

TABLE OF CONTENT

ÖNSÖZ	7
TABLE OF CONTENT	9
LIST OF ABBREVIATIONS	13

INTRODUCTION	15
---------------------------	-----------

PART I

LEGAL REGULATIONS REGARDING TRADEMARK LAW

I. RESOURCES OF EUROPEAN UNION TRADEMARK LAW	17
II. RESOURCES OF TURKISH TRADEMARK LAW	19

PART II

GENERAL INFORMATION ABOUT TRADEMARK RIGHTS

I. DEFINITION OF TRADEMARK	23
II. TRADEMARK RIGHT	25
A. Characteristics of Trademark Right	25
1. Intangible Characteristic	25
2. Monopolistic Condition	26
3. Timeliness and Renewability	26
4. Being Subject to Legal Actions	27
5. Principle of Territoriality	28
6. Based on Voluntariness	30
7. Principle of Exhaustion	30
B. The Scope of Trademark Right	32
III. METHODS OF ACQUISITION OF TRADEMARK RIGHTS	35
A. The Acquisition of the Trademark Right By Way of Use	36
B. The Acquisition of the Trademark Right By Way of Use Registration	38
C. The Acquisition of the Trademark Right under Turkish and European Union Trademark Law	40

PART III
INFRINGEMENT OF TRADEMARK RIGHTS

I.	PREREQUISITE LEGAL CONDITIONS FOR TRADEMARK INFRINGEMENT	43
A.	Use of the Trademark without the Owner’s Consent.....	43
B.	Use of the Trademark for Commercial Purposes.....	44
C.	Use of the Trademark in the Protection of the Trademark.....	44
D.	Use of the Trademark Where it is Registered	45
II.	ACTIONS INFRINGING A TRADEMARK RIGHT.....	46
A.	Unauthorized Use of Trademark	49
1.	Use of a Sign Identical to a Registered Trademark for the Products or Services Covered by the Registration.....	50
2.	The Use of any Sign That Is Identical or Confusingly Similar to the Registered Trademark and That Covers the Same or Similar Goods or Services as the Goods or Services Covered by the Registered Trademark, and Therefore Is Likely To Cause Confusion Among the Public, Including the Possibility of Association With the Registered Trademark.	50
a.	Similarity of Trademarks.....	53
b.	Similarity between Trademark Classes	53
c.	Customer Perception	54
d.	The Distinctive Power of the Trademark.....	54
e.	Likelihood of Association.....	54
f.	Holistic Evaluation.....	55
3.	Unjustified Use of a Sign That Is Identical or Similar to a Registered Trademark and That Would Gain an Unfair Advantage From the Reputation of the Trademark Due to the Level of Recognition It Has Achieved, or That Would Harm its Reputation or Damage Its Distinctive Character, Regardless of Whether the Goods or Services Are the Same, Similar, or Different	56
a.	Existence of a Reputable Trademark	56
b.	The Impact of Unauthorized Use on Reputable Trademark.....	59
(1)	Gaining a Unjust Advantage.....	59
(2)	Damage to the Reputation of the Trademark.....	59
(3)	Damage to the Distinctiveness Character of the Trademark.....	60
B.	Affixing the Sign to the Goods or to the Packaging of Those Goods.....	60

C.	Importing or Exporting Goods Bearing the Registered Trademark or a Similar Mark without Authorization	61
D.	Putting the Goods on the Market, Offering Them as Deliverable, or Stocking Them for These Purposes under the Sign, or Offering or Supplying Services	65
E.	Using the Registered Trademark or a Similar Mark in Advertising, Promotion, or Online Activities	69
F.	Use the Sign in Comparative Advertisements	73
G.	Use of the Sign as a Trade Name or Company Name.....	74
H.	Extending or Transferring Rights to Third Parties Without the Licensor's Permission.....	75
1.	Regarding Duration	77
2.	Regarding Location.....	77
3.	Regarding Quantity.....	78
4.	Regarding Products and Services.....	78
5.	Through Sub-Licensing.....	78

PART IV

LEGAL REMEDIES FOR THE TRADEMARK OWNER WHOSE RIGHTS HAVE BEEN INFRINGED

I.	REQUEST FOR DETECTION OF INFRINGEMENT.....	81
II.	REQUEST TO PREVENT THE POSSIBILITY INFRINGEMENT	82
III.	REQUEST TO TERMINATE THE INFRINGEMENT	82
IV.	REQUEST FOR REPRESENTATION OF INFRINGEMENT	83
V.	REQUEST FOR COMPENSATION	84
A.	Material Compensation.....	84
B.	Non-Material Compensation	89
C.	Reputation Compensation	90
VI.	ADDITIONAL CLAIMS THAT MAY BE MADE BY THE TRADEMARK OWNER.....	92
A.	Confiscation Of Products and Other Properties	92
B.	Request To Take the Necessary Measures to Prevent the Continuation of Infringement	93
C.	Announcement of the Ruling and Notification to Related Parties.....	94
D.	Interim Measures and Customs Seizure.....	95
1.	Interim Measures.....	95
2.	Customs Seizure	96

PART V
PROCEDURAL ASPECTS OF TRADEMARK
INFRINGEMENT CASES

I.	PARTIES TO THE ACTION OF TRADEMARK INFRINGEMENT	101
A.	Complainant.....	101
1.	The Owner of the Trademark	101
2.	Licensee	102
a.	Non- Exclusive Licensee.....	104
b.	Exclusive Licensee	105
3.	Owner of the trademark as exclusive licensor.....	105
4.	Lienor.....	106
5.	Owner of a Well-Known Trademark under the Paris Convention	107
B.	Defendant.....	107
1.	Real or Legal Person Performing Prohibited Actions of Infringement.....	107
2.	Licensee	108
3.	Those Who Participate in, Assist in, Encounter or Facilitate Infringement	108
4.	Persons Who Cannot Be Claimed due to Infringement of the Trademark	109
VII.	COMPETENT COURTS IN CASE OF TRADEMARK INFRINGEMENT	113
VIII.	STATUTE OF LIMITATIONS	116
IX.	MEDIATION REQUIREMENT PRIOR TO FILING A LAWSUIT IN COURT	117

PART VI	
CRIMES INVOLVING TRADEMARKS AS A RESULT OF TRADEMARK INFRINGEMENT	119
CONCLUSION	121
BIBLIOGRAPHY	135