

TRADEMARKS (FAMOUS AND COMMON) PROVISIONS AND PROTECT IT IN ACCORDANCE WITH INTERNATIONAL AGREEMENTS AND TREATIES

DISPOSIÇÕES SOBRE MARCAS REGISTRADAS (FAMOSAS E COMUNS) E SUA PROTEÇÃO DE ACORDO COM ACORDOS E TRATADOS INTERNACIONAIS

MONTHER ABDEL KARIM AHMED AL-QUDAH

Department of Private Law, Faculty of Law, Amman Arab University, Jordan

m.alkodah@aau.edu.jo

<https://orcid.org/0000-0001-5773-8792>

MOHAMMAD ABDALLAH AL WRAIKAT

Faculty of Law, Ahliyya Amman University, Jordan

mwreekat@ammanu.edu.jo

<https://orcid.org/0000-0001-5875-0849>

NASIR ALBALAWEE

Jadara University, Jordan

nbalawi@jadara.edu.jo

<https://orcid.org/0000-0001-9497-3572>

HISHAM JADALLAH MANSOUR SHAKHATREH

Jadara University, Jordan

h.shakhatreh@jadara.edu.jo

<https://orcid.org/0000-0001-8693-5744>

ZAID MO'EEN AL-MARASHDEH

Jadara University, Jordan

z.marashdeh@jadara.edu.jo

<https://orcid.org/0009-0002-4099-9720>

FAROUQ AHMAD ALAZZAM

Jadara University, Jordan

f.alazzam@jadara.edu.jo

<https://orcid.org/0000-0001-7407-4828>

ABSTRACT

Background: Over recent decades, trademark rights have gained increasing legal and economic importance across jurisdictions. National legislations and international treaties have consolidated the protection of both ordinary and famous trademarks, safeguarding creativity, inventions, and commercial identity. Such protection is not only a legal mechanism but also an expression of the individual and corporate right to identity.

Objective: This study examines the provisions governing the protection of trademarks—famous and regular—under national laws and international agreements. It emphasizes how civil and criminal safeguards operate to prevent infringement and ensure fair competition, particularly in light of treaties such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Paris Convention administered by WIPO.

Methods: The research adopts a doctrinal legal analysis, reviewing statutory provisions, international treaties, and comparative practices across Arab and international contexts. Emphasis is placed on the mechanisms by which trademark law distinguishes products, prevents consumer confusion, and strengthens market integrity.

Results: Findings reveal that legal frameworks consistently recognize trademark protection as fundamental to economic and social order. Infringement—through imitation or unauthorized use—produces harm at multiple levels: for producers (loss of market share), for consumers (exposure to confusion and deception), and for states (weakening of market trust). Famous trademarks enjoy broader safeguards, including civil remedies and criminal sanctions against misappropriation.

Conclusion: The study concludes that robust trademark protection is essential for innovation, market stability, and consumer confidence. It recommends strengthening regional cooperation, particularly in Arab countries, to harmonize enforcement measures and enhance protection of well-known marks in accordance with global standards.

Keywords: Trademarks; Intellectual Property; TRIPS; Paris Convention; Legal Protection; Famous Marks.

RESUMO

Objetivo: O presente estudo analisa as disposições que regulam a proteção das marcas — notórias e regulares — à luz das legislações nacionais e dos acordos internacionais. Busca evidenciar de que forma as salvaguardas civis e criminais operam para prevenir violações e garantir a concorrência leal, em especial a partir de tratados como o Acordo sobre Aspectos dos Direitos de Propriedade Intelectual Relacionados ao Comércio (TRIPS) e a Convenção de Paris, administrada pela OMPI.

Métodos: Adotou-se uma análise jurídico-dogmática, com revisão de dispositivos legais, tratados internacionais e práticas comparadas em contextos árabes e internacionais. O estudo enfatiza os mecanismos por meio dos quais o direito marcário distingue produtos, previne a confusão do consumidor e reforça a integridade do



mercado.

Resultados: Verificou-se que os marcos normativos reconhecem a proteção das marcas como fundamental para a ordem econômica e social. A violação — por meio da imitação ou uso não autorizado — gera prejuízos em múltiplos níveis: para os produtores (perda de mercado), para os consumidores (risco de confusão e engano) e para o Estado (fragilização da confiança no mercado). Marcas notórias recebem salvaguardas mais amplas, incluindo reparação civil e sanções criminais.

Conclusão: Conclui-se que a proteção robusta das marcas é essencial para a inovação, a estabilidade do mercado e a confiança do consumidor. Recomenda-se o fortalecimento da cooperação regional, em especial entre os países árabes, visando harmonizar medidas de execução e ampliar a proteção das marcas notórias em consonância com os padrões globais.

Palavras-chave: Marcas; Propriedade Intelectual; TRIPS; Convenção de Paris; Proteção Jurídica; Marcas Notórias.

1 INTRODUCTION

Brands have been all kinds with wide applications before the judiciary, the most extensive of which were lawsuits challenging the decisions of the Trademark Registrar regarding objections to trademark registration, and regarding lawsuits trademark infringement.

Also, laws and treaties may give the right of every interested party to claim compensation for any damages he suffered as a result of any unfair competition. In addition, it has been given international agreements the owner of a trademark used, whether registered or unregistered, has the right to claim compensation if its use misleads the public, based on the law of unfair competition and trade secrets (Shilling, 2002).

The agreement also confirmed that: TRIPS on the right of the trademark owner to claim compensation for the damage he suffered as a result of the infringement of the trademark, whether the trademark is registered or not (De Carvalho, 2018). In the country this is an exception with regard to the civil protection of an unregistered trademark. The state, where it was prohibited, laws file a civil suit to seek compensation for infringement of an unregistered trademark. The state this exception is limited to the famous brand.



The agreements also stipulated that: Statement of the arbitration mechanism for resolving trademark disputes under the agreement (TRIPS) and electronic arbitration for these disputes.

1.1. STUDY PROBLEM

The provisions of the laws protecting intellectual property rights in the world have developed over a period of more than (120) years by adding new provisions to the agreements and treaties related to them, and linking them to other global agreements. This led to the emergence of implicit objectives that made them more complex and branched, which calls for dealing with them in our present time with more precision and caution.

Now, trademarks of all kinds are considered rights that may be violated by others, which requires clarifying the type of protection that can be provided in accordance with international laws, regulations, and treaties.

This study will also examine: Statement of the arbitration mechanism for resolving trademark disputes under the agreement (TRIPS)

Study questions: The purpose of this study is to answer the following questions:

1. Statement of importance brands in the society.
2. The extent of expansion in trademark protection, both within and outside the country's borders.
3. Did the TRIPS Agreement succeed? TRIPS protected trademark rights?
4. What are the rules and concepts that govern? Brands in present time?
5. Are famous trademarks protected by civil and criminal law when used by others?
6. What he role of international agreements and treaties in protecting the trademarks of individuals and groups
7. Statement of the arbitration mechanism for resolving trademark disputes under the agreement (TRIPS)

1.2. IMPORTANCE OF THE STUDY



The importance of this scientific study stems from the same importance that property rights enjoy in the world today, and in that it will contribute to highlighting an image of the protection of rights. Brands in line with the requirements and needs of individuals, companies and institutions in Arab societies, and to establish the legitimacy of the provisions related to with trademarks and its protection, and the regulation of the provisions related to it, and innovative activities in this field, as well as the rights associated with it has become a matter of following up on rights. Brands of all kinds in different countries and defending them, an urgent demand for their owners Individuals, companies and institutions.

1.3. STUDY OBJECTIVES

This study addressed many objectives, the most important of which are:

1. Knowing the concept brands and the rights related to it in the law
2. Knowledge types of trademarks in law.
3. Understanding the rules related to protecting trademark rights for individuals, groups, and legal entities.
4. Familiarity with issues related to regular and famous trademarks.
5. Knowing the rules related to civil protection of trademarks.
6. Statement of issues related to the right protecting famous trade marks in law.
7. Statement arbitration mechanism for resolving trademark disputes under the agreement (TRIPS).

1.4. STUDY TERMS

Brand: A mark that has been used, or was intended to be used, on any goods, or in connection therewith, to indicate that those goods belong to the owner of the mark by virtue of their manufacture, production, certification, trade, or offering for sale. (Jordanian Trademark Law No. 33-1952).

1.5. FAMOUS BRAND



A well-known brand is one that is known to a wide segment of the public and enjoys a prestigious position and a good reputation (Bayoumi, 2008)

1.6. INTELLECTUAL PROPERTY

It is a direct authority given by law to a person over all the products of his mind and thought, and it gives him the ability to monopolize and benefit from the financial returns that these ideas generate for him, for the period specified by law, without dispute or objection from anyone (Al-Kaswani, 1998).

2. METHODOLOGY

It is very difficult to rely on a single method in this study; therefore, this study of the researcher was based on multiple scientific methodologies. To achieve this, the researcher followed in his study the various known scientific research methods, including:

1- The analytical approach: by collecting, analyzing, and classifying information, following up on issues and rulings related to the subject of the study.

2- Comparative approach: This is done by comparing events, opinions, laws and results with each other, and making comparisons between the parties to the research relationship that is the subject of the study.

3- The descriptive approach: This is done by describing the conditions that the ownership went through intellectual in general, and the foundations and provisions relating to trademark arbitration.

3. RESULTS AND DISCUSSION

3.1 THE FIRST TOPIC

Concept Brand Its types and means of protection: Here we should know about trademarks in general, and then differentiate between a famous trademark and a regular trademark, as follows: "A trademark is anything that distinguishes a specific product, whether a commodity or service, from others, such as names in a distinctive



form, signatures, words, letters, numbers, drawings, symbols, raised engravings, or a group of colors in a distinctive form, etc.” (Issa, 2013)

3.2 FIRST REQUIREMENT: FAMOUS TRADEMARK- SECTION ONE: THE CONCEPT OF A FAMOUS TRADEMARK

It is a regular trademark that is subject, in terms of definition and conditions, to the general provisions of trademarks and is famous in the markets because it is placed on high-quality and distinctive products.

3.3 SECTION TWO: DEFINITION OF THE FAMOUS TRADEMARK

The first branch: defining the famous trademark in language: The sign: is “the plural of science, or signs, which is the feature, or indication (Ahmed and Muhammad, 2008). “The sign and knowledge are something that is placed in the desert to guide the lost.”(Ibn Manzur, 2005)The mark is the trace, or the lighthouse, or the tall mountain, or the emirate, or the banner (Al-Razi, without year of publication, 451-452) As for “famous”: it is the plural of “famous” and “famous” is the one who is well-known among people (Foda and Badawi, 1957).

3.4 THE SECOND BRANCH DEFINES THE FAMOUS TRADEMARK TECHNICALLY

A well-known brand is one that is known to a wide segment of the public and enjoys a prestigious position and a good reputation (Bayoumi, 2008) It is a brand that enjoys wide consumer awareness, a worldwide reputation and publicity, and a high financial value in the market. (Arafa, no year of publication, 139).

3.5 SECTION THREE: CRITERIA FOR THE FAME OF A FAMOUS BRAND - THE FIRST BRANCH: OBJECTIVE CRITERIA

First: The brand’s reputation in the consumer sector: By conducting consumer surveys, asking consumers about their knowledge and level of awareness of a particular brand" (Zain Al-Din, 2005, 164).

Second: The period of use of the mark: Brand reputation is measured by sales



of products or services, the brand's contribution to the market for these products, and the length of time the branded product has been in the market (Bayoumi, 2008). An example of this is the Coca-Cola brand, which was known in the former Soviet Union through advertising and publicity, despite the product not being available in Soviet markets.

Third: The duration of advertising and publicity for the brand.

This is achieved through the success of advertising and publicity campaigns, their geographical scope, and the presentation of goods and services that distinguish the brand at national and international promotional exhibitions and markets.

3.6 THE SECOND BRANCH: PERSONAL STANDARDS

These criteria are based on a subjective basis, i.e. they depend on the public's knowledge of the famous brand. In other words, for a brand to be considered famous, it must be known to the consumer segment. (TRIPS Agreement) (trips) for intellectual property Article (16/2).

3.7 SECTION FOUR: LEGAL PROTECTION OF THE FAMOUS TRADEMARK-FIRST BRANCH: CIVIL PROTECTION OF THE FAMOUS TRADEMARK

A well-known trademark is distinguished by the fact that its legal protection constitutes an exception to two basic principles, which are the principle of territoriality and the principle of specialization. The principle of territoriality means that the protection of a trademark is limited only to the territory of the country in which it is registered or used. As for the principle of specialization, it means that the protection of a trademark is only when it is used on products or services similar to those on which the well-known trademark is deposited (Açikgöz et al., 2024)

"A famous trademark enjoys civil protection when used by others on goods or services similar to those on which the famous trademark was placed, even if it is not registered or used within the country for which protection is sought. The owner of the famous trademark has the right to file this lawsuit before the competent courts when its conditions are met. The use of a well-known trademark by others on non-similar, poor-quality goods or services would damage its reputation and thus weaken its ability to distinguish itself. All of this has led to the need to protect the well-known trademark



when used on non-similar products or services.

3.8 THE SECOND BRANCH: CRIMINAL PROTECTION OF THE FAMOUS TRADEMARK

"Illegal counterfeiting reduces the quality of the original product and makes consumers vulnerable to deception and fraud. It also harms the country because it weakens domestic and foreign investment in the country (Zouin, 2004).

3.9 THE SECOND REQUIREMENT: THE REGULAR TRADEMARK - SECTION ONE: THE NATURE OF THE TRADEMARK - FIRST BRANCH: BRAND DEFINITION- FIRST: TRADEMARK IN LAW

A trademark is a symbol capable of being represented in writing, especially words, including names of people, letters, numbers, drawings, pictures and distinctive shapes of goods, or their packaging and colors alone.

3.10 SECOND: THE TRADEMARK IN ISLAMIC JURISPRUDENCE TERMINOLOGY

"A trademark is a logo that a manufacturer or merchant uses for his products to distinguish them from other similar products." (Al-Jahini, 2004)

3.11 THE SECOND BRANCH: DISTINGUISHING THE BRAND FROM OTHER SIMILAR ITEMS-

First: The brand and the trade name

The trade name aims to distinguish the business from others of the same nature, while the trademark aims to distinguish the products or services issued by the business.

Second: The mark and designation of origin (geographical influence). The label includes the place of manufacture of the product, but the mark may contain a geographical indication as one of its elements.



Third: Brand and innovation; There is no essential link between the trademark and industrial, literary or artistic innovation, but there is an overlap between them. A product that bears an invention may bear an industrial trademark.

3.12 SECTION TWO: TRADEMARK CONDITIONS AND EXPIRY

First branch: Formal requirements for trademark registration

First: The distinctive intrinsic characteristic

The mark must have a special identity that distinguishes it and makes it different from other marks used to distinguish similar goods or services.

3.13 SECOND: THE EXTERNAL DISTINGUISHING FEATURE

Non-similarity to other marks previously registered and applied for similar products and services

3.14 THIRD: LEGITIMACY

The mark shall not contain any element or shape that is indecent or violates public order.

3.15 THE SECOND BRANCH: ACQUIRING THE RIGHT TO THE TRADEMARK BY REGISTERING IT (OBJECTIVITY)- FIRST: REGISTER IT WITH THE COMPETENT AUTHORITY

The right to a trademark is acquired by registering it with the competent authority, without prejudice to the right of priority acquired within the framework of implementing applicable international agreements, and the duration of trademark registration is set at ten years in accordance with the specified provisions.

3.16 SECOND: CASES OF VIOLATION OF THE RIGHT TO USE THE TRADEMARK

In the event of infringement of the right, the trademark remains the property of the first person who met the specified conditions for the validity of the deposit.



3.17 TRADEMARK DISPUTE RESOLUTION UNDER THE AGREEMENT (TRIPS)

The first topic: Trademark Disputes- The first requirement: Arbitration mechanism for resolving trademark disputes under the agreement (TRIPS)

Enforce accession to the agreement (TRIPS) requires member countries, especially developing countries, to prepare legislative and administrative arrangements to deal with the provisions of this agreement. Article (41) of the agreement requires member countries to include in their national laws the procedures and rules stipulated to facilitate effective measures against any infringement of intellectual property rights, as it states: "Member countries are obligated to ensure that their laws include the enforcement procedures stipulated in this part to facilitate effective measures against any infringement of intellectual property rights covered by this agreement...." Accordingly, the agreement did not impose on member countries uniform substantive or procedural rules related to intellectual property rights, but rather obligated them to provide a minimum level of intellectual property rights and protection standards.

The fifth part of the agreement has identified the means to avoid and settle disputes by publishing all laws and final decisions related to intellectual property rights and the necessity of settling disputes related to intellectual property rights through arbitration. Article (64) of the agreement addressed the rules for settling disputes, and the first paragraph required the application of Articles (22) and (23) of the agreement (GATT) of 1994 on consultations and settlement of disputes arising between member states.

3.18 THE SECOND REQUIREMENT: CONVENTIONAL RELATIONSHIP (TRIPS) TREATIES CONCLUDED TO SETTLE DISPUTES

Developed an agreement (TRIPS) is one of the provisions of international agreements previously concluded in the field of intellectual property. The agreement referred to the substantive rules established by those agreements, including the Paris Convention for the Protection of Industrial Property 1967, and it also obligated member states to observe those provisions.



The agreement also addressed (TRIPS) in Part II sets out the standards relating to the provision, scope and use of intellectual property rights. These standards are higher in level than the protection standards established by previous international agreements, which obligated member states to respect the minimum protection standards mentioned in the branches of intellectual property that they dealt with.

“The dispute settlement mechanism is one of the most important guarantees of legal protection for intellectual property rights included in the TRIPS Agreement (Lahbi, 2011).

Part V of the Agreement included provisions for settling disputes arising from trade in intellectual property rights in Articles (64 and 65), which referred, under those provisions and general rules, to Articles (22 and 23) of the General Agreement on Tariffs and Trade (GATT) of 1994, and this agreement includes a legal mechanism for settling disputes. These two articles were developed in the Uruguay Round negotiations, where an agreement was reached on a legal mechanism for settling disputes, which was included in a document of understanding on the rules and procedures governing the settlement of disputes, and this understanding is abbreviated as (DSU) Understanding on Rules and Procedures Governing the Settlement of Disputes, which also included the provisions of these two articles as a means of settling disputes.

3.19 THE SECOND TOPIC INTERNATIONAL AGREEMENTS AND TREATIES RELATED TO PROTECTION TRADEMARK RIGHTS

In this section we will explain international agreements and treaties related to the protection of intellectual property rights Including trademarks, which many countries have joined and which have become one of the pillars related to intellectual property rights, including both regular and famous trademarks.

3.20 PARIS CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY WIPO

By joining this agreement, member states form a union for the protection of industrial property, including patents, utility models, industrial designs, trademarks and trade names.



3.21 AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS)

The TRIPS Agreement is a more comprehensive framework for intellectual property issues. It regulates the protection of computer programs and databases under the scope of copyright, thus adding these works to the list of literary works. The agreement also created another center for global intellectual property management, the World Trade Organization, whose agreement established a special council, among its bodies, under the TRIPS Agreement.

3.22 MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

This agreement establishes a special union for the international registration of marks. The agreement aims to ensure the protection of citizens of a member state with respect to their marks for goods and services registered in the country of origin by registering those marks with the International Bureau through the trademark office located in the country of origin (Rafat, 2015).

3.23 HAGUE AGREEMENT CONCERNING THE INTERNATIONAL DEPOSIT OF INDUSTRIAL DESIGNS

This Agreement establishes a Union for the international filing of industrial designs, whereby an applicant may make a single international filing either with WIPO or with a national office of a country party to the Treaty.

3.24 LISBON AGREEMENT FOR THE PROTECTION OF GEOGRAPHICAL INDICATIONS AND THEIR INTERNATIONAL REGISTRATION

This Agreement establishes a special union within the framework of the Paris Convention for the protection of geographical indications of products, which means the geographical name of the country, region or place where such products originate and acquire their special reputation.



3.25 PATENT COOPERATION TREATY (PCT)

This Treaty establishes a union known as the International Patent Cooperation Union, whose purpose is to cooperate in the search and examination of applications for the protection of inventions and the provision of special technical services.

3.26 BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR PATENT PURPOSES

This Agreement aims to transfer microorganisms or store them in an international depository, or both.

3.27 TRADEMARK LAW TREATY (TLT)

The Treaty regulates matters relating to the registration of trademarks. It applies to marks for goods and service marks. It excludes from its scope of application marks that cannot be embodied, such as sound marks, collective marks, and quality and warranty marks.

3.28 PATENT LAW TREATY (PLT)

The Treaty aims to harmonize the formal requirements relating to patent application and maintenance procedures.

4. CONCLUSION

Praise be to God alone, and prayers and peace be upon the one after whom there is no prophet. And now:

Anyone who follows the conditions of the legal library will find a lack of specialized legal research. trademark-related and its multiple applications and means of protecting it. Because of the modernity of the Arab legal experience, which necessitated the issuance of this study, in preparing this study, we have been keen,



as much as we were able to do so, to have it in a new, modern form and to be based on a statement of reality. Thus, this study included, as much as possible, clarification and explanation. In preparing this scientific material, we have used a large number of distinguished legal references in this type of art from a large group of legal scholars, which I have referred to in the book's references, as they were a strong foundation and support for this book, with the necessary actions being taken on them in terms of amendment, addition, or deletion to suit the methodology of this book without compromising the original scientific material. In addition, this research included a number of legal references and various studies published in legal journals, which have enriched my research and given it momentum. This research has reached the following results:

1. Issues related to intellectual property rights have evolved in most countries of the world.
2. There are strict laws that protect rights. Brands for individuals and companies, it provides civil and criminal legal protection for them.
3. Countries' progress in trademark protection encourages international investment.
4. The legal protection of a well-known trademark constitutes an exception to two basic principles: the principle of territoriality and the principle of specialization.
5. International agreements and treaties Exceeded the laws of countries in the field of protection trademark rights
6. Laws regulating the right to exploit Brands in countries that need more care and attention.
7. Lack of specialized research with trademarks and its multiple applications in the law library.
8. Trademark dispute resolution and arbitration rules are considered issues in international law.

5. RECOMMENDATIONS

The results reached by the researcher in this study led to a number of recommendations, which we summarize as follows:



1. Working to establish the legitimacy of the provisions related to with trademarks and protect it in law
2. Reviewing the provisions regulating trademark rights within countries by enacting new laws and regulations to protect these rights.
3. There is an urgent need to organize international and regional agreements and treaties in light of the complexities and difficulties that the world is currently witnessing, especially the growing role of social media.
4. The need to provide means of international legal protection (civil and criminal) to preserve trademark rights for their owners.
5. Providing legal guarantees for the proceeds generated from Brands which gives its owner the right to keep the profits resulting from his work
6. Working to regulate the protection of trademark rights at the international level.
7. Activating government supervision methods, specifically for trademarks, and providing protection for them.
8. Conducting specialized scientific studies and research that overcome the difficulties facing areas related to the means of implementing issues related to the protection of trademark rights.
9. Activating the means and methods of arbitration in trademark disputes in accordance with international agreements.

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