



## TABLE OF CONTENTS

ABSTRACT .....	VII
LIST OF ABBREVIATIONS.....	XIII
I. INTRODUCTION .....	1
II. TRADEMARKS, A GENERAL OVERVIEW.....	2
A. A Brief History of Trademarks .....	2
B. Definition, Purpose and Overview.....	3
C. The Need for Trademarks .....	5
D. Trademarks vs Service Marks .....	6
E. Certification Marks vs Collective Marks.....	7
F. Registered vs Unregistered Trademarks .....	9
1. Unregistered Trademarks .....	9
2. Registered Trademarks .....	10
G. Relevant National, Regional and International Legislation .....	11
1. National Legislation on Trademarks .....	12
2. Regional Law on Trademarks .....	13
3. International Laws Regarding Trademarks in General.....	15
a. The Paris Convention .....	16
b. The Trademark Law Treaty.....	18
c. “The Madrid Agreement” and “the Protocol relating to the Madrid Agreement” .....	18
d. “The TRIPS Agreement” .....	19
III. WELL-KNOWN TRADEMARKS .....	19
A. Definition and Overview.....	19
B. Criteria for Being Recognized as a Well-Known Trademark.....	21
1. Brief Overview and Doctrine .....	21
2. The WIPO Criteria.....	23

a.	“The Degree of Knowledge or Recognition of the Mark in the Relevant Sector of the Public” .....	24
b.	“The Duration, Extent and Geographical Area of any Use of the Mark” .....	26
aa.	“duration of any use of the mark” .....	26
bb.	“the extent and geographical area of any use of the mark” .....	27
c.	“The Duration, Extent and Geographical Area of any Promotion of the Mark” .....	28
d.	“The Duration and Geographical Area of any Registrations, and/or any Applications for Registration, of the Mark, to the Extent that They Reflect Use or Recognition of the Mark” .....	30
e.	“The Record of Successful Enforcement of Rights in the Mark, in particular, the Extent to Which the Mark was Recognized as Well-Known by Competent Authorities” .....	31
f.	“The Value Associated with the Mark” .....	32
3.	Other Criteria Suggested in the Doctrine .....	34
a.	Originality of the Trademark .....	35
b.	The Degree of Similarity between the Well-Known Mark and the Subsequently Used Identical or Similar Mark .....	36
c.	Solitariness of the Mark in the Relevant Market .....	36
4.	The Approach and Criteria Suggested in the Turkish Doctrine .....	37
a.	Criteria Used by the Turkish Patent and Trademark Office .....	40
b.	Well-known Marks from the Perspective of the Turkish Supreme Court .....	41
5.	Other Criteria to be Taken into Account .....	42
a.	The Date of the Creation of the Mark .....	42

---

b. Number of Stores Opened under Licences or via Franchising .....	44
c. Number of Branches.....	46
d. Daily Average Number of Website Visitors.....	47
e. The Number and Frequency of Searches Through Search Engines.....	48
IV. SPECIAL PROTECTION GRANTED TO “WELL-KNOWN TRADEMARKS AND SERVICE MARKS” .....	49
A. Rationale Behind the Special Protection .....	49
B. Territoriality .....	55
C. Class-Based Protection .....	57
D. The Requirement for the Mark to be Registered .....	58
E. Some Unlawful Acts to be Protected Against.....	59
1. Trademark Piracy .....	59
2. Counterfeiting.....	60
3. Dilution.....	62
V. THE PROTECTION OF WELL-KNOWN MARKS IN VARIOUS LEGAL CONTEXTS .....	63
A. The Paris Convention .....	63
B. The TRIPS Agreement .....	67
C. Protection under Turkish Law .....	70
D. Well-known Marks in Selected Judgements and Decisions .....	74
VI. CONCLUSION .....	78
BIBLIOGRAPHY.....	81