

Law No. 34 of 1999 on Amendments to the Law on Trademarks

ARTICLE (1)

This Law shall be known 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, referred to hereinafter as the Original Law, as one Law. This Law shall come into force thirty days after the date of 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Article (2) of the Original Law shall be repealed and replaced with the following text: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 by context:

<u>Ministry</u>	:	Ministry of Industry and Trade.
<u>Minister</u>	:	Minister of Industry and Trade.
<u>Registrar</u>	:	The Trademarks Registrar.
<u>Register</u>	:	The Trade Marks Register.
<u>Trade Mark</u>	:	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:

The trademark with an international reputation, which reputation exceeds the original country where it is registered, and 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 goods, the materials it is produced from, its quality, the method of its production, the accuracy applied in its manufacture, or any other distinctions or characteristics for those goods, are not manufactured by the said person.

ARTICLE (3)

Article (3) of the Original Law shall be repealed and replaced with the following text:

Article (3)

1. A Register known as "The Trademarks Register" shall be established at the Ministry, under the supervision of the Registrar, in which records shall be maintained of all information related to trademarks, names of owners thereof, their addresses, and whatever occurred on such 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 registration.
 - B- The hypothecation or attachment placed upon a trademark or any restriction on its use.
2. The Register shall be available for the public in accordance with Instructions issued by the Minister for this purpose, which shall be published in the Official Gazette.
3. The Ministry may maintain computerized records for the registration of trademarks and related data thereto; such documents and data retrieved therefrom and certified by the Registrar shall be 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 registered if it has distinctive characteristics in terms of names, letters, numerals, figurative elements, colors, or other characteristics, or any combination thereof, and is visually perceptible.

ARTICLE (5)

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

12. A Trademark identical or similar or which constitutes a translation of a well-known trade mark, to be used to distinguish goods similar to or identical to those of the well-known trademark, which shall create confusion therewith, or to be used for other than the similar or identical goods in a manner likely to cause damage to the interests of the owner of the well-known trademark, and that indicates 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 or regional organizations, or those which offend the historical, Arab and Islamic value.

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 stated in paragraph (1) of Article (7) of this Law. For all purposes, such mark shall be considered the trademark of the juridical person registered under its name.
2. A collective trademark shall not be transferred or registered anew after it is cancelled, or abandoned, unless it is registered anew for the same juridical person or his legal successors.
3. Emblems taken up by an entity of public benefit, or used by a vocational institution to distinguish its correspondence, or to be a sign for its members, may be registered as trademarks for non-commercial purposes. Such marks shall be considered as collective marks.
4. The conditions for registering collective marks and all regulatory matters related thereto shall be determined in 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:

Article (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. An attachment may also be placed upon the trademark independently from the business.
2. The ownership of a trademark shall be transferred with the transfer of the ownership of the business if they are strongly connected, unless agreed otherwise.

3. If the ownership of the business is transferred without the transfer of the ownership of the trademark, the transferor of ownership may continue to use the trademark in respect of the goods for which the trademark is registered.
4. The transfer of ownership of a trademark, or its hypothecation shall be deemed as valid proof against third parties from the date of recording the transfer, or marking the hypothecation in the Register, which shall be published in the Official Gazette.
5. The procedures of transfer of ownership of a trademark, its hypothecation, attachment and any other legal acts related thereto, shall be determined in 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 trademark rights shall be for a term of ten years from the date of registration. The registration may be renewed for an equal period in accordance with the provisions of this Law.
2. Trademarks registered or renewed prior to the date the provisions of this Law came into force shall be renewed upon expiration for a term of ten years.

ARTICLE (9)

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

Article (21)

Renewal of the Registration Term

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

ARTICLE (10)

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

Article (22)

1. Subject to Article (26) of this Law, any person with an interest, may request from 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. The use of a registered trademark by others with the authorization of its owner is considered as use for the continuation of its registration according to the provisions of paragraph (1) of this Article.
3. The Registrar, before issuing his decision regarding the request for cancellation, shall allow the disputing parties to place their pleadings. The Registrar's 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:

Article (26)

- 1.A. The owner of a legally registered trademark shall have an exclusive right to use such trademark. He shall also have the right to prevent others not having his prior consent from using identical or similar trademarks to those in respect of which the trademark is registered, where such use would result in a likelihood of confusion. In case of the use of an identical trademark for identical goods, a likelihood of confusion shall be presumed.
- B. The owner of a well known trademark, even if not registered, may petition the competent court to prevent others from using such mark on identical products or services, or non identical products or services provided that the use of such trademark would indicate a connection between those products or services and those of the well-known trademark, and that the interests of the trademark owner are likely to be damaged as a result of such use. In case of the use of an identical trademark for identical products, a likelihood of confusion shall be presumed.
- C. Where two persons or more are the registered owners of one trademark (or a mark very similar thereto) for the same products, none of them shall have the right to use such mark individually according to the registration (except to the extent 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 trademark.

2. The trademark owner may license to one or more persons to use his trademark, for all or some of his/their goods, pursuant to a written contract recorded with the Registrar. The owner of such trademark shall have the right to continue to use it unless otherwise agreed. The period of the license to use the trademark shall not exceed the period of its protection according to the registration thereof.
3. The procedures for registering the licensing contract, its renewal, and the geographical area designated for its application, its assignment, cancellation and any other matters 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 lawsuit for damages, for any infringement upon a non-registered trademark in the Kingdom, but may file an application with the Registrar to nullify a trademark registered in the Kingdom by a person not owning such 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 of 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, or counterfeited it in a manner that would mislead the public, or labeled inside the Kingdom a forged or counterfeited trademark on the same class of goods for which the trademark is registered.

- B. Unlawfully used a trademark owned by others on the same class of goods for which the trademark is registered.
 - C. Sold or 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. Notwithstanding what is stated in paragraph (1) of this Article, 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) and (B) of paragraph (1) of this Article, shall be fined 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 committing any of the acts provided for in the mentioned paragraph.

ARTICLE (14)

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

Article (39)

1. Upon filing a civil or criminal lawsuit or during the course of the lawsuit, the owner of a trademark registered in the Kingdom, may petition the court for the following, provided that the petition 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 lawsuit, petition the court to take any of the measures provided for in paragraph (1) of this Article, without notifying the counter-party, if he proves that he is the right holder of the trademark and that his rights had been infringed upon, or that such infringement is imminent and is likely to cause damages of irreparable harm, or where there is a demonstrable risk of evidence being disappeared or destroyed , provided that such petition is attached with a bank guaranty or a cash deposit accepted by the court. The defendant or the accused, as the case may be, may challenge this decision within eight days of notification or acknowledgement thereof.
- B. If the trademark owner fails to file the lawsuit within eight days from the date the court approves his petition, all measures taken in this regard shall be nullified.

3. The defendant or the counter-party may claim just compensation if the court proves that the plaintiff's claims are invalid, or if the plaintiff fails to file the lawsuit within the specified period.
4. The court may order seizure of the goods, packaging, rolling and advertising materials, portraits, seals, and other tools and materials mainly used for printing the trademark on goods, or which are used for committing the infringement, or resulted therefrom. The court may also order destruction of such, or use of such outside the channels of commerce.

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 agreement or an international convention which provides reciprocal protection to registered trademarks in any of those States, any national of a member state in the agreement or the convention may file an application with the Registrar to protect his trademark. He shall also have a priority right to any preceding applicant who has filed an application to register this trademark in the Kingdom, provided that he files the application with the Registrar within six months from the day following the date of filing at the competent authority in his country. In such case, the date of registration in the Kingdom shall be the date of filing the application for registering the trademark in that country. However, he shall not be entitled to file a civil or criminal lawsuit prior to the actual date in which his trademark is 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 in a Regulation issued for this purpose. Such temporary protection shall not result in extending the priority periods stated in the previous paragraph.

ARTICLE (16)

The Original Law shall be amended by adding Article (43) thereto, and Articles (43) – (47) stated therein shall be renumbered to become (44) – (48) respectively:

Article (43)

All conditions and provisions stated in this Law in relation to trademarks, which distinguish goods or products, shall be applied on trademarks, which distinguish 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.
