

Law No. (21) of 1957

Law

Trademarks & Indications

We, Faisal II, King of Iraq,

After perusal of the first paragraph of Article twenty six of the Basic Law and with the approval of the National Assembly, we certify the following law and order the publication thereof-

Chapter One

General Provisions

Article one – The following words shall have the meanings shown against them:

Minister – Minister of Economy.

Registrar – Registrar of Trademarks.

Register – Register of Trademarks.

Court – The Competent court of First Instance.

Mark – Any distinctive shape of words, signatures, letters, numbers, design, symbols, addresses, seals, drawings, engravings or combinations, thereof if used upon or intended to be used upon any goods or in connection therewith as indicant that the goods belong to the owner of such trademarks because of manufacture, selection, dealing with or offering for sale.

Prescribed fees – The fees that listed in the table which appendix to this law.

Article two –1– There shall be kept at the Ministry of Economy a Register in the custody of the Registrar, wherein shall be recorded all the marks, the names and addresses of their owners, descriptions of their goods, Conversion and transfer data and cessions affecting them. The public shall have the right of cognizance and receive certified copies thereof on payment of the prescribed fees.

2- The existing Register shall be deemed to be supplementary to the Register provided for in this Article. The validity of any entry in respect of any mark recorded in that Register shall be detailed in accordance with the law which was in force at the date of such entry. Such marks shall obtain their original dates and shall be deemed to be marks registered under this law.

Article three – A mark shall be deemed to be the property of the person who registered it. The ownership of the mark may not be contested if the owner used it for five consecutive years from the date of completion of registration.

Article four – Anyone desirous of using a mark for distinguishing goods of his own production, manufacture, working, or selection, or goods in which he trades or offer for sale or intends to trade in or offers them for sale, may apply for the registration thereof in accordance with the provisions of this law.

Article five – For the purpose of this law, the following shall not be registrable as marks:

1- Marks devoid of any distinctive character or which are used in trade to describe the kind, nature, quantity or

place of production of the goods, or marks which in the ordinary language of Iraq indicate any of such matters.

- 2- Marks, expressions, or designs which are injurious to public morals or contrary to public order.
- 3- Marks which are identical with, or similar to the flags, coats of arms, decorations and medals of Iraq or of any foreign state, or of the United Nations or of any agency thereof.
- 4- Marks which are identical with, or similar to the purely religious symbols.
- 5- Marks which are identical with, or similar to, the insignia of the Red Cross, Red Crescent, Geneva Cross, or Red Star.
- 6- The name, title, portrait, or armorial bearing of a person except with his written consent.
- 7- Numbers, letters and words which are calculated to deceive the public or which lead the public to believe in the genuineness of untrue descriptions in respect of the goods.
- 8- Marks which are calculated to lead the public to believe in the genuineness of untrue data as to the origin and qualities of the goods as well as marks containing a fictitious, imitated, or counterfeit business name.
- 9) Data in respect of titles of honor which the applicant for registration cannot legally prove his title there to, or which contain statements calculated to lead to the belief that the owner thereof enjoys sublime patronage without any supporting written evidence.

- 10- Marks similar to a mark belonging to other persons for the same article, if it is calculated to deceive, or cause confusion to the public.
- 11- Geographical names where the use thereof is likely to cause confusion to the source or origin of the goods,

Chapter Two

Registration Procedures

Article six – An application for the registration of a mark shall be filed with the Registrar in the manner and according to the conditions prescribed in regulation made under this law.

Article seven – A mark shall be permitted to be registered in respect of one or more articles or in one or more classes of the products in the schedule of classification of goods annexed to the regulation made under this law.

Article eight – Where before any publication is made two or more persons apply simultaneously for the registration of the same mark or of identical or similar marks in respect of goods or articles of the same class of products, the Registrar may suspend all such applications until the production to him of a renunciation by the disputants in favor of one of them duly attested or a final decision from the court.

Article nine – The Registrar may impose limitations or modifications as he may deem necessary for the determination, description, the way of using of the mark or its place, or such other matters, for preventing confusion with any other mark already registered, or for any other reason as he may think fit.

In case of refusal or conditional acceptance, the Registrar shall notify the applicant, in writing, of the grounds, of his decision and of the relevant facts. If the applicant shall not, within thirty days, comply with the limitations imposed by Registrar, he shall be deemed to have abandoned his application.

Article ten – 1- Decisions issued by the Registrar will be subject to appeal to the court.

2- The appeal shall be submitted within thirty days from the date of notification of the Registrar's decision.

Article eleven – 1- In the event of the acceptance of the mark in principle, the Registrar shall publish, in three consecutive numbers of the bulletin of the Directorate General of Commerce, an advertisement to that effect.

2- Any interested person may, within ninety days from the date of the last advertisement, file a written notice of opposition against the registration of the mark.

3- The Registrar shall serve a copy of the notice of opposition on the applicant for registration who shall, within thirty days, send a written reply to the opposition. If no reply is received within the said period, the applicant shall be deemed to have abandoned the application.

Article twelve – 1- Before giving a decision on the opposition, the Registrar shall, if requested to do so, hear both of the parties.

2- The Registrar may decide either to accept the registration or to reject it. In the previous case, he may impose any limitations he may deem necessary.

3- If there is reason to believe that the opposition is not serious, the Registrar may, notwithstanding the opposition, give a reasonable decision to proceed with the registration.

Article thirteen – The owner of a registered mark may apply at any time to the Registrar to alter or add to such mark in manner not substantially affecting its identification. The Registrar shall give a decision approving the registration of such alteration in principle, in accordance with the provisions prescribed for decisions on original applications for registration of mark. The decisions shall be notified to the interested parties and shall be subject to opposition as aforementioned.

Article fourteen – The registration shall have a retroactive effect as from the date of filing the application.

Article fifteen – The owner of a mark shall, on completion of registration thereof, be given a certificate containing the data prescribed in the regulation.

Article sixteen – Where registration of a mark is not completed within six months from the date of the application by reason of default on the part of the applicant the Registrar may inform the applicant, in writing, to complete the registration within the period prescribed in the regulation made under this law. Otherwise he shall be considered as having abandoned the application.

Chapter Three

Transfer of Ownership & Pledge on Marks

Article seventeen – The ownership of a mark shall be transferable and the mark shall be pledged or seized together with the business dealing in the goods carrying that mark.

Article eighteen – 1- The mark shall transfer according to the ownership of the business unless it is agreed to the contrary. If the ownership of the business transferred without the mark, the transferor shall continue to manufacture, produce and trade the products where the mark was being registered, unless it is agreed to the contrary.

2- If for any reason, a person cease to carry on his business and such cessation results in the devolution of ownership of the mark on more than one person, and the successors desire the apportionment of the ownership of the mark, the Registrar shall be permitted to apportion it between the persons who prove to be actually carrying on that business, subject to any limitations, conditions and modifications which the Registrar may deem fit.

Chapter Four

Cancellation & Renewal

Article nineteen – The transfer of ownership, pledge, and seizure of a mark shall not be proof against third parties except after advertisement and registration.

Article twenty – 1- The duration of protection of a mark shall be for fifteen years, renewable from time to time by the owner for like periods upon application made during the last year in the manner prescribed in the regulation and payment of the prescribed fee.

2- Where a trademark has been removed from the Register by reason of nonpayment of the renewal fees, such removal shall not nevertheless preclude the mark from remaining in the name of its owner for one year following the date of such removal provided that it may be registered during this period if the Registrar is satisfied that there has been no effective use of the mark which has been removed during the two years immediately preceding its removal or that no deception or confusion would be likely to arise from the use of the mark presented for registration by reason of any prior use of the mark which has been removed.

Article twenty one – Any interested person shall be entitled to apply to the court for the cancellation of the registration of any mark, relying in his application upon the grounds that its registration had been obtained unlawfully, or that there was bad intention in its use or if it had not been used during the two years following the date of its registration unless such non-use may be proved to be due to uncontrollable cause or lawful excuse.

Article twenty two – No canceled mark may be registered for a like period in a name other than that of its owner until after the lapse of at least one year from the date of its cancellation.

Article twenty three – The cancellation and renewal of registration shall be advertised in the manner prescribed in the regulation.

Article twenty four – The Registrar as well as any interested person shall apply to the court for the cancellation of a mark registered contrary to the law.

Article twenty five – Where, for any reason whatsoever, ownership in a mark devolves upon a person, such person shall apply to the Registrar to register in his name. The Registrar shall register the mark in the name of that person and shall record the reasons of devolution.

Article twenty six – The Registrar may, whenever there is justification, make any alteration in the register if this alteration is designed to correct a mistake or to complete a critical deficiency.

In the case of forgery, whenever it is found, in the registration, converted or transmission of any registered mark, the registrar shall refer to the matter court for an order for correction.

Article twenty seven – A- Subject to any limitations or condition on the Register, the registration of a person as a owner mark shall entitle such person to the exclusive use of such mark with the goods in respect of which it is registered, if such registration is in conformity with the provisions of the law.

B- Provided that where two or more persons are registered as owners of the same or substantially the same trademark or marks in respect of the same goods, no rights of exclusive use (except in so far as their respective rights shall have been defined by the Registrar or by the court) shall be acquired by any such person as against any other by the registration thereof, but each of such persons shall have the same rights as if he were the sole registered owner thereof.

Article twenty eight – The Registrar shall be entitled to, upon application by the owner of a registered mark, in the manner prescribed:

- 1- Correct any error in the registered name of address of the owner of the mark.

- 2- Record any change occurring in the name or address of the person registered as owner of the mark.
- 3- Strike out any of the goods in respect of which the trademark has been registered.
- 4- Register any disclaimer or any memorandum in respect with any mark where that disclaimer or memorandum does not increase the rights conferred by the existing registration of that mark.
- 5- Cancel the entry of any mark recorded in the Register in his name.

Article twenty nine –1– The Minister may from time to time, make orders as he may deem necessary, empowering the Registrar to amend the register whether by making new entries or striking out or altering certain entries in so far as may be required to obtain conformity in the description of goods or classes of goods mentioned in it and relating to the registered trademark.

- 2- The Registrar shall not, in the exercise of any of the powers conferred upon him by the Minister as aforesaid, make any amendment in the register which will result in the addition of other goods in respect of which the mark has been registered, nor shall he be entitled to date the registration of a mark of any goods with a date prior to the date of registration.
- 3- The owner of a registered mark shall be notified of any amendment connected therewith and such amendment shall be published in the bulletin. Any person aggrieved by such amendment may submit a notice of opposition with the Registrar.

Article thirty – The Registrar shall have the right to appear before the court and state his opinion in every notice of opposition filed with the court. He shall also appear before the court if the court requires him to do so, or shall submit an appropriate statement signed by him stating what he considers necessary as to the details of the proceedings taken in the case or any other matters connected therewith and which have bearing on his duties as a Registrar.

Chapter Five

Trade Indications

Article thirty one – Any clarification refers either directly or indirectly to the following, shall be deemed to be a trade indication:–

- 1- Nature, number, quantity, measure, weights and strength of the goods.
- 2- Country of manufacture.
- 3- Method of manufacture and production.
- 4- Ingredients entering in the composition.
- 5- Name and description of their producer and manufacturer.
- 6- Whether there are any patents, or commercial or industrial privileges, prizes, or characteristics in respect thereof.
- 7- Name or shape in which the goods are ordinarily known.

Article thirty two – Every trade indication must be true in all respects whether it is placed on the goods themselves, or on the premises or stores or in their addresses, or on packages, invoices, letters, advertising materials and the like, which are used in offering the goods to the public.

Article thirty three – The name or his address of the vender shall not be placed on goods imported from a country other than that in which the sale is concluded unless accompanied by a precise statement written in conspicuous letters specifying the locality in which they were produced.

Residents of a locality having particular fame in the production of manufacture of certain products, who trade in similar products imported from elsewhere shall not place on the latter products their marks if such action is calculated to mislead the public as to the source of those products unless satisfactory measures are taken to prevent any confusion.

Article thirty four – Medals, diplomas, prizes, or titles of honor of any kind whatsoever shall not be mentioned except in respect of products which entitled to such awards and in respect of persons and trade names to whom they were awarded or their successors in title on condition that an accurate statement is given as to date and kind thereof and the exhibitions or tournaments in which they were granted.

Any person participating with others in exhibiting products may not use for his own goods the awards granted to the common exhibits unless he shows clearly the source and nature of such awards.

Chapter Six

Offences and Penalties

Article thirty five – Whoever commits any of the following acts shall be punished with imprisonment for a term not exceeding three years and with a fine not exceeding two hundred Dinars or with either of such penalties: –

- 1- Contravenes the provisions of Chapter Five of this law.
- 2- Counterfeits or imitates a mark registered under this law in a manner likely to mislead the public or willfully uses a Counterfeit or imitated mark.
- 3- Willfully places on his products a mark which is the property of another person.
- 4- Willfully sells, offers for sale or circulation, or possesses for sale products bearing a counterfeit or imitated mark or a mark which, to his knowledge, has been unlawfully placed thereon.

Article thirty six – Whoever commits any of the following acts shall be punished with imprisonment for a term not exceeding one year and with a fine not exceeding one hundred Dinars or with either of such penalties:-

- 1- Uses an unregistered mark of those prescribed in Paragraphs 2 to 11 of Article five of this law.
- 2- Contrary to reality puts on his marks or commercial papers any references calculated to lead to the belief that the marks are registered whereas in fact they are not registered.

Article thirty seven – The owner of a mark may, at any time even before the institution of any civil or criminal action, obtain, upon application supported by an official certificates establishing the registration of his mark, an order (from the examining magistrate or from the court which has the jurisdiction to hear and determine the offence or damages) to take provisional measures, more particularly to seize the instruments and tools used in the commission of the offence as well as the products, goods, firm name, wrapping materials, papers etc., which bear the mark the subject matter of the offence; provided the applicant shall provide the necessary guarantee fixed by the examining magistrate or the appropriate court, guaranteeing the losses which may be sustained by others as a result of that measure. Seizure may also be ordered upon goods imported from abroad.

The measures prescribed in this article shall be null and void if, within ten days from date of taking them, no civil or criminal suit is brought against those against whom they were taken.

Article thirty eight – The court competent to hear any civil or criminal action shall be permitted to order the confiscation and sale of the seized articles and the recovery from the sale price the damages awarded or fines imposed or order the disposal thereof in the manner it may deem advisable.

The court may also order the publication of the judgment at the expense of the adjudged person. Likewise, the court may order the destruction of the illegal trademarks or the products bearing such marks as well as the wrappings, packing material, firm names, etc. It may also order the destruction of the instruments and tools used in the commission of the offence.

Chapter Seven

General Provisions

Article thirty nine – Provisions shall be stated by special regulations for ensuring the necessary temporary protection to marks placed on products or goods exposed in exhibitions which will be held in Iraq provided that such arts are protected in their own countries.

Article forty – The Trademark Law No. 39 of 1931, as well as its amendments and the regulations made thereunder are hereby repealed.

Article forty one – This law shall come into force one month after its publication in the Official Gazette.

Article forty two – The Ministers of Economy and Justice are to implement this law.

Done at Baghdad this 25th day of Shawal 1376, A.H. corresponding to 25th day of May 1957, A.D.

	Faisal
Nadeem al-bah je	Noury Al-Saed
Minister of Economy	The Prime Minister

Abd Al-jabbar Al-Takarly
Minister of Justice

Table of fees that appendix to the Trademarks and Indications
Law No. (27) of 1957

- 1- Every applications for registration shall fulfill the following:–
 - (A)- 500 Fils for one item.
 - (B)- 250 Fils for every additional item up to 3 items
 - (C)- 100 Fils for every additional item if it exceeds 3 items provided that no more than the maximum limit which is 10/- Dinars of the fee for any item.
- 2- 150 Fils for publishing wages of every issue and every contract.
- 3- 3 Dinars for the final registration of:–
 - (A)- One item.
 - (B)- 1/500 Dinar for every additional item up to 3 items.
 - (C)- 1/- Dinar for every additional item if it exceeds 3 items provided that no more than the maximum limit which is 50/- Dinar of the fee for any item.
- 4- For renewal: The above mentioned fee in (3).
- 5- For transferring the ownership: The above mentioned fee in (3).
- 6- One Dinar for every item of seizure and mortgage for one mark in which the fee not exceeds (20) Dinars in the case of items pluralism.
- 7- Two Dinars for every item of mark amendment provided that no more than (30) Dinars in the case of items pluralism.
- 8- 250 Fils for copies of the certificates.

- 9- For re-registration: The above mentioned fee in (3).
- 10- 100 Fils for copies of decisions that related to acceptance, rejection and suspension the mark.
- 11- 500 Fils for reviewing the register of each item.
- 12- Two Dinars for every session that held by the Registrar upon a request from the mark's owners.
- 13- Two Dinars for notice of opposition for every application that has been objected on.
- 14- One Dinar for submitting a plea list to reply on the notice of opposition or its reply.
- 15- One Dinar for an application to change the name or address of the mark's owner.
- 16- One Dinar for cancelling the Trademark Registration or a part of it.
- 17- One Dinar for an application to correct the Register or strike out a mark.
- 18- 500 Fils for every application that not fulfill any previous fees.
- 19- One Dinar for every application that submitted to the Registrar in accordance with Paragraph (2) of the Article (19) of the law.

