

University Doctoral (PhD) Dissertation Abstract

The Impact of Trademark use & registration in Jordania, EU & international law

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1. Introduction

The goal of trademark safeguarding is to safeguard the exclusive rights of individuals or businesses over their distinctive signs, such as logos, names, or symbols, to identify and distinguish their goods or services from those of others. Serve as indicators of origin. They enable manufacturers and sellers to effectively communicate to consumers the identity of the creator or distributor responsible for the quality of goods or services. The primary objective of trademark legislation is To regulate commercial activities, with trademarks representing the positive reputation and trust that consumers associate with the owner's products or services in the market. The objective of any trademark legislation is dual. One purpose is to ensure public confidence in purchasing a product with a specific trademark, guaranteeing that they will receive the item they desire. Furthermore, when the proprietor of a trademark has dedicated resources, effort, and financial resources to promote the good or service to the general public, they are safeguarded in their investment against unauthorized use by counterfeiters and fraudsters. This is the firmly established legal principle that safeguards the interests of both the general public and the proprietor of a trademark. Trademark law seeks to safeguard the interests of both the public and intellectual property (IP). However, the public's interests protected by trademark law differ significantly due to their distinct origin and purposes.

In this regard, the history of trademarks in the commercial aspect has witnessed the critical role of trademarks. At that time, trademarks were thought to have originated from the practice of tagging animals long ago, this usage dates back to ancient times. For instance, the ancient Egyptians used to mark cattle. The same mission has extended to our present time, where the proprietors of the camels mark the camels in particular areas to ensure the rights of their proprietors. Going through the Roman era the mission of the trademark focused on distinguishing the others' property. Over time, the mark has developed to be a commercial instrument by recognizing the pedigree efficiency of the camels, due to the mark which is recognized. Also, the appearance of the trademark dates back to the Roman Era, when the Romanians put marks on pottery products to prevent theft and copying. Also, the Indians used to put marks on their goods, but the matter also developed. The mark aimed to distinguish between provinces by photographing an animal or object; this was related to the ancient Egyptians who used these photos to differentiate between their kingdoms and provinces.

Nevertheless, this is not absolute. At the commercial level, Italy witnessed that through trademarks by traders for fame. In the Modern Age, some trademark was manifested, and after that, they became famous; in 1886, the Coca-Cola mark appeared, and in 1888, the Kodak mark appeared, and from that time, the trademarks have become indicated to the source of products and services, more than indicated signs to the proprietorship of the things. The industrial boom, which occurred in the first half of the 20th century, brought about significant transformations in the social and economic landscape worldwide. The introduction of electric motors and railways between the late 19th century and the early 20th century brought about a significant transformation in the economy, resulting in improved effectiveness in manufacturing and the transportation of products. In the past, culture was more aligned with a society of small business proprietors focused on producing.

However, the more recent culture is centered around a society dominated by giant corporations and characterized by a focus on consumption. Nevertheless, individuality was inconsequential: Trademarks were merely maintained over "colorable imitations," which refers to any trademark that closely matches a registered trademark and is likely to cause confusion, error, or defraud goods with similar description features. Under common law, a

brand was protected from confusion among consumers and the loss of customers. However, based on existing case law, it was unlikely that a brand would be protected if it was used for items with different descriptive features. As historical events unfolded, the safeguarding of widely recognized and celebrated trademarks has progressively and deliberately been enhanced worldwide,

2. Why did the author choose Jordanian law in his thesis?

The researcher has chosen to include Jordanian legislation in the doctoral thesis for the following reasons:

First, Jordanian legislation has the advantage of being dynamic and claims to be capable of evolving to match the needs of the market. Hence, the researcher had the opportunity to measure the accuracy of this claim by basing Jordanian legislation on both the European Union and the United States.

The first is to look closely at Article 34 of the Jordanian Trademarks Act. This section says, "No one shall be able to file a claim for damages for any infringement of a trademark not registered in the Hashemite Kingdom of Jordan. However, he shall be able to file an action for the annulment of a trademark registered in the Hashemite Kingdom of Jordan by someone who does not own it after having been registered abroad, as long as the reasons he claims are those in this article."

This is an indication of whether this provision raises a real legal problem by preventing any person from bringing a civil action to seek compensation for any infringement of the rights of the proprietor of a trademark that is not registered in the Kingdom. The Unlawful Competition and Commercial Secrets Act No. 15 of 2000, specifically "The text of articles 2/a&b and 3/a," clarifies the extent of civil protection for unrecorded trademarks in Jordan. There are also relevant legal provisions available. This study yielded several results that we monitored at the end of the investigation.

This manuscript was Criticized by commercial jurisprudence for its requirement to register a trademark in the Kingdom to claim compensation for infringement because compensation is linked to the occurrence and verification of damage, which is left to the judiciary to determine. The compensation is unrelated to the trademark registration procedures that the JTML requires. Salah Zain Al-Din justifies the Jordanian legislator's requirement to register the trademark in Jordan for the possibility of claiming compensation in case of infringement to the legislator's desire to encourage trademark proprietors to register them with the Ministry of Industry and Trade to identify them. However, this justification- from the author's perspective- is not valid.

A sufficient reason for violating the provisions of the general principles of civil liability gives each offended party the right to claim compensation. , especially if we know that the judiciary is the decisive factor in determining the entitlement and amount of compensation. It would have been more appropriate for the Jordanian legislator not to require the condition of registering a trademark in Jordan due to its entitlement to compensation due to its infringement.

Second, Jordanian legislation presents issues regarding the impact of trademark registration and use, prompting questions about the flexibility and dynamic nature of this legislation in addressing various forms of trademark use and registration. The research aims to investigate the foundations, parameters, and procedures involved in trademark registration in the European Union and the United States and the degree to which Jordanian legislation incorporates these considerations. In addition to working with legal traders and legislators, it's crucial to clarify the procedures involved in registering and safeguarding the law. This is

because I aim to attract more investment and trade. I also assist brand researchers in the realm of commercial brand analysis.

Third: This study highlights the importance of trademark provisions by comparing the grounds and parameters chosen by the EU and the US with Jordanian legislation. It also compares the registration procedures provided for by the trademark rules in their legislation with Jordanian legislation, highlighting them. With the proposal to modify Jordanian legislation's draconian procedures, they are seeking to find the best procedures that will help traders take the initiative to record their trade signs. Finally, compare the legal protections provided by the European Union and the United States and see to what extent such legislation is appropriate for society's culture. Modern methods and forms of trade require a specific brand, so the laws of each country may not provide optimal or adequate protection.

Fourth, the researcher has chosen Jordanian legislation because he is aware of it and wishes to pave the way for other researchers to develop it in line with the need and openness of the Jordanian market to attract investment, measure its compatibility with international conventions, in particular the TRIPS Agreement, and measure the impact of this on the Jordanian economy, businessmen, and the middle class.

3. The author's goal of his thesis title, The Effect of Use And Registration on The Right to the Trademark

The author's goal of his thesis title, The Impact Of Trademark Use & Registration In Jordanian, EU & International Law, is to investigate the correlation between trademark use and registration to approve the mark proprietorship right predominantly and then reflect on these ways to the right over trademark proprietorship to give protection that trademark deserves. In this context, the trademark is the most widespread and connected to trade and economy, which made it occupy an important and distinguished position; it has become the matter that necessitated the provision of appropriate legal protection on the mark; in this regard, the mark's registration establishes proprietorship rights, as the mere registration of the mark is considered a sufficient reason to develop the right to proprietorship.

3.1 Research questions

In light of the information mentioned above, there is a need to shed light on the protection of registered and unregistered trademarks. The applicable law must be cleared in case of an unregistered trademark. There is a need to identify the stand of the Jordanian legislator and compare legislation on infringements against trademark-related rights. Such violations are carried out, though punishments and penalties are enforced on those committing such violations. This study offered answers to the questions below, besides results and suggestions for the contemporary problems facing trademarks:

Q1 Did Jordanian legislators consider registering or using a trademark essential to protect it? What are the shortcomings of various laws on protecting trademarks in Jordan?

Q2 Did the Jordan Trademark Act protect the rights of consumers?

Q3 Did the Jordan legislator impose compensation on the trademark infringer or forger deterrent to prevent the infringement internationally and nationally level?

Q4 Did Jordan's legislator address the case of the infringement repeating of the protected rights?

Q5 To what extent does Jordan law protect the famous mark?

Q6: did the Jordanian legislator treat the situation where the trademark was violated but not used within the Jordanian territory?

Q7 Did CJEU fix the coexistence of unregistered local rights with later registered national trademarks?

Q8 Did the parties Within the EU level have an "earlier right" when the proprietor of a later registered trademark also has an older right?

Q9 Did the US Code establish the legal grounds for initiating a case in a civil court to address accusations of deceptive labeling and misleading advertising related to unregistered trademarks?

Q10 Did the dilution principle enhance the protection of trademarks for widely recognized brands?

Q11 IF trademarks are in use and not registered. What sort of protection is afforded at the EU level to such non-registered trademarks if an alleged similar trademark is registered or applied for?

Q12 As for the question Could we consider the attributive system as a particular way of manifesting the declarative system?

Q13: Did Sharia law protect intellectual property rights early?

3.3 Hypotheses

There are some hypotheses the study tries to test. The first hypothesis is that trademark registration alone gives priority to the acquisition of the right to trademark proprietors in the Hashemite Kingdom of Jordan. This hypothesis is essential to identify the trademark's legal proprietor and indicate the monopoly right based on the Jordanian Trademark Law and the legal provisions governing this property, especially since the law takes registration as a simple hypothesis to acquire the right to proprietorship as may be proved reversible.

The author believes that the consideration of this theme comes from the increase in dealing with trademarks due to the development of technology that has taken it out of the traditional geographical scope. Hence, it needs to search for the priority of the right of proprietorship between registering and using trademarks and how to protect them.

The second hypothesis the study tries to support is that trademark registration and its use determines the amount of legally adequate protection of trademarks. This hypothesis is essential to find a legislative action that goes hand in hand with the principle "Nullum crimen, Nulla poena sine lege, "which means that criminal offenses and penalties are determined only by the law. In this regard, the phenomenon of trademark infringement remains widespread. This phenomenon may be due to the inconsistency of penalties and fines with the benefits and profits the infringer may earn on the trademark.

The third hypothesis stated that the causes of IPR infringements in developing countries related to many reasons, one of them being the TRIPS agreement, which has received many criticisms for its effectiveness and legitimacy and led to preventing them from adopting the necessary measures that mitigate the negative impact on their economic and social life, The question that arises from this assumption is: why do developing countries choose to be part of regional international organizations like the (EU), and TRIPS treaties?

The fourth hypothesis: An 'earlier right' is a non-registered trademark with An earlier unregistered trademark that has been persistently utilized in association with goods or services by an individual or their predecessor before using or registering another trademark for the same or similar products or services. An action is deemed valid if it is legally protected in every way possible.

The fifth hypotheses suggest a new consideration of registering generic terms as trademarks. This change results from a new court decision stating that a generic term booking can be registered as a trademark.

The sixth hypothesis is that intellectual property violations were not widespread in the early age of the Islamic empire, from the seventh century AD until the end of the Ottoman empire, whether or not Islamic Sharia law sanctioned action against intellectual property violations.

Furthermore, at that time, this study suggests that religious morals and considering intellectual property theft as a sin might be the main reason behind respect for intellectual property rights despite the non-existence of real legal sanctions, the fear of God, and the fear of being stigmatized of shame among the society individual as the study's hypotheses indicate that the main difference between Jordan trademark law and shari'a law is that the intellectual property violation was considered as murder and not as a sin. The law set sanctions for such violations. Despite all of these efforts by the law, intellectual property violations became more widespread than in the early age of the Islamic empire.

3.4 Statement of the Problem

This study aims to determine the priority of acquiring the right to proprietorship of the trademark in the Hashemite Kingdom of Jordan to find the best ways to protect their rights and to determine the causes of trademark infringements.

To this point, the concept of the trademark generally and the right in it mainly needs to be clarified, especially in Jordanian law, due to the inflexibility of the articles. Moreover, there are no judicial decisions to reduce this inflexibility. Therefore, this study aims to improve and clarify the concept of the trademark by comparing it with other legislations, especially the legal provisions that result from using the trademark, whether in the commercial competition scope or the protection of consumers, knowing that legal provisions depend on the concept that legislator adopted, and appears in functions that the legislator approved or applied for the trademark and its components.

Also, the purpose of this study is to determine the priority of trademark proprietorship in the Hashemite Kingdom of Jordan and identify the proper proprietor of the trademark since the law takes registration as a simple clue to approve the proprietorship right as may be proved reversible and already prove the precedence of the use of the trademark.

TRIPS Agreement aimed to shed light on using the trademark preceding its registration. It suggests that the member states are allowed to grant rights that are based on such use. However, the problem of this study is represented in the fact that the Jordanian legislator in the competent law needed to identify the provisions related to the use of the (unregistered) trademark. The latter legislator shed light on the permissibility of considering the trademark registered based on its prior use.

Before registering the trademark, the legislator did not identify the nature of the right to the trademark. the legislator should have shed light on the ability of the proprietor of the unregistered trademark to prevent others from infringing his trademark-related rights and support the unregistered trademark holder to claim compensation in case an infringement was committed against his trademark-related rights. And did not offer protection for the unregistered trademark. Instead, the legislator of the law of illegitimate competition and business secrets suggests that the infringement of the rights related to unregistered trademarks is deemed illegitimate.

4. Methodology

As for the methodology, the author depends on different approaches to reach solutions, results, and recommendations in his thesis as follows:

4.1 descriptive approaches

This study will be conducted by a descriptive analysis method to shed light on the roles of determinants in trademark proprietorship by reviewing Trademarks from an international and national perspective to find a satisfactory solution to prove our hypothesis since the law takes registration as a simple hypothesis to acquire the right to proprietorship as may be proved reversible, and already prove the precedence of the use of the trademark.

4.2 The legal comparison

The thesis needed to use a comparing approach to present and analyze the different legal rules of trademarks in particular local legislations (Jordanian) and foreign (international and EU). At the same time, it compares and evaluates them in connection with a particular thesis issue to be examined. The latter method is called legal comparison, which would be worth mentioning separately in the subchapter summarizing the methodology of the doctoral thesis on the other hand, the comparative-legal approach will be applied to reach functionalism.

4.3 The deductive approach

The deductive study will take its place to test our hypothesis, from general observation to more specific facts. The author hypothesizes that a TRIPS Treaty was established to benefit developed countries and large companies to serve their goals. Thus, the developing countries' legislation and economic and consumer ethical attitudes were affected negatively. Hence, we start looking at the international standards to address weaknesses of law enforcement issues and violations of trademark rights.

4.3 The qualitative approach

The author collects relevant data from the EU as a union for developed countries where a successful model based on international standards can be seen to prevent infringements. . It can still be described as a qualitative study even though the author uses some numbers and statistics because he mainly focuses on case studies, literature reviews, legal documents, and data analysis. The statistics are only used to support concepts and test our hypothesis. Therefore, the study is generally expressed in texts and words to understand thoughts, experiences, or notions.

Finally, the secondary data is strongly present as the last methodological used in this study. The primary sources for the secondary data are books, legislations, international legal instruments, journal articles, treatises, and statistics done by formal institutions for specific aims that vary from our purpose in the dissertation. Therefore, this study's novelty and originality are not directly from the secondary data collection but from how to analyze and use the data.

5. The structure of the dissertation

This study aimed to identify registration and trademark use's impact on trademark rights under Jordanian compared to EU and international law. Thus, it is divided into an introductory chapter beside the main ten chapters ending with a conclusion and recommendation chapter.

As in the Introductory chapter, the author discusses and analyzes Jordanian law, its purpose, research questions, objectives, hypotheses, problem statement, methodology, and dissertation structure. It also provides an overview of the research methodology. Besides its amylose why the author chose Jordan law to be a part of this comparative study.

The author investigates trademark legal concepts in the first chapter, Trademark framework, concept, Rights, theories, and doctrine positions investigating the EU, domestic laws, and the doctrine's position on trademarks. Moreover, the author has left some issues for discussion, such as famous and domestic trademarks and whether a well-known trademark is the same

renowned trademark mentioned in the legal literature and international agreements such as the Trips Agreement and the Paris Convention. The author also sheds light on the development of Jordan trademarks-related laws. For instance, the old text law did not define trademarks broadly.

. The author investigated both Josef Kohler's theory of intangible assets, and Eugen Ulmer's theory, and the concept of confusion functioning. The chapter also discusses the probability of confusion, its function, and the EUTMR's double identity. It also discusses the likelihood of confusion, its relationship with the similarity of goods, services, and signs, and the criteria for determining the goodwill of a mark. The chapter also covers trademark forms, including names, letters, numbers, symbols, pictures, inscriptions, and drawings.

In Chapter 2 on trademark types, the author discusses the distinction between a well-known and famous mark, their protection, and the reasons behind their refusal. The guide covers the United States, Australia, China, and Japan as examples, and the distinction between "well-known" and "famous" marks. It also covers the registration, real use, and protection of well-known and famous trademarks in different countries, such as the European Union, the United Kingdom, and France. The author also discusses the concept of a "reputed mark" and its relevance to the public. moreover, the author highlights the importance of a reputed mark in the trademark industry. and discuss the importance of a well-known mark in the public's perception and the potential for trademark disputes.

In Chapter 3, the author discusses nontraditional trademarks in the European Union the US, and Jordan including phonetically pronounceable, color-based, shape mark, and black and white marks. The chapter also analyzed the reasons for trademark refusal, including lack of distinctiveness, moreover, the author investigated Jordan's trademark law, JTML, and if it could harmonize with nontraditional trademarks and the relation with prohibited trademarks. The chapter provides a comprehensive overview of these trademark laws.

In chapter 4 "Trademark Registration", the author discusses trademark registration systems, objectives, and procedural conditions. Besides the objectives include legality, distinctiveness, novelty, and visual perceptibility. Procedures include trademark registration in Jordan and the EU, a deposit system, and expiration under the principle of exhaustion of trademark rights.

In, Chapter 5, the author discusses trademark usage in the EU, non-traditional trademarks, and trademark abandonment concepts. Besides that, the author sheds light on implicit abandonment, and retirement from trade and industry, and analyzes trademark use no opposition. Furthermore, the author also covers trademark use in Jordan besides the legal concept of non-use, including the non-use of judicial and legal positions.

Chapter 6 discusses using earlier non-registered trademarks in opposition or infringement proceedings under the EU Trademarks Regulation such as Recital 5 of Directive 2008/95 and Directive 2008/95 besides the Benelux Convention. Moreover, this chapter covers legal regulations, business activities, national law, 'earlier rights', passing-off rules, enforcement authority, and the extent of protection. It also sheds light on the coexistence of unregistered local rights with later national trademarks.

In Chapter 7 "Unregistered Trademarks by International Law: American Law as an example, the author discusses unregistered trademarks by international law, including American law. It covers the Paris Convention, the TRIPs Agreement, and American federal legislation. In this context, the author discusses deeply how Unregistered trademarks are continuously safeguarded and offer some advantages, the author also analyzes the relationship between dilution and others, including famous marks, suggestive marks, descriptive marks, fanciful

marks, arbitrary marks, and digital trademarks. Moreover, the author also discusses the practical principle and case study of infringement, such as using a trademark to indicate product origin, the registration of immoral or scandalous trademarks, the mental association between a junior user's mark and a recognized mark, and the functional nature of product features.

As for Chapter 8 Bad Faith Matters, in this Chapter, the author analyzed the bad role in determining trademark infringement and protecting trademark rights. To this point, the author took a peek into classifications and definitions of bad faith and investigated bad faith as an unequivocal reason for rejection. Moreover, the author studies the application for an EU Trademark (EUTM) and Application submitted with malicious intent. To this point, the author took into consideration the Impact of the BTA Directive Initially Generally, bad faith is seen as unethical and illegal behaviour in the field of trademark law. Furthermore, the author discussed the relationship between good faith and bad faith on one hand, and trademark rejected applications upon bad faith focusing on bad faith matters in Jordan.

In terms of Chapter 9 "Trademark Protection," the author discusses trademark protection, covering objective, substantive, and formal conditions. The author also covers trademark infringement, including forgery, imitation, false use, and misdemeanors like using the trademark without permission and selling counterfeit goods. Moreover, the author analyzed deeply Tort liability along with the scope of protection. In this regard, the author searched the impact of TRIPS on trademark protection in Jordan, along with the protection under the Paris Convention, and applicable national laws, such as the Jordanian Unfair Competitors and Trade Secret Law, and The JTM along with the right to object to trademark registration and trademark registered cancellation. Moreover, the chapter also discusses resolving trademark infringement, including judicial solutions, and jurisdictions. In this chapter, the author also covers the prevention of unfair competition, simple trademarks, and the recognition of other functions to protect the business value of trademarks

Chapter 10 Compensation, this Chapter discusses compensation for trademark infringement, including compensation under Jordan Trademark Law, unfair competition and trade secrets law, and civil law. It covers the act of trademark infringement, potential confusion between trademarks, damage, and the causal relationship between the act of infringement and the compensation under international unfair competition. The European Union (EU) trademark law outlines specific rights for trademark proprietors, based on whether the third party's use is identical or similar to the protected products or services and the brand's reputation. In this regard, the author searched whether (CJEU) aims to provide a consistent understanding of the proprietor's authority to prohibit usage. Recent legal decisions emphasize the importance of unfair competition in defining the exclusive rights of trademark proprietors, particularly the functions theory, which determines the infringement of all trademarks. The EU employs a dual system of protection, including trademark system reformation, competition law, official trademark offices, trademark priority, examination process, and use requirement. The chapter also discusses international trademark and unfair competition law, the well-known marks doctrine, and global trademark prophetization.

In Chapter 11. the author discusses resolving trademark disputes through alternative dispute resolutions (ADR) in the EU, traditional EU court enforcement, mediation, negotiations, arbitration, and conciliations. It also discusses the current jurisdiction rules of the EU and trademark protection under alternative dispute resolutions in Jordan. The chapter investigated

judicial and arbitration solutions, public claims within the Registrar of Trademarks, and alternative dispute resolutions in Jordan.

In chapter 12 “Jordan Trademark and Islamic Law Background,” the author discusses intellectual property in terms of Sharia law and the leading Islamic schools and how these schools dealt with intellectual property besides that, the author analyzed the relationship between Jordan's trademark and Islamic law, focusing on the global regime, legal classification in Islam, and intellectual property rights in Sharia law. Moreover, the author sheds light on how Sharia law interacted with intellectual property as tangible property, in addition to the legitimacy of acquiring financial gains, and the recognition of morality rights.

As for chapter 13, the author finished the dissertation with main conclusions and recommendations, which contained the most important result that the author reached besides answering the main questions of the thesis, Moreover, the author concluded his main recommendation in the thesis.

6. Conclusion and Results

This study examines the importance of trademark rights protection in Jordan and the shortcomings of various laws. It identifies the priority of trademark rights protection standards and the rights of trademark proprietors. The Jordanian judiciary has established trademark registration as a presumption of mark proprietorship, which can be demolished with counter-evidence. The burden of prior use falls on the plaintiff, and the easiest way to establish rights in a trademark is through trademark registration.

The JTML provides that if a trademark is not registered in the Kingdom, no person may file a compensation action for any infringement. However, Jordan law may request a cancellation of a trademark registered by someone who does not own it. The law of unfair competition and trade secrets does not provide civil protection for trademarks not registered in the Kingdom or used inside.

The fundamental question is whether the Trademark Act protects the rights of consumers. The trademark law allows trademark proprietors to initiate a civil or criminal lawsuit against any infringement to prevent confusion, registration, or use of similar trademarks for similar products and services. The trademark system should not deny the consumer audience's role without consideration. The provisions of the trademark code should provide legal protection based on the trademark's nature, not just the proprietor's right to it.

The study focuses on the issue of trademark infringement in Jordan, highlighting the widespread prevalence of such crimes and the need for increased penalties and fines. The author suggests that the value of prescribed fines should be increased, and penalties for physical coercion should be tightened. The author also suggests amending the Trademarks Law to remove the expression "committed with intent to defraud" from it, as some crimes do not require specific intent.

The author also discusses the protection of famous trademarks, stating that the law provides both criminal and civil protection. However, the infringement of an unregistered trademark in Jordan remains outside the scope of the protection provided by the EU legislation against unfair competition. The Jordanian legislator offers legal protection for famous trademarks, even if the trademark is not registered internationally.

Unequivocally, neither unfair competition law nor trade secrets provide civil protection for unregistered famous trademarks in the Kingdom or those used within the Kingdom. However, infringement on the trademark, whether used or unused, registered or unregistered, is considered an act of unfair competition and leads to misleading the public. Therefore, the

nonuse and nonregistration of famous trademarks do not give them the right to be subject to civil protection according to the Unfair Competition Law.

In conclusion, the study highlights the need for increased compensation and stricter enforcement of trademark laws to prevent infringement and protect well-known trademarks.

The study hypothesizes that trademark rights violations are primarily in developing countries due to various factors, including the TRIPS agreement. The agreement has been criticized for its effectiveness and legitimacy, particularly in developing countries, which view it as a rent-collection device with potentially damaging effects on public health, economic development, and education. The author suggests that the TRIPS agreement did not bring radical changes to the intellectual property rights protection system, but rather added amendments and a dispute settlement mechanism. The author also notes that advanced countries like the United States threatened developing countries with sanctions if they did not amend their legislation retroactively according to TRIPS agreement standards. The study also highlights the weak level of intellectual property protection in low-income developing countries, and the need for severe criminal sanctions and civil remedies to enhance commitment to the law. The author suggests rectifying gaps in IP law in Jordan by discussing IPRs from a localized analysis approach, reducing tension between competitive social objectives and private rights to support innovation.

The study explores the challenges in protecting trademark rights, focusing on the importance of mandatory registration for local and famous trademarks. The author argues that protection should be given to well-known trademarks, as it has implications for the national economy, investment, and citizens' money and health. Jordanian legislators need to differentiate between well-known and famous trademarks or international agreements like the TRIPS agreement and the Paris Convention.

The case of a trademark violation but not used within Jordanian territory raises questions about the protection of the trademark. The CJEU has made a ruling regarding the coexistence of unregistered local rights with later registered national trademarks, addressing the interpretation of Article 6(2) of Directive 2008/95/EC. The Dutch Supreme Court paused proceedings and asked the Court of Justice of the European Union (CJEU) for guidance on the meaning and scope of "earlier right" regarding a trademark registered later.

The study also investigates the impact of unregistered trademarks in international laws, highlighting the importance of the United States and the EU in safeguarding intellectual property rights and trademarks. The Paris Convention ensures registered trademark proprietors have the right to prevent others from using identical or similar signs for goods or services covered by the trademark.

Unregistered trademarks may be protected at the state level through common law or statutes about unfair competition. Trademark registration grants proprietors the ability to seek legal action in specific geographical areas where they operate their business. Lawsuits can be filed in federal court in two specific situations: when the person accused of infringement lives in a separate state and the disputed amount is more than \$75,000, or when the issue revolves around the interpretation of the Lanham Act or other federal statutes.

The dilution principle enhances the protection of trademarks for widely recognized brands, as trademark infringement allows renowned trademark proprietors to seek a prohibition on breaching behavior without seeking compensation for damages. A trademark must possess a secondary meaning and distinctiveness is a commonly accepted factor used to assess its strength. A more conclusive trademark distinguishes the proprietor's products or services from

others but may encounter opposition if a comparable mark or name already exists. The Lanham Act bans the registration of marks that are merely descriptive, although legal protections may be provided if the word becomes distinctive via usage.

The distinction between suggestive and strictly descriptive marks entails assessing the term's definition, creativity, competition, and marketing utilization. Descriptive marks provide a clear description of the product or service they represent, while arbitrary marks have inherent robustness as long as no other organization has registered the word in a similar industry. Unregistered trademarks receive protection under common law, enabling proprietors to initiate legal proceedings against individuals who violate their rights. However, the degree of safeguarding can differ based on the legal authority and the case's particular circumstances.

The evolution of digital trademarks has been influenced by competition law aspects, as federal courts have started to rule cases based on federal common law rather than state precedents. In the case of *Patent and Trademark Office v. Booking.com*, the Supreme Court affirmed the ruling that it is not permissible to register a generic phrase as a federal trademark. The PTO does not provide a valid reason for a complete ban on registering phrases considered "generic.com," as providing trademark protection would confer an unreasonable level of control over the same phrasing.

This study examines the differences between Sharia law and Jordan's trademark law. During the Islamic empire, intellectual property violations were not a significant issue due to religious sentiments and stigmatization. However, in Jordan, trademark violation is considered murder and punishable by punishment.

The EU Trademarks Rules protect non-registered trademarks if they conflict with an earlier non-registered trademark. The requirements for this protection vary and must be acknowledged by an EU court. Despite some EU member states providing safeguarding for unregistered trademarks, the degree of safeguarding is inadequate compared to registered trademarks.

The attributive system, which was the original trademark protection system in Europe, still holds significance. Some EU jurisdictions still protect unregistered trademarks, aligning with the original purpose and extent of trademark protection. Intellectual property rights (IPRs) are crucial in Jordan for attracting foreign direct investment (FDI), especially in the information technology sector.

Sharia law does not have explicit provisions for safeguarding intellectual property rights (IPRs), leading to declining research and development activities and job prospects. Insufficient enforcement has led to declining research and development activities and job prospects in countries with low incomes.

Sharia law establishes intellectual property rights based on Islamic principles, balancing group and individual rights. Intellectual property rights encourage creativity and facilitate trade, generate profit, and complement traditional arguments of property proprietorship and diligent labor.

The author believes that the Jordanian legislator should provide a text for well-known trademarks and not require registration to grant protection. However, the protection granted

by the Jordanian legislator is limited to the right to delete the trademark without the right to claim compensation.

7. Recommendations

The JUCTSL considered it a form of unfair competition that the benefit of a trademark used in Jordan, whether registered or not, as long as it leads to misleading the public. In addition, Article (256) of the JCC grants the right to claim compensation for the ones whose trademark-related rights were infringed following the civil liability provisions. It suggests deleting Article 2/b of the JUCTSL that dealt with the issue of an unregistered trademark in Jordan because it will be considered a repetition. It is not justified to amend article No. (33) of the JTML, as the JUCL did not consider the registration issue in the event of non-use, as it may infringe on a famous registered trademark that has not been used yet. The legislator recommends amending Article (2/b) of JUCTSL by deleting paragraph (b) to violate well-known trademarks subject to the text of Article (2/a) of the JUCTSL.

The author suggests revising the legislator's restriction on the duration of trademark rights. This principle contradicts the inherent nature of sole proprietorship, which grants the proprietor the authority to manage their assets in all legally permissible ways. The TRIPS agreement specifies that the registration period should be a minimum of seven years, and it can be renewed in perpetuity for the same duration at every renewal. The author recommends the trademark proprietor's ability for exclusive utilization is restricted to the trademark as a whole entity and does not encompass individual components such as lettering and color. Permitting another merchant to utilize the same colors or fonts in a comparable trademark is advisable.

The author suggests that the trademark proprietor's right to his trademark is a restricted right instead of an unconditional right concerning the goods and services in question. The judiciary's verdicts adhere to the same perspective.

The trademark proprietor has the authority to prohibit anyone from employing their trademark symbol, but only if it is utilized in a way that confuses or deceives customers. The author proposes that the text of Article Two of the JTML- before its amendment - should clearly define the comprehensive scope of a trademark.

It offers a limited understanding of the industrial and commercial trademark, excluding the service mark. The trademark industry has seen numerous in the past century. the author recommends the Jordanian legislator adopt the same principle the EU legislator used to address that the offender is subject in such a case to a repeated fine imposed on him for the duration of the violation after the issuance of the judgment. Since most famous trademarks are not registered in Jordan, the author recommends that the JTML be amended to protect famous unregistered trademarks.

The author suggests that the Jordanian legislators and law enforcement have to take into account that it needs to rectify shortcomings of various laws and reunite the procedures to protect trademarks in Jordan by harmonizing all types of legislation horizontally to meet the minimum threshold of the protection and to prevent a conflict of laws as for legal rule in the EU, where the Union set obligatory measures, procedures, and remedies to harmonize all types of IP . This enforcement directive was applied horizontally rather than vertically to deal with all certain areas, whereas the previous directives were vertical.

Finally, legal protection must be given to the trademark proprietor. The trademark laws' provisions must be based on the trademark itself and its nature since most trademarks are internationally famous and not registered in Jordan. This study recommends amending article No (33) of the JTML to include the protection of famous unregistered trademarks.



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List of publications related to the dissertation

Articles, studies (7)

1. **Alfaouri, M. A. A.**, Wahdani, F., Al-Rawahna, A. H.: Protection Criteria for Domain Names: A Comparative Analysis TRIPS Agreement and Supreme Court Decision.
Global Journal of Politics and Law Research. 12 (3), 42-52, 2024. ISSN: 2053-6321.
DOI: <https://doi.org/10.37745/gjplr.2013/vol12n34252>
2. Wahdani, F., **Alfaouri, M. A. A.**, Mashaqbeh, A.: Case Study: The Impact Of Brexit On Domain Names Right.
Curentul Juridic. 25 (3), 13-27, 2022. ISSN: 1224-9173.
Level of HAS Committee on Legal and Political Sciences: D
3. **Alfaouri, M. A. A.**: The Effect of Registration and Use on Trademark Ownership.
Public Goods & Governance. 7 (1), 65-74, 2022. EISSN: 2498-6453.
DOI: <http://dx.doi.org/10.21868/PGnG.2022.1.6>
Level of HAS Committee on Legal and Political Sciences: C
4. Wahdani, F., **Alfaouri, M. A. A.**: .eu top level domain name & free movement of services: the EU policy over single digital market.
Cross-Cultural Management Journal. 22 (1), 53-66, 2020. ISSN: 2286-0452.
5. Wahdani, F., **Alfaouri, M. A. A.**, Albuqor, O.: Bad faith matter under uniform dispute reformation policy & Hungarian procedure law: a comparative study.
Network Intelligence Studies. 8 (16), 103-111, 2020. EISSN: 2344-1712.
6. **Alfaouri, M. A. A.**: The impact of trips on iprs protection in Jordan, as a prime example of a developing country.
Oradea Journal of Business and Economics. 5 (Spec.), 154-162, 2020. ISSN: 2501-1596.
7. **Alfaouri, M. A. A.**, Wahdani, F.: The Theoretical Grounds For The Provision Of Trademark'S Protection.
SEA: Practical Application of Science. 8 (22), 75-83, 2020. EISSN: 2360-2554.





List of other publications

Articles, studies (1)

8. Adaileh, A. T., Alaraisy, O. A., **Alfaouri, M. A. A.**: Legal Protection of Migrant Workers in the Agricultural Sector in Light of Jordanian Legislation and International Labor Standards. *Global Journal of Politics and Law Research*. 12 (1), 42-62, 2024. ISSN: 2053-6321. DOI: <https://doi.org/10.37745/gjplr.2013/vol12n14262>

By the directives of HAS Committee on Legal and Political Sciences:

Publications in periodicals level „C”: 1, related to the dissertation: 1.

Publications in periodicals level „D”: 1, related to the dissertation: 1.

The Candidate's publication data submitted to the iDEa Tudóstér have been validated by DEENK on the basis of the Journal Citation Report (Impact Factor) database.

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