

Draft Law No. () For
The Year 1999
A Law Amending The Trademarks Law

ARTICLE (1):

This Law shall be referred to as (The Law Amending The Trademarks Law For The Year 1999), and shall be read in conjunction with the Law No. (33) For The Year 1952, hereinafter referred to as the Original Law as one Law. This Law shall come into force thirty days after its publication in the Official Gazette.

ARTICLE (2):

Article (2) of the Original Law shall be repealed and replaced with the following text:

Article (2):

The following words and phrases, wherever mentioned in this Law, shall have the meanings designated hereunder, unless otherwise indicated: -

- Ministry : Ministry of Industry and Trade.
- Minister : Minister of Industry and Trade.
- Registrar : The Registrar of Trademarks.
- Register : The TradeMarks Register.
- Trade Mark : Any clear sign used or shall be used by any person to distinguish his goods, products or services from the goods, products, or services of others.

Well-Known Trademark:

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The trademark with an international reputation exceeding the original country where it was registered, that is known to the relevant sector of the public in the Hashemite Kingdom of Jordan.

Collective Trademark:

The trademark used by a juridical person to certify that the source of the goods, the materials it is produced from, its quality, the method of its production, the accuracy applied in its manufacture or any other characteristics and description for these goods are not manufactured by that person.

ARTICLE (3):

Article (3) of the Original Law shall be repealed and replaced with the following text:

Article (3):

1. The Ministry of Industry and Trade shall keep a Register named “The Trademarks Register” that shall be under the supervision of the Registrar for recording information related to all trademarks, the owners, their addresses, and whatever occurred on these trademarks of the following: -
 - a. Any assignment, transfer of ownership or license to use the trademark granted by the trademark owner to others. The provisions of confidentiality in the licensing contract shall be excluded from registering.
 - b. **The seizure or hypothecation placed upon the trademark or any restriction on the use of the trademark.**
2. **The Register shall be available for the public in accordance with the instructions issued by the Minister for this purpose, which shall be published in the Official Gazette.**
3. **It is permissible to use computers for registering trademarks and its data, whereby documents and data retrieved therefrom and certified by the Registrar shall be a valid proof against others.**

ARTICLE (4):

Paragraph (1) of Article (7) of the Original Law shall be repealed and replaced with the following text:

1. **A trademark shall be capable of registration if it possess distinctive characteristics in terms of names, letters, numerals, figurative elements, colors or otherwise, or any combination thereof, provided it is visually perceptible.**

ARTICLE (5):

Article (8) of the Original Law shall be amended by adding paragraph (12) at the end of the Article as follows: -

12. **Trademarks identical or similar or constitutes a translation to a well-known trade mark, to be used to distinguish goods similar or identical to those of the well-known trademark, which shall create confusion therewith, or used to other than these goods in a manner likely to cause damage to the interests of the owner of the well-known trademark, and indicate a connection between those goods and the owner of the trademark. Also marks similar to or identical to armorial bearings, flags, other emblems, names or abbreviations of international**

governmental organizations, or those that does harm the historical, Arabic and Islamic values.

ARTICLE (6):

Article (10) of the Original Law shall be repealed and replaced with the following text:

Article (10):

Collective Trade Marks:

- 1. The Registrar may register a collective trademark if it complies with the description indicated in paragraph (1) of Article (7) of this Law. For all purposes, such mark, shall be considered a juridical persons trademark registered under its name.**
- 2. A collective trademark shall be not transferred, or registered anew after its cancellation or abandonment of its use, unless it is registered anew for the original juridical person or his legal successors.**
- 3. It is possible to register a trademark for non-commercial purposes such as the Emblems taken up by an entity of public benefit, or used by a vocational institution to distinguish their correspondence, or to be a sign for its members. Such mark shall have the same treatment as the collective mark.**
- 4. The conditions for registering collective marks and all related regulatory matters shall be determined by instructions issued by the Minister for this purpose, which shall be published in the Official Gazette.**

ARTICLE (7):

Article (19) of the Original Law shall be repealed and replaced with the following text: -

AERICLE (19):

- 1. The ownership of a trademark may be transferred, assigned, or hypothecated without the transfer, assignment, or hypothecation of the business to which the trademark is used to distinguish its goods. It is also possible to seize the trademark independently from the business.**
- 2. Transfer of ownership of a trademark shall occur with the transfer of ownership of the business if they were strongly connected, unless otherwise agreed.**
- 3. If the business' ownership was transferred without the transfer of the trademark, the transferor of ownership shall be entitled to continue using the trademark in respect of the goods for which the trademark was registered.**

- 4. The transfer of ownership or the hypothecation of a trademark shall only be deemed as valid proof against third parties only from the date of registration of the transfer or marking the hypothecation in the Register, which shall be published, in the Official Gazette.**
- 5. The procedures of transfer of ownership, hypothecation, seizure and any other legal act related to the trademark shall be determined in the instructions issued by the Minister for this purpose, which shall be published in the Official Gazette.**

ARTICLE (8):

Article (20) of the Original Law shall be repealed and replaced with the following text:

ARTICLE (20):

Duration of Registration:

- 1. The ownership of a trademark right shall be for a term of ten years from the date of registration, however, its registration may be renewable for an equal period in accordance with the provisions of this Law.**
- 2. Trademarks registered or renewed prior to the date when the provisions of this Law came into force shall be renewed upon expiration for a period of ten years.**

ARTICLE (9):

Article (21) of the Original Law shall be repealed and replaced with the following text:

ARTICLE (21):

Article (21) Renewal of the Registration Period.

- 1. The Registrar shall renew the trademark registration upon request of its owner in accordance with the provisions of this Law.**
- 2. If the trade mark owner does not request renewal of the trademark within one year from the expiration date, the registration shall be automatically canceled from the Register; others shall be entitled to file for registering this trademark after the elapse of another year.**
- 3. The owner of the trademark deemed to be canceled shall be entitled to request registration anew at any time unless it had been registered under the name of someone else.**

ARTICLE (10):

Article (22) of the Original Law shall be repealed and replaced with the following text:

1. **With regard to Article (26) of this Law, any person with an interest, may request the Registrar to cancel the registration of any trademark registered under the name of another, if the latter did not actually use the trademark for three consecutive years preceding the request, unless the trademark owner proves that non-use was due to special commercial circumstances or to valid reasons that prevented its use.**
2. **Use of a registered trademark by others with the consent of its owner is considered as use for the continuation of its registration according to the provision of paragraph (1) of this Article.**
3. **The Registrar, before issuing his decision regarding the cancellation request, should allow the two disputing parties to place their counter arguments; his decision may be subject to appeal to the High Court of Justice.**

ARTICLE (11):

Article (26) of the Original Law shall be repealed and replaced with the following text:

- 1.a **The use of a legally registered trademark shall be limited to its owner, who shall have the right to prevent others not having his prior consent from using identical or similar trademarks, where such use would result in a likelihood of confusion. In case of the use of an identical sign for identical goods, a likelihood of confusion shall be presumed.**
- b. **If a trademark is well known, even if not registered, then the owner of such a trademark may request from the competent court to prevent others from using this mark on identical or unidentical products or services, provided that the use of that trademark would indicate a connection between those products or services and those of the well-known trademark, and that the interests of the owner of the trademark are likely to be damaged by such use. In the case of the use of an identical sign for identical goods, a likelihood of confusion shall be presumed.**
- c. **Where two persons or more were the registered owners of one trademark (or a mark very similar thereto) for the same products, no one of them can use the mark individually according to the registration (except to the extent of the rights determined by the Registrar or by the High Court of Justice), otherwise each of them shall be entitled to the same rights as if he is the sole owner of such trade mark.**
2. **The trademark owner may license to one or more persons pursuant to a written contract documented with the Registrar, for using the trademark for all or some of his goods. The owner of this trademark shall have the right to continue using this trademark unless otherwise agreed. The period of the license to use the trademark shall not exceed the period of its protection according to its registration.**

3. **The procedures for registering the license contract, its renewal and the geographical area designated for its application, its assignment, its cancellation and any other matter related thereto, shall be determined by instructions issued by the Minister, which shall be published in the Official Gazette.**

ARTICLE (12):

Article (34) of the Original Law shall be repealed and replaced with the following text: -

Article (34):

1. **No one shall have the right to file a claim for damages, for any infringement on an unregistered trademark in the Kingdom, but may apply to the Register to nullify a trademark registered in the Kingdom by a person not owning the trademark, after being registered abroad, if the reasons alleged were the reasons mentioned in paragraphs (6,7,10,12) of Article (8) of this Law.**
2. **The decision issued by the Registrar according to the provisions of this Article may be appealed to the High Court of Justice within sixty days from the date of its notification.**

ARTICLE (13):

Article (38) of the Original Law shall be repealed and replaced with the following text:

Article (38):

1. **Anyone committing with intent to fraud any of the following acts, shall be subject to imprisonment for not less than three months and not more than one year, or a fine not less than A Hundred Jordanian Dinars and not more than Three Thousand Jordanian Dinars, or both penalties :-**
 - A. **Forged a trademark registered according to the provisions of this Law, counterfeited it in a manner that would mislead the public, or labeled inside the Kingdom a forged or counterfeit trademark on the same class of goods for which the trademark was registered.**
 - B. **Unlawfully used a trademark owned by others on the same class of goods for which the trademark was registered.**
 - C. **Sold, acquired for the purpose of selling or offered for sale goods bearing a trademark, the use of which is considered a crime according to subparagraphs (A) and (B) of this Article, if he had previous knowledge of the same.**
2. **Persons selling, offering for sale, or acquiring for the purpose of selling, goods bearing a trademark, the use of which is considered a crime**

according to subparagraphs (A, B) of paragraph (1) of this Article, will be punished by a fine of not less than Fifty Jordanian Dinars and not more than Five Hundred Jordanian Dinars.

- 3. The provisions of Paragraph (1) of this Article shall apply on whoever attempts, assists or provokes to commit any of the acts provided for in this paragraph.**

ARTICLE (14):

Article (39) of the Original Law shall be repealed and replaced with the following text:

Article (39):

- 1. The owner of a trademark registered in the Kingdom when filing a civil or criminal claim or during the course of the claim, may request from the court the following, provided that his request is attached with a bank guaranty or a cash deposit accepted by the court:**
 - a. Cease the infringement.**
 - b. Place a provisional seizure on the products subject to infringement wherever found.**
 - c. Preserve the evidence related to the infringement.**
- 2.a. The owner of a trademark alleged of being infringed may, prior to filing a civil or criminal claim, request the court to take any of the measures provided for in paragraph (1) of this Article, without notifying the counter-party if he proved that he is the right holder in the trademark and that his rights had been infringed or that such infringement is imminent and there is a likelihood to cause damages of irreparable harm, or where there is a demonstrable risk of evidence being disappeared or destroyed , provided that such requests are attached with a bank guaranty or a cash deposit accepted by the court. The defendant or the accused, as the case may be, may have the right to appeal this decision within eight days of notification or his acknowledgement of it.**
- b. If the trademark owner fails to file a claim within eight days from the date the court approved his request, all measures taken in this regard shall be nullified.**
- 3. The defendant or counter-party may claim just compensation if the end-result of the claim proved that the plaintiff's claims are invalid, or if the plaintiff fails to file a claim within the specified period.**
- 4. The court may order confiscation of the goods, packaging, rolling materials, advertisement, portraits, seals, and other tools and materials primarily used for printing the trademark on goods, or used for committing the infringement, or resulted in the infringement. The court may also order its destruction or its use for non-commercial purposes.**

ARTICLE (15):

Article (41) of the Original Law shall be repealed and replaced with the following text:

Article (41):

- 1. If the Kingdom is a party to a bilateral international treaty or a multilateral international convention providing reciprocal protection to registered trademarks at any of these states, any national of a member of a contracting state in the treaty or convention, may file a trademark application to the Registrar to protect his trademark, who shall have a priority right to any preceding applicant to register this trademark in the Kingdom, provided that he files the application at the Registrar within six months from the following day of the filing date at the competent authority in his country. In this case, the registration date in the Kingdom shall be the date of filing an application for the registration of the trademark in that country and he shall not be entitled to file a civil or criminal law-suit prior to the real date in which his trademark was registered in the Kingdom.**
- 2. The provisions regulating temporary protection of trademarks on goods displayed in national or international exhibitions held in the Kingdom shall be specified according to a regulation issued for this purpose. Such protection does not extend the priority periods stated in the previous paragraph.**

ARTICLE (16):

The Original Law shall be amended to add Article 43 thereto, and Articles from 43-47 stated therein shall be renumbered to become 44-48 respectively:

Article (43):

All conditions and provisions stated in this Law and related to trademarks distinguishing goods or products shall be applied to trademarks distinguishing services.

ARTICLE (17):

Article (47) of the Original Law shall be repealed and replaced with the following text:

Article (47):

The Prime Minister and the Ministers shall be responsible for implementing the provisions of this Law.