

Newsletter

15th Edition, December 2021

Welcome to the fifteenth edition of our Newsletter. In this Newsletter, we will review the main procedures for registering trademarks under the provisions of the Jordanian Trademarks Law No. 33 for the Year 1952 and its amendments (hereinafter referred to as the “**Law**”), the Trademarks Regulation No. 1 of 1952 and a valid trademark registration application form - approved for this purpose- (hereinafter referred to as the “**Form**”). Whereas it is known that the Hashemite Kingdom of Jordan (hereinafter referred to as the “**Kingdom**”) is a member of the World Intellectual Property Organization (WIPO) and follows the International Classification of Goods and Services (NICE), which divides goods and services into different categories, and the Law grants protection to products or services specified in the Form.

The content of this Newsletter is as follows:

Who has the right to register a trademark?	Page 2
The competent authority to register the trademark.	Page 3
Registration application.	Page 3
Approval of the registration application.	Page 5
Announcing the approved registration application.	Page 5
Objection to the trademark registration.	Page 5
Final registration and the trademark’s legal protection period.	Page 6
The Importance of Registering a trademark	Page 6

“The protection of a trademark shall be for a period of ten years from the date of its registration and the legislator authorized its renewal after the expiry of the legal period of registration for a similar period.”



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The process of registering a trademark in the Kingdom is one of the most important steps in order to start a successful business. Every owner of a new company and/or project and/or product and/or new service needs a trademark by which the public knows and distinguishes it from others that protects the commodity and/or the service and/or the project that it provides. We, in our role as a legal professional, present to you in this Newsletter various legal information that explains the most prominent and most important things you need to be aware of to legally register a trademark in the Kingdom as well as how and when that trademark becomes your right and not the right of others. A trademark is a tool and indicator that distinguishes the product or services from other products and services, whether its distinction is in its name, color, or in some drawings and shapes unique to the name of the product or service, noting that the Law defines the trademark in article (2) as follows:

“Any apparent mark that is used or intended to be used by an individual to distinguish his/her goods or products or services from the goods, products or services of others”.

The reader of the provisions of the Law realizes that the Jordanian legislator granted legal protection to trademarks through registration, as the legislator stipulated in article (25) of the Law that the right to use the legally registered trademark is limited to its legal owner who registered it in accordance with the provisions of the Law. He/she has the right to prevent

any person from using identical or similar marks that create confusion and/or misconceptions for the public.

This Newsletter includes information and the main steps necessary to register a trademark in the Kingdom, which are as follows:

1. **Who has the right to register a trademark?**
2. **The competent authority to register the trademark.**
3. **Registration application.**
4. **Approval of the registration application.**
5. **Announcing the approved registration applications.**
6. **Objection to the trademark registration.**
7. **Final registration and the trademark’s legal protection period.**
8. **The Importance of Registering a trademark**

1. Who has the right to register a trademark?

In accordance with the provisions of the Law, the Jordanian legislator did not specify a specific condition or quality that a person entitled to register a trademark must have. Since the unconditional status shall apply unless otherwise a restriction is stated, article (6) of the Law allows any person to register his/her trademark in the Kingdom whether he/she is a Jordanian or a foreign natural or legal person, whether he/she has used it or intends to use it in the Kingdom.



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The aforementioned article of the Law stipulates the following:

3 *“Anyone who desires to solely/independently use a trademark to distinguish the goods that are his/her production, manufacture, selection, or of which he/she has issued a certificate, or the goods he/she trades or intends to trade in, can request the registration of that mark in accordance with the provisions of this Law.”*

2. The competent authority to register the trademark

The competent authority to register trademarks in the Kingdom is the Ministry of Industry, Trade and Supply, as paragraph (1) of article (3) of the Law stipulates that:

“1. Under the supervision of the registrar, a register named trademarks Register shall be organized in the Ministry, in which all trademarks, the names and addresses of their owners, and the status of those marks are recorded....”

That means that the trademark registration is in a register designated for that purpose, known as the trademark Register, supervised by a Registrar appointed by the Minister of Industry, Trade and Supply who shall be the representative of management decisions regarding the registration of trademarks.

3. Registration application

The application for registration shall be either an individual application or a collective application, as follows:

A- Individual application:

Based on the provisions of the Law, we inform you that its article (11) clarifies the rules and conditions that must be met in an individual application submitted to register a trademark in the Kingdom. The application is submitted to the Registrar at the Ministry of Industry, Trade and Supply and the application is on the Form. This application includes five pictures of the trademark [logo] to be placed in the designated space on the Form. All details of the trademark to be registered, all information of the applicant, and evidence of the applicant's ownership of the trademark shall be indicated, as article 11 of the Law stipulates the following:

“Whoever claims to be the owner of a trademark that has been used or intends to use it and wishes to register that trademark, must submit a written application to the Registrar in accordance with the established procedures.

- The Registrar can, subject to the provisions of the Law, refuse any such request, approve it completely without restriction or condition, or declare his/her approval of it according to conditions, modifications, or alterations to be made to the way the mark is used or the place of its use or other matters.



- If the Registrar refuses to register a trademark, his/her decision can be appealed to the High Court of Justice.

4 The Registrar or the High Court of Justice may, at any time, correct any error in the application or in relation to it, whether before or after the application is approved, or assign the applicant to amend his application on the basis of conditions set by the Registrar or the High Court of Justice.”

Also, to be noted that the Jordanian legislator has stated that if the applicant does not complete the registration process within twelve months, he/she is considered to have abandoned his/her right to register, as article (16) of the Law stipulates the following:

“If the trademark has not been registered within 12 months from the date of the application due to the applicant’s negligence, the Registrar may, after duly informing the applicant in writing of the failure to complete his/her registration, consider him/her to have abandoned his/her application unless it was done within the period specified by the Registrar in the announcement.”

B- Collective application:

With reference to the provisions of the Law, we clarify to you that the Jordanian legislator has indicated two cases for the collective registration application, which are:

First: Registering more than one mark amongst which there is similarity for the benefit of more than one person, which is stipulated in article (17) of the Law:

“If several people request the registration of trademarks that are identical or close to each other, and those marks are related to the same goods or class, the Registrar may refuse to register any of those marks in the name of one of these applicants until after their rights are settled:

1. Either by agreement among themselves in a manner approved by the registrar, or
2. Through the High Court of Justice, to which the Registrar refers the dispute when no such agreement is reached.”

In this case, a similar trademark may be registered if a settlement is agreed upon between the owners of such trademarks and approved by the Registrar or by a decision of the administrative court.

Second: Registering one mark for more than one person, which is what is stipulated in article (18) of the Law, which states the following:

“1. If a person uses by fair competition a trademark used by another person, or if there are other special circumstances in which the Registrar sees fit to register the same trademark in the name of more than one person, then the Registrar may allow the registration of that mark or any other similar marks for the same goods or class of goods in the name of



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more than one person on the basis of restrictions and conditions that are seen fit to be imposed in terms of the method of use, place and other matters.

2. *The decision issued by the Registrar under this article may be appealed to the High Court of Justice, which, when considering the appeal, has the same authority as the Registrar conferred upon it under this article.*

3. *The appeal under this article shall be submitted within 30 days from the date of the registrar's decision."*

In this case, a single trademark may be registered in the name of more than one person, provided that its use is by way of fair competition (i.e. legal competition) and approved by the Registrar of trademarks.

4. Approval of the registration application

After duly submitting the application for registration, the Registrar shall have the right to approve or reject it or approve the application with conditions or request that modifications be made in accordance with paragraph (2) of article (11) of the Law.

If the Registrar rejects the application, the applicant may appeal the rejection decision before the Administrative Court.

5. Announcing the approved registration applications

The Jordanian legislator has stipulated, in accordance with the provisions of article (13) of the Law, that in the event of approval of the application for registration submitted to the Registrar of trademarks, whether the approval was absolute or some modifications were made to it, it is required to announce the approval by the same conditions under which the approval was made.

6. Objection to the trademark registration

The provisions of article (14) of the Law regulate cases of objection to the registration of a trademark, in which the legislator specified the period of objection to the registration of a trademark as a period of three months from the date of announcing the application for approval. This objection shall be submitted in writing to the registrar, and the Registrar must inform the applicant of said objection. In the event the applicant responds to this objection, he/she shall send a request to the parties, after which the Registrar will decide whether to approve or to reject the registration.

In the event of an objection to the registrar's decision, it may be appealed to the administrative court within twenty days from the date of the registrar's decision.



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7. Final registration and the trademark's legal protection period

Article (20) of the Law states that the protection of a trademark shall be for a period of ten years from the date of its registration and the legislator authorized its renewal after the expiry of the legal period of registration for a similar period.

8. The Importance of Registering a trademark

1. The registration of trademarks gives and grants its owner legal protection, as the owner of the registered trademark has the sole right to use it and profit from it or allow another person to use it in return for a sum of money to be determined by the owner of the registered trademark and the person who wishes to use it.

2. A trademark registered and protected under the provisions of the Law grants its owner protection from it being imitated or illegally used.

3. Registered trademarks also provide confidence between the trademark owner and the public consumer.

Conclusion:

In conclusion, we inform you that the Jordanian legislator did not grant full protection to an unregistered trademark, whether when it comes to civil protection or penal protection, whereas he/she has granted full legal protection to a trademark that is registered under the Law, be it in terms of civil protection and/or penal protection. He/she also authorized its owner with the right to take all necessary and essential procedures and actions to preserve his/her right in his/her registered trademark, whether that was before or during the filing of a claim for protection and the prevention of trademark infringement.



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If you wish to register a trademark and grant your trademark legal protection or if you would like to discuss further any aspects of this Newsletter, please feel free to get in touch with one of our lawyers, using the contact details in the Contributors section below.

If you feel that other persons would be interested to read this Newsletter, please feel free to share this Newsletter.

7

If you wish not to have our upcoming Newsletter or if you wish to amend the contact details, please inform us via sending an email to info@hammourilaw.com, titled “non-subscription” and/or “amending the contact details”.

Warm regards,

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8



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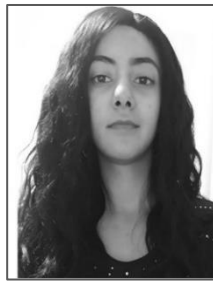
9



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ABOUT HAMMOURI & PARTNERS ATTORNEYS AT-LAW

Hammouri & Partners Attorneys at-Law, is a Jordanian multi-practice law firm, founded over two decades ago (established in 1994) by Professor Mohammad Hammouri. Professor Hammouri is the Chairman of the board of Hammouri & Partners Attorneys at-Law, a litigator as well as an arbitrator, a former Minister of Culture and National Heritage and a former Minister of Higher Education, who wrote a plethora of books, primarily on constitutional rights. Professor Mohammad Hammouri also founded the first School of Law in the Hashemite Kingdom of Jordan at The University of Jordan, in which he was its first dean. Today, the firm is managed by Dr. Tariq Hammouri, an academic, an attorney and a former Minister of Industry, Trade and Supply. Dr. Hammouri is both an experienced attorney and arbitrator, an expert in the Corporate sector, Commercial Transactions, Financial Markets, Banking Law and International Trade. He is an Associate Professor at the School of Law, University of Jordan and (formerly) the Dean of the School of Law. Dr. Hammouri is also an officially appointed member of the International Center for Settlement of Investment Disputes (ICSID) Panel of Arbitrators upon designation by the Government of the Hashemite Kingdom of Jordan, for the period of 2020 to 2026.

Hammouri & Partners team consists of 25 attorneys and a number of other professionals working in the firm's specialized departments, providing professional legal services at a local, regional and international level.

The firm's legal services cover numerous areas of practice, including the following: Corporate and Commercial Law (whether that is corporate set-up or drafting of all types of commercial agreements), Intellectual Property law, Banking and Finance Law (the Firm advises local and international banks regarding all Banking Transactions and Regulatory Compliance). Additionally, the Firm's Litigation and Arbitration department have the capabilities and competence to represent parties in the most complex and novel legal matters, as it encompasses expertise in several areas of law, whether it is before courts or arbitral tribunals. Hammouri & Partners Attorneys at-Law was one of the first firms in Jordan to establish a specialized International department to cater to the needs and requirements of international clients on an array of tasks with an international element, such as those regarding bilateral and international trade negotiations, projects, contracts and others.

In addition to what has previously been stated, Hammouri & Partners provides legal advice and consultation to various industries such as those of Construction & Infrastructure, Manufacturing, Engineering, Trade, Insurance and Energy, as some of its clients are major energy, healthcare, information technology and telecoms companies.

Hammouri & Partners Attorneys at-Law provides its broad services throughout Jordan as well as worldwide, through established collaborations with reputable law firms in the MENA region, Europe, the United Kingdom and the USA. Hammouri & Partners has earned regional and international acclaim by the most reputable legal directories. Chambers and Partners Global, International Financial Law Review (IFLR 1000) and the Legal 500 all highlight Hammouri & Partners as a leading law firm in the Jordanian legal services industry.



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