

Table des matières

Avant-propos	V
Sommaire	VII
Table des abréviations / <i>Table of abbreviations</i>	XIII

Protection of Well-Known and Famous Marks in the United States and United Kingdom

Ilanah Simon Fhima

I.	Introduction	1
	A. Protecting well-known marks: two key issues	1
	B. The structure of protection in the US and UK	1
II.	Protections of Well-Known but unused Marks	3
	A. The territorial nature of protection	3
	B. The US approach	3
	C. The UK approach	6
III.	Expanded Protection for well-known Marks	9
	A. Why well-known marks have been granted additional protection	9
	B. Common law prejudices	10
	C. Expanded protection – a brief overview	10
	D. Protection against blurring	11
	1. The US	11
	2. The UK	13
	E. Protection against tarnishment	15
	1. The US	15
	2. The UK	16
	F. Protection against unfair advantage	18
	1. The US	18
	2. The UK	19
IV.	Conclusion	21

Marques renommées et marques notoires en droit européen et en droit français

Jacques Azéma

I.	L'incertitude des qualifications découlant d'une particulière réputation de la marque	24
	A. Hiérarchie ou identité des concepts	24
	B. Le public de référence	28

II.	La relative précision des conséquences découlant d'une particulière réputation de la marque	30
A.	La dérogation au principe de territorialité	30
B.	L'extension du champ de la protection	31
1.	Le domaine de l'extension	32
2.	Le régime de l'extension	34

Les marques notoirement connues et les marques de haute renommée en droit suisse

Philippe Gilliéron

I.	Généralités	37
A.	Les sources	38
1.	La marque notoirement connue	38
2.	La marque de haute renommée	39
B.	Les différences	40
1.	Les publics déterminants	40
2.	L'exigence d'un rapport international	41
3.	L'enregistrement	43
4.	La procédure d'opposition	45
II.	Les critères d'appréciation	46
A.	La reconnaissance	46
B.	Autres critères	52
C.	Questions procédurales	54
III.	Les effets de la protection	56
A.	La marque notoirement connue	56
B.	La marque de haute renommée	60
IV.	Evolution désirable	64
A.	Conclusions intermédiaires	64
B.	Parasitisme indirect et droit suisse	67
C.	Vers une prise en compte du parasitisme en droit des marques?	70
V.	Conclusion	72

Protection of Well-Known Trademarks in China

Yuanshi Bu

I.	Introduction	75
II.	Chinese Regulations Regarding Well-Known Trademarks	77
A.	Source of Law	77
B.	Definition	78

III.	Factors for the Recognition of Well-Known Trademarks	79
IV.	The Extended Scope of Protection for Well-Known Trademarks (art. 13 Trademark Law).....	81
	A. Common Trademark Protection	81
	B. The Scope of Protection for Unregistered Well-Known Trademarks ..	82
	C. The Scope of Protection for Registered Well-Known Trademarks	83
V.	Competence for the Determination of Well-Known Trademarks	84
	A. The Opposition Proceeding and Subsequent Appeal Proceedings	85
	B. The Revocation Proceeding	86
	C. Administrative Enforcement Proceedings	87
	D. Injunctive Actions and Damage Actions	87
	E. Statistics on Established Well-Known Trademarks	89
VI.	Permissibility of the Determination of Well-Known Trademarks	90
	A. No Abstract Establishment	90
	B. In a Conflict between a Trademark and a Domain Name	90
	C. In a Conflict between a Trademark and a Trade Name	91
	1. Provisions on Normal Trademarks	92
	2. Provisions on Well-Known Trademarks	93
	D. In a Conflict between Two Trademarks	95
VII.	Binding Effect of the Establishment of Well-Known Trademarks.....	96
VIII.	Open Questions	96
	A. Popularity of the Original Trademark or of the Chinese Translation? ..	96
	B. Trademarks Used Exclusively in the Media	98
	C. Use in Taiwan, Hong Kong and Macau	99
	D. Scope of Extended Protection	99

AIPPI on well-known and famous trademarks: an international perspective

Anne Marie E. Verschuur

I.	AIPPI – brief introduction to the organization	101
II.	AIPPI – previous work on well-known/famous trademarks	102
	A. Resolution London 1960 (Q29)	102
	B. Resolution Berlin 1963 (Q29)	103
	C. Resolution Barcelona 1990 (Q100).....	103
	D. Resolution Lisbon 2002 (Q168)	104
	E. Resolution Berlin 2005 (Q188)	104
	F. Resolution Singapore 2007 (Q195).....	104
III.	AIPPI – Q214 scope	105
IV.	Q214 summary report	105

XII Table des matières

A. Recognition among the public at large or among the relevant public? 105

B. Requirement use and/or registration? 106

C. Registry of eligible marks? 106

D. Requirements and relevant factors 107

E. Legal remedies 107

V. Q214 resolution 108

 A. Recognition among relevant public 108

 B. No use/registration requirement 108

 C. No registry 109

 D. Requirements and relevant factors 109

 E. Ground opposition 109

VI. Concluding remarks 110

**Annexes/
Appendixes**

Annexe 1 / Appendix 1 113

Annexe 2 / Appendix 2 133

Annexe 3 / Appendix 3 137