



# The Adequacy of Jordanian Legislation in Protecting the Trademark to Attract Foreign Investment for the Purpose of Sustainable Development

Karim Mousa Al-Sarayrah AA<sup>1,\*</sup>, Mohammad Al Wahshat Z<sup>2</sup> and Shafiq Al-Freihat M<sup>3</sup>

<sup>1</sup>Associate Professor of Civil Law, Ajloun National University, Jordan

<sup>2</sup>Dean of the Faculty of Law/ Ajloun National University, Jordan

<sup>3</sup>Ajloun National University, Jordan

\*Corresponding author: Karim Mousa Al-Sarayrah AA, Associate Professor of Civil Law, Ajloun National University, Jordan; E-mail: [Dr.ahmad60sarayrah@yahoo.com](mailto:Dr.ahmad60sarayrah@yahoo.com)

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## Abstract

**Aim:** This study aims to explain the entity of a trademark, its commercial trademark standards and judicial applications involved, the effect of trademark protection on attraction of foreign investments, aspects of trademark which attracts foreign investments within Jordanian and international legislations and the position of Jordanian law towards the famous and infamous trademark in protection without distinction.

**Implications:** The trademark has become the center of attention to all countries including Jordan, and due to expansion in its use among products and services, countries and governments including Jordan decided to form legislations and laws organizing this purpose which guarantee the rights of all to attract foreign investments, taking into consideration the rapid technological development which influences expansion of the trademark and attraction of foreign investments, as this study shows the legal framework of the trademark and legal protection to it.

**Method:** The researcher adopted the descriptive analytical method in the study to achieve the desired goals through the use of previous studies, laws, legislations, world and Jordanian agreements organizing this topic.

**Results:** The study reached a number of results including: firstly, the trademark legal provisions in the Paris Agreement (1883), the TRIPS Agreement (1994), the Trademark Law No. (33) of the year (1952), and the Unfair Competition and Trade Secrets Law No. (15) year (2000) worked to protect trademarks, which helps attract foreign investments to Jordan. Secondly, expansion of the framework of protection of a trademark in Paris Agreement, where it extended to include the service mark side by side to a trademark and industry mark, and its registration and use include similar and different products and thirdly, Jordanian Trademark Law No. (34) of 1999 regarding trademark protection and preventing the registration of a trademark that is similar or identical, or shapes another trademark, or the use of another similar trademark upon registration that imitates international agreements, which upholds attracting foreign investments to Jordan.

**Keywords:** Trademark; Jordanian legislations; Foreign investment; Trade exchange; Sustainable; Development

## Introduction

Extent of the importance of the trademark appears within the commercial exchange on the national and international level, especially with the existence of the rapid technological

development. From here the country strived to keep pace with this progress in light of highlighting the trademark which represented an indication to the symbolism of commercial, development and economic competition, as it is characterized by originality and quality in providing productions and services, which makes it in

need of integrated legal system protecting it and preventing it in light of the rapid technological era [1]. The trademark has become a specific symbol and indication throughout ten ancient, medieval and modern eras, in addition to its rapid development since the beginning of nineteenth century at the national and international level. Jordanian Trademark Law No. (34) of (1999) in the Article No.(2) defined trademark as “Every apparent sign that everyone uses or wants to use to distinguish their goods, productions or services from others’,. In addition, Jordanian legislator obliges in Jordanian Trademark Law to register the trademark, names of its owners, their addresses and any changes happened in (Financing, transfer of ownership, assignment, license), in addition to the modern objective conditions that the amended law introduced, the most important of which is what is related to suitability of the trademark required to be registered [2].

The trademark is considered one of the most important elements of commercial property of the commercial projects and service, which plays its role in distinguishing, developing and sustaining these projects through the guarantee it grants which distinguishes it from other projects competent projects, as it attracts foreign investments to Jordan, supplies it with hard currency and opens new markets, which leads to positive effects whether they are economic or development. The trademark is considered one of the most important moral elements of the commercial and service project through what it grants its owners of complete property rights (right of use, exploitation, legally permissible behaviour), as it is considered intangible movable property that has a high economic value [3]. The trademark is considered a mean to protect innovation and legal competition of economic and service projects. Based on this importance, all national and international legislations gave importance to it, and protected it from any offensive falls on its right of ownership such as intellectual property rights and protecting it from counterfeiting, imitation and unfair competition.

### Study problem

The study problem is represented in showing the adequacy of Jordanian legislations in protecting the trademark to attract foreign investments as it is considered a branch of intellectual property, in addition to its prominent role in distinguishing productions and services which requires legislations and agreements organizing it in order to unify procedures of registrations inside Jordan, and allow a foreigner to register his trademark. As the study problem emerges in the following questions:

1. What does a trademark mean?
2. What are the trademark standards and judicial applications involved?
3. Is attraction of foreign investments considered one of the effects of trademark protection?

4. Did Jordanian legislation organize aspects of trademark protection which supports attraction of foreign investments?
5. What is the position of Jordanian law towards the famous and infamous trademark in protection without distinction?

### Study objectives

The study aims to:

1. Explain what is meant by trademark.
2. Explain the commercial trademark standards and judicial applications involved.
3. Explain the effect of trademark protection on attraction of foreign investments.
4. Explain aspects of trademark which attracts foreign investments within Jordanian and international legislations.
5. Explain the position of Jordanian law towards the famous and infamous trademark in protection without distinction.

### Importance of Study

Importance of the study lies in increasing of economic and development value of trademark, as well as it is a mark of distinguishing goods and services in order to prevent imitation or counterfeiting. The position of Jordanian legislation from setting standards that significantly define trademark affects in legal competition protection, because legal competition protection is consider one of the most important reasons to impose legal protection for trademark, as it is considered a first-class marketing and attraction tool, since it represents an attraction element on the one hand, and the producer’s personality or identity on the other hand.

### Previous studies

A study by Shanan & Qutaishat entitled “Aspects of civil protection to repel electronic infringement on trademark in Jordan law, a comparative study with the American law”, aimed to investigate aspects of civil protection to repel electronic infringement on trademark in Jordan and American law, and show the followed civil methods in case it is electronically infringed by the internet. The study reached a number of results, the most important of which is “Jordan legislation provided protection to trademark, but it did not define conditions for similarity and conformity of the types of the mark and the legal period to cancel a registered trademark in bad faith”, while the American legislator has guaranteed and ensured civil protection for trademark electronically, whether it is registered or unregistered with a legislation throughout several legal legislations like Trademark Misrepresentation Prcaseion Act”. The study recommended the need to amend the Article No. (34) of Jordanian Trademark Protection Law No.(33) of (1952) and its amendments. Al-Sayyed

conducted a study entitled “Travel bloggers’ use of Instagram and its relationship to building and marketing a personal branding (a qualitative study)”, aimed to focus on travel bloggers’ use of Instagram, how they understand, build, market, and maintain a personal brand, and promote themselves throughout contents published on their accounts on Instagram [4]. The researcher relied on model of building original self -trademark, and the theory of presentation coming from interviews. The study concluded that “the process of showing trademark on Instagram consists of three stages: extraction, expression and promotion”. The study recommended that it is necessary to redefine terms of American trademark and explain them to give a common understanding.

A study by Allam entitled “entitled “The impact of employer trademark on talent management (an applied study on Egyptian commercial banks) [5].” The study aimed to determine the elements of applying the bank trademark and its impact on talent management (attracting, developing, retaining) with talent, which was applied to each of the following banks: (National Bank, Bank of Egypt, Commercial International Bank), where banks on the list of the best (150) trademarks banking in the world. The researcher adopted designing a questionnaire consisting of (337) items from employees in those banks. The study reached a number of results, the most important of which is “the availability of trademarks components of the banks in question, which are (social and economic values, benefits), and the least of them are (development values and application), according to the values of the arithmetic mean, in addition to “the presence of a moral effect for each of the values (social, economic, benefits, development), and “the absence of amoral effect of the value of application on talent management in the banks under study.” The study recommended that it is essential to improve the banks’ brand and strengthen their role in attracting, developing and retaining talent.

## Study Methodology

To achieve the desired goals of the study, the researcher adopted the descriptive analytical method since it suits the nature, problem and the addressed questions of this study through the use of previous studies, laws, legislations, world and Jordanian agreements organizing the topic of the study.

### First topic

Legal framework of trademark

Trademark is considered one of the most prominent and important aspects of intellectual property for pioneering economic and development projects of national and international fame with strong link that distinguished it from other competent projects as it has a prominent and effective impact in bringing foreign investments to Jordan, and tending to products and services

representing those projects, so trademarks are divided into (individual trademark, collective trademark and famous trademark) [6]. Based on this apparent importance, Jordanian legislator worked to pay attention to trademark by concluding legislation regulating it, especially in the Jordanian Trademarks Law No. (33) Issued in the (1952), along with the Trademarks System of (1952) and the Goods Law of (1953). The Amended Trademark Law No. 34 of (1999), the Amended Trademark Law No. 37 of 2000, and the Unfair Competition and Trade Secrets Law No. 15 of (2000), along with international agreements “Paris Agreement.” issued in (1883), and the TRIPS Agreement issued in (1994), within the framework of protecting it from similarity and theft and preventing others from using it on products and services similar to it [7]. The trademark must be guaranteed in laws, legislations and agreements organizing them to facilitate attracting foreign investments, go to make essential amendments related its protection , follow the methods organizing its registration, keep pace with the increasing technological development at the national and international level in light of the increasing competition between provided products, services and work to impose strict punishments on everyone who infringes the trademark and protect economic and development projects which enhances attraction of foreign investment and hard currency.

### First requirements

#### Essence of legal trademark

A trademark is defined as “Every sign or indication that a merchant or a maker sets on products he sells or produces, and aims to facilitate identifying the source of selling productions or main them, as it should not mix with other similar goods in markets which makes it easy to be defined by customers or those who deal with it [8]. It is “every apparent, distinguished and interesting form realized by sight in case it is being used or to be used in distinguishing goods, products or services whether it refers to a normal person or a legal one, who possessed this trademark due to its manufacture, selection, trading or to indicate performing a specific service”, taking into consideration that the promoted sound is a part of it in case it accompanied it, in addition to all ( names, words, symbols, signatures, letters, numbers, drawings, addresses, seals, stamps, inscriptions, announcements and packaging), and any other signs capable of written embodiment [9]. While Jordanian legislation defined in Jordanian Trademark Law No. (34) of (1999) in the Article (2) a trademark as “Every apparent sign that everyone uses or wants to use to distinguish his goods, products or services from others’ ones .

#### First section: Importance of a legal trademark

Importance of legal trademark appears as follows:

1. It defines sources of products and services, as it is able to distinguish between similar products and services and the competent ones throughout defining the personal and regional source, since it is the indicated symbol to products and services.
  2. It is considered a means of advertising products, since it one of the most important means followed by owners of economic and development projects which contributes in reaching minds of individuals and local and foreign investors through advertising and promoting trademarks.
  3. 3. It works to instill an element of confidence inside the consumers through the quality of the products and services that carry the trademark, which is a symbol of confidence in those products and services, which makes owners of economic and development projects double their production and their keenness to continue the elements of trust among both consumers and project owners, which drives them to be careful about products and services, in order not to affect the reputation of their trademark or shake the consumers' confidence [10].
  4. It is considered a legal competition method through its contribution in success of economic and development projects, attract foreign investment and hard currency in the field of competition with other similar projects at the local and international level.
  5. It is a guarantee to protect consumers, as owners of economic and development projects use it as a means of fraud and cheating in order to promote their products and services, and enhance their purchasing power through announcing products and services they provide, which deceives and harms consumers, where a trademark is a base to protect consumers from fraud and cheating [11].
2. Letters and numbers: It is possible to use letters and numbers as a trademark to indicate specific products and services and distinguish it from others' [12].
  3. Symbolz, images and inscriptions: The owners of economic and development projects can use them to indicate a product or specific service, and it is possible that a symbol could be a sun, moon etc. provided that an image, symbol and inscription is set in a specific shape so that there should be differences, as a merchant used an image like "a falcon" as a trademark, while another competent used a sign of "a falcon" name, in order that there is no misleading or ambiguity.
  4. Colours and shapes: It is possible to use shapes and colours as a trademark in case they are not requirements of manufacture, taking into account that those shapes and colours require customers' attention, so it is possible to consider shapes of mobiles a trademark if this shape is innovated. Colours could be used as a trademark, and a trademark may be restricted to one specific colour or more as it is considered a part of it, and is subject to consideration when deciding on the distinguishing characteristic of that trademark, as registration of a specific colour does not prevent others to use it as a another trademark from the same style or other taking into account that usage does not lead to a similarity in the two trademarks in a group which may lead to cheating, plagiarism, and misleading [13].
  5. Trade names and titles: It is possible to use a trade name or title as a trademark, since it is used to distinguish between products and services from each other's, where a trade name works to distinguishes one trade name from another trade one. Hence, Jordanian legislator gave a right to owner of economic and development project to take the name of owner of a project for him, but he stipulated that the implementation of this be required for the trade name to belong to the owner of the trademark. However, if that trade name does not belong to the owner of the trademark, the legislator requires obtaining approval from the person.

## Second section: Forms of legal trademarks

Image of a trademark are shown based on the text of the Article No. (7/1) of Jordanian Trademark Law No. (34) of 1999 which stated that "To register a trademark, it is required that it have a distinctive characteristic in terms of names, letters, numbers, shapes, colours, etc., or any other group of it, and can be recognized by sight." . It is clear from the text of the article that the trademark takes characteristics that distinguish it from others, in order that consumers will not fall into fraud and deception during the purchasing process of products and services they want to benefit from. By first looking at the trademark, original products and services can be distinguished from the counterfeit ones.

Trademarks take the following images and forms:

1. Names: They take one specific name or more as a distinguished trademark, provided that the trademark takes a form that distinguishes it from others before taking it as a

## Second requirement

### Trademark registration and its legal consequences

Talking about trademark registration requires and its legal consequences to competent departments knowledge in this from the owner of a right, in addition to required conditions beginning the trademark that may be registered, all the way to the legal effects

resulting from registration process, as there should be subjective conditions and other form ones in order that a trademark has legal protection which are summarized as follows:

#### **First section: Subjective conditions to register a trademark**

1. **Legality:** It means that there is no violation to public discipline and morals, or what is prohibited by Jordanian law, legislations and organized agreements, in other words the legal texts permit to register it [14].
2. **The trademark must have a distinctive character:** It means that it must have its own personality and special and distinctive characteristics, seeking prcaseion customers from getting confused between products and services that carry a similar trademark.
3. **Modernity:** The trademark must be modern in its general form, and has not been previously used or registered inside Jordan on the same products or services by another person.
4. **Perceivable by sight:** The elements in forming trademarks should be realized an actual and tangible way such as (names, signatures, drawings, images, inscriptions and others), and here a trademark cannot be registered in case it is consisted of unmaterialistic elements such as (musical tones, sound tones, i.e. which can be distinguished from others throughout smelling and taste), and this due to the difficulty of keeping this type of models of marks and high expenses [15].

#### **Second section: Formal conditions to register a trademark**

1. **Request to register a trademark:** Trademarks law obliges everyone who have a desire to be independence in using a trademark to request registration of a trademark based on the organized legal provisions, as in Article(6) of Trademark Law which stated that “Everyone who has the desire to be independent in using a trademark to distinguish goods he produces, makes selects or he issued a certificate asking to register this trademark according to provisions of this law , and Jordanian legislator permits anyone who claims to be an owner of a trademark he used or he wants to use and desires to register this trade, he should submit a written application to the trademarks registrar based on the regulated procedures according to what the Article No.(11/1) has stated in Trademarks Law.
2. **Result of registration applicant:** The law gives the trademarks registrar authority to reject any applicant or accept it without a presence of conditions or limits, and he has the right to accept the trademark application in addition to amend the style of usage or its place, as the authority is limited to legal provisions, so the law legislator permits a registration applicant appealing the registered decision to the Supreme Court of Justice according to the text of the Article (11/3).

3. **Announcement of acceptance of the trademark registration application and objection to it:** The Jordanian legislator in the trademark law obligated the trademark registrant in the case that his trademark registration was accepted, whether his acceptance was in the form stated in the registration application or he made amendments to it, and the announcement of the acceptance shall be made in local newspapers at the expense of a registration requester. The purpose of announcing the registration of a trademark is to tell the registration to anyone who has an objection, as he must submit it within the period specified by the law (3) months, as stated in Article No. (11/4) of Jordanian Trademark Law No. (34) of 1999 , and in the case that the objection submitted to the registrar is not responded to, in this case the registration applicant is considered to have left his application. However, in the case that the statement of response submitted to the submitted objection, the trademark registrar, in turn, will notify a copy of a list of responses to the objection to the person objecting to the registration. After the registrar allows the data of all the opposing parties and their data, if necessary, he issues a decision to allow or reject the registration of the trademark. The decision is subject to appeal before the Supreme Court of Justice within a period of (20) days from the date of its issuance based on what is stated in Article No. (14/6) of the Jordanian Trademark Law.
4. **Issuing a certificate of registration of a trademark:** Throughout following all legal procedures, and based on what is decided by Jordanian Trademark Law, the registrar of a trademark issues its registration and in the name of a registration applicant, where a trademark is registered at the date of an application as it is the date of a trademark registration. Jordanian legislator has limited a trademark property to (10) years from the date of its registration, and he permitted registration a trademark from time to time. In addition, he obliged a registrant, based on the request of the owner of a trademark, to renew a period of other (10) years, which enables the owner of a trademark to maintain his trademark for another consecutive period, up to an indefinite period if he has the desire to do this according to the text of Article No. (20) In Jordanian Trademark Law No. (34) of 1999 “1. The period of right property of a trademark is ten years and it can be renewed to a similar period according to the law provisions. 2. Renewal of registered or renewed trademarks before the entry into force of the provisions of this law upon the expiry of ten years.”

#### **Second topic**

##### **Legal protection of a trademark**

Importance of a legal protection of a trademark is based on the presence of a number of prominent risks emerging from strict commitment to requirements of principle of regionalism, as the most important risks are emergence of imitation of goods and services, and restriction of protection to geographical borders of states enabled imitators to reproduce copies, works, products and services without any responsibility. Thus, the negative position led to obligation of protecting a trademark at the local and international level. Protection of a trademark lied in abandoning principle of regionalism and heading towards following legal proper methods to protect a trademark, as some of them is directed by the world agreements in Paris issued in (1883), TRIPS Agreement in (1994), Illegal Competition Law and Trade Secrets No.(15) of (2000) and Jordanian Trade Currency Law No. (33) of (1952), as these laws came to explain ambiguity about determining trademark standards, since the reason behind illegal competition is one of the arguments of protection of a trademark, and focusing on parties that those legislations and agreements seeking to protect them representing in the owner of a trademark, and the other party is customers' protection to products and services.

### **First requirement**

#### **International framework for trademark protection to attract foreign investment**

International agreements, as the first of them was Paris Agreement (20/3/1883), concerning subjects of a trademark, emerged to protect all trademarks, so this agreement was the start point to reach TRIPS Agreement "Agreement of aspects related to trade from individual property rights", which came as a result of international economic development, as it is a sub-result of the main agreement WOT, World Organization Treaty, signed on (15/4/1994), and since Jordan joined it in (2000), it agreed on TRIPS Agreement of (2004).

#### **First section: Leal protection of a trademark in light of Paris Agreement issued in (1883)**

Paris Agreement for protection of industrial property is applied to intellectual rights in its broadest sense, as it treated the subject of a trademark in Article No. (6/2) which stated as follows [16]:

1. Member states that agree on the agreement when its legislation allows this, according to the request of the concerned party, pledge to impose and invalidate registration of a trademark which is similar to another popular registered one whether it is copied, imitated or translated according to the text of Article No. (6/2), which is observed that the first difference or rather distinguishing a popular trademark from an ordinary one is its non –registration, which is contrary to the ordinary trademark

as it is possible to register it in another country other than the one in which it was registered .

2. Paris Agreement prevented using the trademark which forms (transfer, imitation, copying, and translation) resulted from an ambiguity to customers, especially when those products originally used by a famous trademark [17], and it reaches states of prevention (rejection) of registration of the legal text of an agreement in the Article No. (6/1).
3. Giving a period of (5) years to enter registration of trademarks which were(copied, imitated or translated) in case their registration was based on good faith, and if it was based on bad faith, the agreement permitted to apply it at any time , and what Paris Agreement included related to the trademark is considered a base where these types of currency excel, while the agreement does not give a clear and explicit meaning to a trademark, and it does not give the standard of a trademark [18].

#### **Second Section: Leal protection of a trademark in light of TRIPS Agreement issued in (1994)**

This agreement paid attention to aspects of intellectual property rights related to trade or what is called TRIPS. The items of this agreement represented in distinguishing them from Paris agreement in that it "moved in several directions, where it did not organize a type of intellectual property, and it dealt with the majority of the intellectual property sections.

1. TRIPS Agreement was referred to Paris agreement related to a trademark, as the obligations imposed on member states remained in place without derogating from it.
2. Paris Agreement did not highlight a definition of a trademark, but it restricted itself to the definition of the trademark (TRIPS) definition of the trademark as "It is a set of signals or marks which permits distinguishing the normal TRIPS, and based on TRIPS for goods and services produced by an a specific organization over another", and accordingly TRIPS Agreement added a new mark which is the service one.
3. TRIPS Agreement supposed in Article No. (16/1) an ambiguity in a state of use a trademark by a person who has not the right to use it, and this will be throughout (imitation and identification to the original mark), so TRIPS Agreement linked harm to occurrence of any ambiguity, the rapid development is for the protection field, as there is a doubt in any product or service that has a trademark as "unoriginal", therefore harm will occur and oblige compensation.
4. The text of Paris Agreement is considered valid through achieving two conditions "the possibility of harming the interests of the owner of a registered trademark due to usage, and its usage in illegal method indicates a link between products and services, and the owner of a trademark in the first place.

5. The agreement expanded in the scope of the decided protection for a trademark. It prevented the use of a trademark if it was registered on goods and services that are not similar to the goods or services that use the trademark, and in based on the text of Article No. (16/2), which is concerned with assessing the reputation of the trademark from its lack of fame, which worked to create the extent of the trademark's fame based on its knowledge of consumers, and the strength of advertising by addressing the provisions of the Paris Agreement, we find that the text is still not clear for the trademark statement.

## Second requirement

### Legal protection to a trademark according to Jordanian legislation

When talking about legal protection of a trademark and its license use contract between the owner of a trademark and the licensed, we find that legal protection of a trademark falls within the penal framework and the right to exploit it through civil and penal protection, and not allow any individual to assault it in order to facilitate trade works, support Jordanian economy, prevent any assault towards exploitation of legal protection of TRIPS trademark, and this was included in the agreement of aspects related to trade to intellectual property rights (TRIPS) to oblige all member states to amend legislations to go with items and articles of the agreement to achieve legal protection to trademarks. Since Jordan is a member of World Trade Organization, it obliges Jordan to adapt the related regulating legislations (TRIPS), and within the framework of penal protection in legislation to protect a trademark that goes with Jordanian agreement, we find that it gives the right to file a penal lawsuit in case of occurrence of an assault to the licensee of a trademark (owner of a trademark) alone as well as the licensed, since this right is given to the registered trademark only (that acquired the status of protection) because it is legally registered, and according to the regulating instructions in the Jordanian Trademark Law. Whereas when talking about civil protection of a trademark, the right to use it and the right of the owner of a trademark to licensee or the licensed to in not assault to a trademark, the legal principle of the Jordanian Civil Law confirmed in the text of Article No. (256) on that "Every harm to another obligates the perpetrator to be liable." Jordanian legislator considered assault to a trademark and the right to use it within the framework of illegal competition, and any harm to it is considered an application of the provisions of tort liability in not registering it by its owner and that he has the right to protect his mark from infringement by resorting to civil lawsuits [19].

### First section: legal protection of a trademark according to unfair competition and trade secrets no. (15) of (2000)

Unfair competition case is considered the only way of a trademark in order to avoid criticisms that Jordanian legislator has encountered in the Jordanian Trademark Law, so the unfair competitive case, depending on unfair Competition Law which considered one of the guarantees of a trademark protection regardless whether it is registered or not, and the law granted stakeholders the request of compensation for the damage they have suffered resulted from unfair competition. Referring to Unfair Competition Law and Trade Secrets, we find that Jordanian legislator defined unfair competition as "Every competition that contradicts with competition in industrial and trade affairs is considered an act of a field of unfair competition". Given the Jordanian legislator's definition of unfair competition, we find that he was highly influenced with world agreements especially Paris Agreement to protect industrial property, and he exchanged the word habits with prevents, while judiciary defined unfair competition according to Jordanian Court of Cassation as "Any prevent that may undermine the reputation of the product, lead to confusion regarding its external appearance, or mislead the public.

In order that unfair competition lawsuit has to be filed against a trademark infringement, the elements of civil liability mentioned in the text of Article No. (256) of the Jordanian Civil Law No. (43) of (1976) must exists, which are (the act, the damage, and the causal relationship between them). Whereas the Jordanian Civil Law requires that the act be harmful, that is, that there be an act, damage, and a causal relationship, in order that liability has to occur, in other words, it is a condition for an unfair competition lawsuit to be created, as it needs the existence of harmful, and unfair competition between them in commercial affairs, where the goal behind competition is to attract consumers and foreign investments to a specific type of (products and services). Competitive competition is "not resorting to misleading methods to cause trade harm for others", and by referring to the text of Article No. (2) of Unfair Competition and Trade Secrets Law No. (15) of 2000, we find that they show images of assaulting on a trademark throughout illegal methods lie in the followings :

"A-Every illegal competition contravenes with noble prevents in industrial and trade affairs is considered an act of unfair competitions, where these doing these acts requires punishment:

1. Actions, as by their nature, lead to confusion by one of the competitor's facility or his industrial or trade activity.
2. Assaults that contravene reality in preventing trade, where one of competitors, his products, industrial or trade activity causes loss of confidence to a facility.
3. Data or assaults as their use in trade may cause misleading to public relating to the nature of products, the way they are manufactured, their characteristics, amounts or validity to be used.

4. Every prevent which may undermine the reputation of the product, lead to confusion concerning its external appearance, the way it is shown, mislead public when announcing its price or how it is calculated.”

B-“If unfair competition is related to a used trademark whether it is registered or not which leads to misleading the public.”

When reading the legal text, it becomes clear that illegal acts have evolved with temporal and technological development, making it difficult to limit. If the dispute is presented to the judicial authority, the judge of the matter has the discretionary authority, in order to consider the act to be an illegal one to keep pace with what is introduced to him in court. The Court of Cassation’s oversight does not extend to the discretionary authority of the judge of the matter, so the Court of Cassation is itself the court of law and does not consider the origin of the case, while it considers what was found to be a violation of the main rules of law in a manner of complexity. The text of the article in item (b) was fair to the trademark owner, as it did not require registration in order to file an unfair competition lawsuit. It stated that the trademark whether it is registered or unregistered, misleading the public, is unfair competition for the trademark.

To file an unfair competition lawsuit based on the act of infringement (the harmful act) is not possible, and there must be damage resulting from the harmful act, which affects the trademark owner, and without there being damage, the element of interest is not available, and so the lawsuit is dismissed. The forms of damage are represented in (the damage that affects the owner of the trademark in his property, the moral damage that affects the owner of the trademark in his reputation, dignity and honour. It is required compensation for the damage to be real and estimated, and it is not probable. The causal relationship between the harmful act and the damage is considered the causal link between the damage that happens. According to the act of infringement of the trademark owner, i.e. the damage results from this act, and the lack of a causal link between the damage and the act of infringement results in the lawsuit being dismissed because the cause is not found.

### **Second section: Legal protection of a trademark according to Jordanian Trademark Law No. (33) of 1952.**

Article No. (26/1/B) of Jordanian Trademarks Law stated that “If a trademark is famous and unregistered, its owner has the right to ask the competent court to stop others from using it related to products, similar or different services provided that the use of this mark indicates a link between those products or services and the famous trademark, and the possibility of occurrence of confusion when using an identical famous trademark on similar products. The legal text treats the supposition of others’ use of a trademark whether it is registered or not, and in this case the owner of the trademark has

the right to submit a request to the competent court to prevent such this infringement, as “others” means “everyone uses the trademark without permission from its owner”. In order that the owner of a trademark is able to prevent others, he must prove that there is a relation between products, services and trademarks, and in case there is no relation, the owner is not able to prevent others to use it, and others usage should lead to harm to the interest of the owners of trademarks [20].

In addition to Jordanian jurisprudence, it was created before amending the Trademark Law of 1999 that owner of a trademark registered abroad, used and known in Jordan, he has the right to object to the registration of any mark identical to his mark in the Jordan if it would lead to plagiarism, fraud and Encouraging unfair competition, as it is not required to object to a trademark by registering it in Jordan.

The Supreme Court of Justice was previously stated in its ruling: “The user of a trademark has the right to request that the registered trademark in the name of another person if it is proven that there is a similarity between the two marks that may lead to fraud, as the use of the trademark was before registration date of the trademark wanted to be deleted and does not exceed four years [21-33].

### **Results**

1. The legal provisions of a trademark in Paris Agreement (1883), TRIPS Agreement (1994), Trademarks Law No. (33) of (1952), Unfair Competition Law and Trade Secrets No. (15) of (2000) worked out to protect trademarks which contributes in attracting foreign investments to Jordan.
2. The legal provisions of a trademark in Paris Agreement, TRIPS Agreement, Jordanian Trademarks Law No. (34) of (1999), Unfair Competition Law and Trade Secrets No. (15) of (2000) came gradually and not all at once to protect a trademark which contributes in attracting foreign investments to Jordan.
3. Protection of a trademark stems from a reality lies in its reputation and where it reached which led to its spread.
4. Protection of a trademark within Paris Agreement as it was keen to protect trademark and industry mark only, without service, where protection is limited to register or use a trademark to similar products without registering and using them on other different ones.
5. Expansion of the framework of protection of a trademark in Paris Agreement, where it extended to include the service mark side by side to a trademark and industry mark, and its registration and use include similar and different products.
6. Jordanian trademarks Law No. (34) of (1999) in protection of a trademark and prevent registration of a trademark which is similar, identical or formation of another trademark, or use of

another similar trademark when it is registered, that simulates world agreements, which supports attraction of foreign investment to Jordan.

## Study Recommendations

1. The importance of Jordanian legislation direction to link between trademarks on the one hand and methods leading to this, especially the external promotion method of a trademark by its owner or anyone acting in his position, in order to reach the reputation cycle which enhances foreign investment.
2. The need for Jordanian legislator to link between a trademark and its promotion methods, so as to attract foreign investment to the local economy.
3. Jordanian legislator was content with using the term goods in Article No. (8/12) without supporting it with products, services and others from legal articles, that indicates protection decided by Jordanian legislation of a trademark, which requires the necessity to amend the text of the article in a manner where ambiguity disappears.
4. Jordanian legislator did not treat the matter of success of some people in registration of a trademark that simulates or forms a translation of trademark, whether it is occurred by mistake or by violating the law, which requires giving the owner of a trademark the right to promote this mark during a specific period of time through entering a text in the Trademarks Law treating this matter.
5. Adding legal texts to Jordanian Trademarks Law that work to regulate the reputation of a trademark which contributes in attracting foreign investment, and attach an appendix to show commitments of licensee and licensed to and their duties.
6. Amending the text of Article No. (34) of Jordanian Trademarks Law through working to delete the condition of registration in order to be entitled to compensation that goes with world agreements obliging amendments, and change legal articles that keep pace with world agreements.
7. Working to review laws of unfair competition and trade secrets, and delete the text of Article NO. (2/B) of the law throughout deleting the condition of usage in order to be entitled to compensation, so that the owner of a registered trademark whether it is registered or not, to maintain his rights and thus attract foreign investment and feel safe.

## Conclusion

The current study investigated the adequacy of Jordanian legislations in protecting the trademark to attract foreign investments as it is considered a branch of intellectual property, in addition to its prominent role in distinguishing productions. After

analyzing the data and answering the study questions, the following major conclusions were reached:

1. The trademark legal provisions in the Paris Agreement (1883), the TRIPS Agreement (1994), the Trademark Law No. (33) of the year (1952), and the Unfair Competition and Trade Secrets Law No. (15) of the year (2000) worked to protect trademarks, which helps attract investments. Foreigners to Jordan.
2. The legal provisions of a trademark in Paris Agreement, TRIPS Agreement, Jordanian Trademarks Law No. (34) of (1999), Unfair Competition Law and Trade Secrets No. (15) of (2000) came to protect a trademark step by step which helps attract foreign investments to Jordan.
3. The reality and reputation of the trademark and the spread it has achieved resulted in its protection.
4. Trademark protection throughout the Paris Agreement, as it was keen to protect the trademark and industrial mark only without service, as protection is limited to registering or using a trademark for similar products without registering it and using it on various other products
5. Expansion of the framework of protection of a trademark in Paris Agreement, where it extended to include the service mark side by side to a trademark and industry mark, and its registration and use include similar and different products.
6. The spread of trademark protection framework in Paris Agreement, as it was stretched to comprise the service mark along with the trademark and industry mark and its registration and use similar and different products.
7. Jordanian Trademark Law No. (34) of 1999 regarding trademark protection and preventing the registration of a trademark that is similar or identical, or shapes another trademark, or the use of another similar trademark upon registration that imitates international agreements, which upholds attracting foreign investments to Jordan.

Based on the above results, the following recommendations were presented: The importance of Jordanian legislation linking trademarks on the one hand, and the methods leading to that, especially the method of the trademark owner or someone in his position in the process of external encouragement of the trademark in order to enhance foreign investment, The Jordanian legislator must work to link the brand and its promotion methods in order to attract foreign investment into the local economy and it is important to add legal provisions to the Jordanian trademark law to promote the reputation of the brand, which contributes to attracting foreign investment.

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