

Trade Logos

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Abstract

Historical concerns in industrial and commercial property rights dated back to the mid of the nineteenth century, which were characterized by the start of the technological modern era. The international concerns of intellectual property rights began in 1883, the date of the conclusion of Paris Convention for the Protection of Industrial Property. Paris Convention has created the legal protection for the industrial property, and this agreement provided protection of patents, utility models, industrial designs, trademarks, service marks, trade names, source information, or appellations of origin and repression of unfair competition. Accordingly, this research is divided into two requirements as follows: First Requirement: What is Trade Logo? , Second Requirement: The Legal Protection for Commercial Logos.

Keywords: logo, the lease right, trade relations, patents, licenses

First Requirement

What is Trade Logo?

Introduction

The industrial and commercial property rights are an integral part of the abstract elements that constitute a store; the Jordanian Trade Act has defined the store as a merchant shop with associated rights, the law, also, showed the materials and abstract elements that constitute a store as the following:¹

Physical Elements: Industrial tools, commercial furniture, and goods.

Abstract Elements: Include customers, name and logo, the lease right, trade relations, patents, licenses, charges and industrial models.² Based on the aforementioned, this requirement will be divided into two sections, the first section will discuss the definition of commercial logos and in the second section, we will distinguish between the logo and other elements of abstract property.

The first Section: Logo Definition

The Logo: A symbol that characterized the private store, or business enterprises, it may be a letter, a name, a figure, a shape or a picture.³

Some legislators defined the logo as an innovative name that doesn't represent a real name such as (Marriott) and (Regency), which leads to the same purpose of using the trade name. The logo is a symbol of a character, whether nominal or legal, it serves as a short title for this character that distinguishes it from others.⁴

¹ Article 38/1 of the Jordanian Trade Act No. 12 of 1966.

² Article 38/2 of the Jordanian Trade Act No. 12 of 1966.

³ Dr. Fawzi Mohammad Sami, explaining the Commercial Code, Part I, the House of Culture for Publishing and Distribution, Amman, 2009, p. 161.

⁴ Website: www.tradnt.net

There is another aspect of the jurisprudence⁵ which defined logo as an innovative name or symbol chosen by the merchant to distinguish his shop from other similar shops without having any relation with the real name for the merchant, the logo may be the a design, an image, a letter, a number or several numbers, it may be in the form of animal, a flower or geometric shape.

The logo acts as trade names, but the merchant doesn't need anyone to distinguish his place of work, but the commercial name is a necessity that the trader must take for signing his commercial transactions.⁶

Logo is like trade names taken by the trader to attract customers to deal with the store, so it can act independently in the store which contradict with commercial title that may not be disposed away from the store.

The Second Section: The Distinction between the Logo and Other Proprietary Elements

First: The Distinction between the Logo and Trade Brand:

Brands are used to distinguish goods or services produced or provided by a specific project with those produced or provided by other projects and perform functions that serve the consumers⁷. The logo is a definition for the project as a whole without referring to the quality of goods and services produced or being sold.

The logo serves as the identity of the shop, but the brand serves as the product identity. Merchant may take from his shop's logo as an industrial or trademark to distinguish goods and sold services that are produced or provided by his shop, and then the logo distinguishes the goods and services offered by the store which distinguish the store from other similar stores, but it must take a distinctive form to be considered as a trademark, so if conditions of registering are available in the logo, then it can be registered in the trademark register.⁸

Second: The Distinction between the Logo and the Brand Name:

The merchant may use his trade name as a logo for his shop, he may put the trade name next to the image, in this case the name will integrate with the trade name, and then it will be subjected to legal rules that control the trade names and it must be registered in trade names to enjoy the legal protection same as the trade name.⁹

The logo must be characterized by good quality and excellence and to be used by the merchant before any other person.

The Second Requirement

Legal Protection for Commercial Logos

Introduction

The fair competition is the spirit of commerce, it is important to provide the largest share of the welfare for human society, the competition, even if it is a right that people enjoy, it is considered a pillar for the free economy, therefore, countries concerned with organizing competition and restricted it to the legitimate boundaries which guarantee different interests for people who work in trade, countries, also, put legislations in order to prevent messes mockers of abusing to trade through imposing sanctions to protect business and consumers from greedy people who get purchases in fraud and deception ways .

Based on the aforementioned, this requirement will be divided into two sections; the first section will discuss the conditions that must be available in the logo, and in the second, one will discuss the legal protection for the logo.

The First Section: Conditions to be met in the Logo¹⁰

⁵ Dr. Aziz Ugaili, the mediator in the explanation of the Commercial Code, Part I, the House of Culture for Publishing and Distribution, Amman 2012, p. 212.

⁶ Article 40/1 of the Jordanian Trade Act.

⁷ Dr. Bassam Tbeishat, legal protection of trademarks, the modern world of books for publication, Irbid, 2009, p. 48.

⁸ Dr. Aziz Ugaili, previous reference. P. 213.

⁹ Dr. Aziz Ugaili, previous reference. P. 213.

¹⁰ Dr. Atef Mohammad Al Faki, legal protection of commercial name, the Arab Renaissance Publishing House, Cairo, without the year of publication, p. 106.

First: To be distinctive

Logo is required to be distinctive, to have a distinguished personality that distinguish it from other logos used in similar projects, and this condition is essential so that customers can identify the facility or the project as well as to protect the owner of the project from unfair competition by other merchants.

Second: To be new it is not enough to have a distinctive logo, but it is required to be new, and the quality in this case is the same as the intended quality of the brand. The word new, here, means that no other merchants have used the same logo before.

The Second Section: Legal Protection for Logos:

The logo enables its owner the right to own an abstract ownership, that guarantees him a monopoly of exploitation in recognition of his business, whether it is a shop or company, and the commercial logo has a financial value as it considered important elements of the abstract elements for the shop.¹¹

First: The legal protection, under the suit of unfair competition, have been decided by the legislature to protect the store items such as industrial property rights, patents, industrial designs, trademarks, and trade names, but it did not establish a special protection for the shop in a group, but the judiciary has constructed a legal system to protect the store on the basis of the general rules and it considered the unfair competition from such harmful acts that oblige the perpetrator to compensate, and grant the damaged to suit which is called the suit of unfair competition that is resorted when another merchant assault on the business elements.¹²

The Jordanian legislator did not single out legal texts for commercial logos, but they apply the brand name that could be applied on the logo, Article (12) of the brand-names law gave the right to the owner of the establishment to make a civil action in the case of infringement of the trade name and he asked to take the following actions:

1. To stop infringement.
2. The attachment of goods and materials related to the infringement, wherever found.
3. To maintain the relevant evidence to the infringement.¹³

Furthermore, to demand compensation for the damages incurred, as well as the confiscation of any material or tools related to the infringement, the competent court is the court of first instance in the case of conflict.

Second: The Criminal Protection for the Commercial Logo:

Article (15) of the Trade Names Act states the following:

- a. Anyone who uses the trade name, without being registered in the Kingdom, shall be punished by a fine of not less than a hundred dinars and not exceeding one thousand dinars, the penalty will be doubled in case of repetition.
- b. Shall be punished by a fine of not less than 500 dinars and not more than 1,500 dinars each:
 1. Who uses a brand name owned by another person in contravention of the provisions of this Law.
 2. Who uses a brand name that belongs to him that conducive to mislead the public or violates the provisions of this Law.

We conclude from the foregoing that a logo is found to distinguish a shop from other commercial shops, so it is very close to the brand name, as the intellectual property rights of Jordanian Law had omitted to single out legal texts for logo protection like the rest of the intellectual and commercial proprietary rights. So we recommend the Jordanian legislator to include special legal texts for the commercial logo as an abstract element of business elements like the commercial brand.

In addition to protect it by the law from all aspects of common assault, such as imitation or using it as the legislator did for commercial brands with an indication of the deterrent sanctions and sufficient measures in such cases on the basis derived from the business environment and their distinctive properties.

¹¹Dr. Atef Mohammad Al Faki, legal protection of commercial name, the Arab Renaissance Publishing House, Cairo, without the year of publication, p. 107.

¹² Dr. Atef al-Feki, previous reference, P. 108.

¹³ Article 12 / A of the Jordanian Trade Names Law No. (9) 2006.

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Laws

1. Jordanian Trade Act No. 12 of 1966.
2. Jordanian Trade Names Law No. (9) of 2006.

Website

www.tradnt.net