
Legal Framework of Unfair Competition In Jordan: Scope of Application and Legal Protection

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Until the year 2000, there was no specific statute enacted in Jordan that regulates unfair competition. In the year 2000, the Jordanian Unfair Competition Law No. 15 of 2000 was enacted. The Law deals with the issue of unfair competition in a very generic way. In addition to the Jordanian Unfair Competition Law, the principal statutory source of protection is implemented through the general rules and principles of civil law, particularly, tort law and injurious acts. Although the Jordanian Unfair Competition Law purports to implement a general legal regime on unfair competition, it includes very little in terms of substantive or procedural protection of unfair competition. Presently, the Jordanian legal system provides only very limited protection which is not adequate to accommodate unfair competition cases. Therefore, statutory changes are needed.

Keywords

Unfair Competition, World Trade Organization, Legal Protection

I. Introduction

As a young democracy and fledgling market economy, Jordan's government has pursued policies designed to strengthen its economy. The cornerstone of the government's long-term economic objectives has been to support economic growth via regional and global integration. Accordingly, Jordan has actively pursued World Trade

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Organization (WTO) membership.

Unfair competition regime in Jordan proved to be a stumbling block for Jordan's accession to the WTO. For example, Jordan committed in its accession to the WTO that it would comply fully with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), from the date of accession, without recourse to any transitional period.

Having laws that comply with the WTO's Agreement is half the story. The second half is the enforcement of these laws. Enforcing an unfair competition regime is capable of increasing confidence among foreign investors and businesses. Enforcement of unfair competition in Jordan is an area where many factors inform policy enforcement which reflects the current status of enforcement of unfair competition in Jordan.

Enforcement of unfair competition is not cheap. It requires appropriation of millions of dollars that would eat up a good portion of the annual budget of Jordan. Any action plan, be it raids, seizures, arrests, perp walks, or education campaigns, to reduce unfair competition is constrained by limited financial resources and cultural and educational gap.

There are political and cultural factors that attribute to the plight of enforcement of unfair competition in Jordan. There is a sentiment for many Jordanians that a religiously based law is necessary barrack against Westernization and the domination of Western culture. There is mistrust among Middle Eastern countries of the West. This mistrust is based on many years of experience especially during colonialism.¹

Having said that, legally speaking, the influence of the Moslem *Shari'a* Law on the commercial laws of Jordan is rather limited. This is due to the fact that commercial laws of Jordan have not drew on *Al-Majallatu or Majelle* which was enacted under the Ottoman empire at the year 1867. The *Mejelle* was in fact a codification of the rules of Moslem *Shari'a* Law as ascertained and developed by the Moslem authorities more than eleven centuries ago. There are four main jurisprudence schools. They are the *Hanafi* School of Jurisprudence founded by *Nu'man Ibn Thabit Abu Hanifa* (699-767 A.D.), the *Maliki* School of Jurisprudence founded by *Malik Ibn Anas* (712-769 A.D.), the *Shafi'i* School of Jurisprudence founded by *Mohammed Ibn Idris El-Shafi'i* (767-820 A.D.), and the *Hanbali* School of Jurisprudence founded by *Ahmed Ibn Hanbal* (780-855 A.D.). Of those four schools, the *Mejelle* drew on the *Hanafi* School more than the other three schools because that was and still is the most predominant in the Moslem countries.²

¹ John Carroll, *Intellectual Property Rights in the Middle East: A Cultural Perspective*, 11 FORDHAM INTELL. PROP. MEDIA & ENT. L. J. 555, 574 (2001).

² A. KHALLAF, *THE ORIGINS OF MOSLEM JURISPRUDENCE* 34 (1978). See also HISHAM HASHEM, *THE JORDAN CIVIL CODE OF MOSLEM JURISPRUDENCE* 1 (1990).