

Turkey's Well-Known Trademarks Registry

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Under Turkish trademark law, a well-known trademark enjoys enhanced protection. Well-known trademarks are protected not only for goods and services that are registered, but for different goods and services as well. In fact, none of the trademark regulations identify what exactly a well-known trademark is or what the requirements are. Turkish case law, however, adopts TRIPS and Paris Convention criteria to identify a well-known trademark. The trademark owner is responsible for proving a trademark's well-known character, and must submit sufficient evidence. In practice, it is quite challenging for trademark owners to prove the well-known character of a trademark in terms of collecting of evidence, effort and expense.

The Turkish Patent Institute (the "TPI") has a special registry for registering a well-known trademark. Registration with the TPI's Well-Known Trademark Registry is permanent and not subject to a renewal process. The trademark owner can apply to the TPI free-of-charge by submitting documents evidencing that the trademark fulfills the well-known trademark criteria under Turkish trademark law, which are similar to the WIPO Joint Recommendation on Protection of Well-Known Marks' criteria.

To register a trademark with the Well-Known Trademark Registry, the owner must provide:

- international trademark registration certificates showing the extent of the trademark use in different geographical areas;
- documents showing the duration of the trademark use and the trademark's historical background;
- consumer surveys and opinion polls, if available;
- documents, reports or surveys showing the trademark value;
- previous court or administrative authority decisions acknowledging the well-known character of the trademark;
- advertisement, promotion materials and sponsorships in **Turkey**—brochures, catalogues, copies of television, radio and printed advertisement of the goods and services performed under the trademark;
- the average visitor number to the website on which the trademark is used, if available;
- documents showing the historical background, size, employees, capital, interest, branches, offices and licensors of the applicant company that owns the trademark;
- rewards granted to the trademark holder by independent authorities for the goods and/or services performed under trademark;
- articles on the trademark in the press or in specialized publications;
- documents demonstrating the market share enjoyed by the products sold under the trademark, including the sales volume and the turnover attributable to the products' sales.

The Well-Known Trademarks Registry facilitates determination of a trademark's well-known status. Even if the well-known trademark registration is not indisputable in a future court or TPI claim, it is still substantial evidence of a trademark's reputation, and it significantly reduces the burden of proving the well-known status of a trademark.

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Mine Guner focuses her practice on intellectual property, mainly on trademark prosecution, trademark litigation, domain name disputes, advertising law and unfair competition law. Mine Guner is a qualified trademark and patent attorney with the Turkish Patent Institute. She manages the trademark portfolios of many well-known brand owners in Turkey from various sectors. She also focuses on dispute resolution matters related to trademarks, domain names and unfair competition. In addition, Mine Guner advises on the commercial aspects of intellectual property, such as conducting due diligence for intangible assets, licensing and transferring intellectual property assets, and on various aspects of advertising law and internet law.