government [*12] during this period.

6. *Notification of Changes in Laws and Regulations*

Each Government shall give the other Government prompt notice through the Technical Property Committee of any changes in its laws or regulations affecting these procedures.

The Assistant Secretary General for NATO n1 Affairs in the Turkish Ministry of Foreign Affairs to the American Ambassador

-----Footnotes-----

n1 North Atlantic Treaty Organization.

-----End Footnotes-----

TURKIYE CUMHURİYETİ HARİCIYE VEKALETİ n2

-----Footnotes-----

n2 Republic of Turkey Ministry of Foreign Affairs

-----End Footnotes-----

ANKARA, 16 September, 1959

EXCELLENCY,

I have the honor to refer to your Excellency's Note and its enclosure dated March 17, 1959 which reads as follows:

4 "Excellency:

I have the honor to refer to the Agreement between the Government of the United States of America and the Government of the Republic of Turkey to Facilitate Interchange of Patent [*13] Rights and Technical Information for Defense Purposes, which was signed at Ankara on May 18, 1956, and to the discussions between representatives of our two Governments regarding procedures for the reciprocal filing of classified patent applications under the terms of Articles VI and III of this Agreement. I attach a

copy of the procedures prepared during the course of these discussions and agreed to by those representatives.

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Please accept, Excellency, the renewed assurances of my highest consideration."

I have the honor to inform your Excellency that my Government is in agreement with the above arrangement.

I avail myself of this opportunity to renew to your Excellency the assurances of my highest consideration.

Conform to the original

SIGNATORIES:

FLETCHER [*14] WARREN

His Excellency
FATIN RUSTU ZORLU,
Minister of Foreign Affairs, Ankara.

HUVEYDA MAYATEPEK

His Excellency
FLETCHER WARREN,
*Ambassador of the
United States of America, Ankara.*