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The Role of the Jordanian Customs Department in the Protection of Intellectual Property

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ABSTRACT

The Jordanian Customs Department, by virtue of its work in the border and interior posts, applies a number of laws and regulations in addition to its application of the Customs Law. And the legislator singled it out for combating various smuggling crimes, including crimes of assault on intellectual property, by giving it the necessary powers to intervene to prevent the infringement of intellectual property rights.

Through this study, we highlight the various methods and mechanisms involved in the Jordanian Customs Department to address all forms of counterfeiting and infringement of intellectual property rights, especially those procedural measures during customs disputes related to intellectual property rights

Keywords : intellectual property, Jordan Customs, , imitation, protection

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Introduction:

Recently, after the great scientific development appeared intellectual property, which means creations of the human intellect like inventions, creations, artistic works, designs and logos. Undoubtedly, the intellectual creative works need rules that guarantee intellectual creativity protection from imitation and theft.

Most countries have included intellectual property in the national policies as an essential method in society's development, also they put national legislation and international agreements that guarantee and protect these rights from infringement.

Like other countries, Jordan has joined international conventions and international organizations that protect intellectual property rights especially the World Organization for intellectual property rights. Jordanian laws have dealt with intellectual property rights like the international conventions and gave the Jordanian Customs Department the role to handle this dangerous issue through borders.

We put the following points in order to highlight the role of the Jordanian Customs in intellectual property rights protection from violation.

Research enquiries:

The study is based on a number of questions:

- 1) What is the role of customs to reduce counterfeit products across borders .
- 2) What is the Customs administration task to deal with infringement of intellectual property rights, and how effective is it.

The study hypotheses:

This study based on the following hypotheses:

- Customs departments are one the most effective official ways in combating commercial fraud.
- The aim of public awareness campaigns to increase awareness of the dangers of counterfeiting.

The used method:

To answer the questions we relied on the descriptive analytical approach to analyze the content of legal texts that related to the protection of intellectual property within Jordanian Customs Department laws.

Research purpose:

In the research enquiries we highlighted the role of the Jordanian Customs in intellectual property protection and Customs administration tasks.

Importance of research:

The study derives its importance from the intellectual property rights position in our lives. Especially when Jordan joined the World Trade Organization to protect intellectual property rights. Also the Jordanian Customs Department tries to reduce counterfeit products in markets which affect negatively the technological development, economic and the rights of others in Jordan.

The previous studies

We adopted in our study a set of previous studies. The most important is:

The first study: Customs Administration's Role in Intellectual Property Protection (Bentayebi ,and Bellaoui, 2019)

The researcher posed the following issue:

What is the customs department role in the infringement of intellectual property rights and fraud and imitation combating.

The researcher concluded that this type of protection is complementary to the legal protection provided in the laws of intellectual property. The importance of the customs protection to solve the movement and exchange counterfeit goods that violate intellectual property rights in the area and it requires advanced and effective ways to combat all forms of imitation and protect intellectual efforts.

The second study:

The enforcement of border measures to protect intellectual property rights of exports and the principle of regional protection.(jamaeah Madani,2021)

The researcher posed the following issue:

Whether the country protects intellectual property rights during exporting to limit exports or supporting it at the expense of intellectual property rights owners.

The researcher reached the following conclusion:

In order to overcome the principle of regional protection the advanced countries, the European Union and the United States developed the protection ways of exported goods and products. Also the developing countries should do the same.

We will study the research as follows:

First topic: the concept of intellectual property rights.

First requirement: definition of intellectual property rights.

The second requirement: the purposes of intellectual property protection.

Third requirement: intellectual property rights Commissions.

The second topic: Jordan Customs Department mechanisms for Intellectual Property protection.

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First requirement: intellectual property protection by intervention.

Second requirement: intervention if the intellectual property owner asked.

Third requirement: cooperation between the customs department and some sectors to protect intellectual property.

First topic: the concept of intellectual property right.

As a result of consider intellectual property rights as legal standards, the interest has increased significantly in it. After economic cultural development and globalization the rights commitment has become essential. Many countries put rules to protect intellectual property rights from violation.

Internationally, two conventions have been signed: the Paris convention 1883 to Protect Industrial Property and Berne convention 1886 to protect Artistic works.

First requirement: definition of intellectual property rights.

Property rights relate to the creations of the intellectual human mind. Intellectual property rights can be defined as proportion of property rights of their owners and allows them to monopolize it for a specific period. Intellectual property rights are legal rights that preserve intellectual inventions in all areas including industrial, scientific and literary of violation.

The law gives authority to the intellectual property owner to work and take the benefits without dispute or objection from anyone for a specific period. (Alk-iswani, 1998, P68)

Thus, intellectual property means creations of the human intellect like inventions, creations. Also copyright which a form of protection is guaranteed by regulations and laws. (Qandilji, 2003, P201)

Intellectual property is also a set of rights that protect human thought like trademarks, drawings, industrial models, geographical indicators, copyright and other intellectual property rights. (Abu Ghazaleh, 2003, P4) Thus, intellectual property rights are legal rights that protect the creations of the human intellect whether it belongs to artistic works, inventions, computer software, trademarks and other marks in the commercial field. (Albarasi, 2006, P16)

The World Intellectual Property Organization defined the areas and limits of intellectual property rights with the local and international trade exchange in the following points: (O'Driscoll, 2002, P3)

- Inventions and scientific discoveries related to industrial products or processes which protected by law.
- Industrial designs and the determination of its final shape which protected by industrial property laws.

- Literary and scientific works which protected by copyright laws, and the performance of artists.
- Audio recordings, radio broadcasts and trademarks.
- The origin and the reputation of the commodity which protected by trademark laws. (Hsadallah and ALshami,2001, P53)
- Protect the confidential information and reduce Illegal competition in contractual licences.

The second requirement: the purposes of intellectual property

The inventors and authors demand the intellectual property rights for many reasons: (Khoury, 2005, P38)

1) The intellectual property owner

The inventor wants to invest his efforts and get the benefits by selling or licensing in intellectual works. The intellectual property system designed to protect intellectual achievements inside and even outside.

However, if the intellectual property products are not protected in other countries it will cause serious harm to the rights owner.

2) Prevent imitation and plagiarism

Infringement of intellectual property rights is represented the rights violation without permission, such as the forgery of trademarks and industrial brands, the illegal production of works by addition or deletion and illegal translations.

All these acts constitute an assault on intellectual property and the most common are: Imitation and plagiarism, whether it is industrial property or artistic works. Due to the negative effects on the individual and society, the intellectual property law came to prevent counterfeiting and fraud.

Third requirement: intellectual property rights Commissions.

The issue of the protection and enforcement of those rights is a participatory issue carried out by the various state agencies: the judiciary, public security apparatus and the General Customs Service.

1) The role of the judiciary in intellectual property rights protection.

After industrial and intellectual development in societies especially during the last two decades, the real importance of intellectual production has emerged and the legal concept of it. (AL Sanhuri, 1991, P275) Due to the role of intellectual property rights in the economic and social development, contemporary legislation and legal systems began to protect intellectual property rights, and this protection has extended to international relations.

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In general the judiciary role in protecting intellectual property rights special laws and the enforcement of these rights ensures the regulation and protection of intellectual property rights internally, in addition to joining the international conventions like the TRIPS Agreement. (Issa Hasan,2021,P33)

What distinguishes the TRIPS Agreement from other international agreements is a special chapter that includes rules and provisions for states in relation to the implementation of intellectual property rights. The chapter includes provisions and procedures that TRIPS considers necessary for rights owners to implement their rights, in addition to certain procedures to prevent the misuse of enforcement procedures. (Farid Hasan, 2007, P19)

The Convention also contains important and new rules in intellectual property criminal protection that is not included in other conventions also put a set of rules to follow. (Alsaghyar, 1999, P32)

2) The role of public security in intellectual property rights protection.

The Public Security Agency is one of the main security agencies in rights protection from infringement.

It has a preventive role to maintain the stability of social and economic interests from violation and a judicial role to verify and detect crimes.

Jordan's security agencies especially public security sought to protect creations, innovations, intellectual property rights and citizens from counterfeit products. As a result an Intellectual Property Rights Protection Section has been established in the Criminal Investigation Department, which began its work in 2008.

3) Customs as an essential part in the protection of intellectual property.

The Jordanian Customs Service is an important institution in the country, as it is one of the pillars of the national economy, encouraging investment, facilitating the movement of trade exchange, combats smuggling, in particular controlling the counterfeit goods, protecting the local community and the environment from dangerous materials and controlling the movement of passengers across the borders of the Kingdom by adopting the best of modern technology.

So we will show the Customs Service's role in protecting intellectual property rights:

The second topic: Jordan Customs Department mechanisms for Intellectual Property protection.

In the light of economic developments, the infringement of intellectual property rights has also grown.so as it is necessary to start searching for new and advanced methods to face types of infringement and illegal trade, whether from counterfeit

or counterfeit products through the activation of government agencies such as the Jordan Customs Administration which consider the main in combating the infringement of intellectual property rights and reducing illegal trade because most products come from foreign countries across borders. Therefore, we will discuss the methods and mechanisms of the Jordanian Customs Department in intellectual property rights protection.

First requirement: intellectual property protection by intervention.

The Jordanian Customs Department is one of the most important government authorities due to the great and dangerous role across the borders and the applying of security, health and economic provisions.

As well as the customs fees which represent an important source of financing in the country, and to encourage trade which is a basic requirement for Jordan's accession to the World Trade Organization, this requires a balance between oversight and the procedures.

With the new global economy and the global trade, the Jordanian Customs Department sought to protect intellectual property and prevent illegal products because it considers an infringement of property rights by giving the authority to customs.

The customs Department can suspend illegal goods under the customs law 4, paragraph d.

The center manager can stop clearance procedures and non-release of goods that infringe the trademark and copyright rights according to the following:

- 1) If there is an infringement of product and content rights the employee writes all the details in report: origin, country of origin, export and import then he give it to the manger to decide.
- 2) The manager of the center decides to stop the release procedures if he is convinced that an infringement has occurred in the report for (24) hours.
- 3) The manager of the center informs the Directorate and the importer his decision that the clearance procedure suspend for 24 hours.
- 4) The manager cancels the suspension decision and informs the center if the decision violates legislation.

The following tables show the achievements of the Jordanian Customs in the field of intellectual property

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Quantities of goods that clearance procedures have been suspended 1/1/2020 to 20/12/2020

Number	Type	Trademark	Quantity	Measuring unit
1	Shoes	8	5670	Pair
2	Clothes	33	37584	piece
3	Personal Care Products	16	785133	Dozen
4	Perfumes	10	2329	Bottle
5	Car spare parts	41	109361	Piece
6	Electricals	5	79852	Piece
7	Smoke	13	22048	Piece
8	Watches	3	3	Piece
9	Bags	5	4856	Piece
10	Food	3	32018	Carton
11	Traditional jewelry	7	115	Kilo
12	Mobile accessories	7	37772	Piece
13	Different goods	12	48757	Various
	Total	163	1.159.828.000	

Source: The source was prepared by the researchers based on the statistics of the Customs Department

Based on the analysis of the data in Table (3-1) mentioned above, the materials that were stopped for clearance:

- Personal care products: due to the high demand for such products which increase counterfeiting, especially cosmetics.
- Car spare parts: due to a lack of awareness in the dangers of using such parts, which spread in the Jordanian markets.
- Electrical appliances: This category of products is widely consume. Due to the increasing number of users led to counterfeiting in order to make profit.

Based on (1-3) above, the majority of products that were stopped for clearance in 2020 were personal care products, car spare parts and electrical appliances. We notice that the majority of counterfeit products are widely consumed products with high demand.

Quantities of goods that clearance procedures have been suspended 1/1/2021 to 31/12/2021

Number	Type	Trademark	Quantity	Measuring unit
1	Bags	15	12055	Piece
2	Clothes	43	119108	Piece
3	Personal Care Products	66	34357	Dozen
4	Perfumes	27	30265	Bottle
5	Car spare parts	26	14986	Piece
6	Electricals	5	9207	Piece
7	Smoke	9	585500	Piece
8	Watches	10	1228	Piece
9	Shoes	24	57857	Pair
10	Mobile accessories	36	33013	Piece
11	Different goods	25	187547	Various
	Total	286	1.073.068.000	

Source: The source was prepared by the researchers based on the statistics of the Customs Department

Through table (2-3), the infringed products that were exported to Jordan in 2021: bags, clothes, electrical appliances, smoke, watches and mobile accessories.

The previous figure (2-3) shows the quantity stopped by customs in 2021. We can conclude the majority of counterfeit products were smoke, clothes and personal care products.

The doctors responsibility to inform the patient of medical risks and its effect in denying medical responsibility

Quantities of goods that clearance procedures have been suspended 1/1/2022 to 31/12/2022

Number	Type	Trademark	Quantity	Measuring unit
1	Shoes	38	36236	Pair
2	Clothes	183	154644	piece
3	Personal Care Products	66	43233	Dozen
4	Perfumes	7	1430	Bottle
5	Car spare parts	31	60910	Piece
6	Electricals	9	55885	Piece
7	Smoke	8	4950	Piece
8	Watches	17	4470	Piece
9	Bags	74	16530	Piece
10	Food	2	4802	Carton
11	Sunglasses	22	2018	Piece
12	Mobile accessories	40	48925	Piece
13	Different goods	179	171181	Various
	Total	676	605214	

Source: The source was prepared by the researchers based on the statistics of the Customs Department Based on table (3-3), Clothes is the most commonly counterfeited product, followed by personal care products. The phenomenon of imitation has affected most of the goods.

Second requirement: intervention if the intellectual property owner asked.

The intellectual right owner can submit a request to the customs to stop a product release if it constitutes an infringement of his right. According to Article 51, Trips convention. (Jamiai, 2004, P8)

As a result of Jordan's accession to the World Trade Organization, the Jordanian legislator applies this procedure to protect intellectual property rights. Customs stop the release according to the right owner's submission and the evidences.

Therefore, the request applicant has the right to inspect the suspended goods, in order to prove his allegations in the court. When the decision received from the court that includes suspend the procedures and releasing the goods, the decision referred to the competent department to apply it.

They can release goods in two cases:

- 1) If the person who request to the competent court does not inform the department within eight days to stop the procedures.
- 2) The competent court decides to stop the procedures and release the goods.

Third requirement: cooperation between the customs department and some sectors to protect intellectual property.

Effective protection of intellectual property rights, whether industrial or literary, cannot be achieved without cooperation between different sectors to combat counterfeiting and fraud.

The significant role of Jordanian customs in intellectual property protection as follow:

1) Cooperation with security agencies

Cooperation with the security services is as they are one of the most governmental sectors accompanying the Customs Department work, especially at borders. The cooperation between the security services in:

- 1) Increase customs officer's strength.
- 2) Information Exchange to face counterfeiting and commercial fraud.
- 3) Sharing cases information that affects intellectual property so that customs officials can take the necessary actions.

2) Cooperation with the Directorate of Industrial Property Protection and Ministry of Industry.

The Directorate for the Protection of Industrial Property plays an important role in the protection of intellectual property. It is concerned with the protection of human innovation trademarks, patents, industrial models and geographical indicators in order to increase domestic and foreign investment in Jordan also encourage commercial activities. The Directorate has sought to improve the level of protection by joining international conventions, amending legislation and cooperating with international organizations that concerned with intellectual property and intellectual property offices in Arab and foreign countries.

In order to achieve an effective level of customs intervention in intellectual property protection, especially industrial property, by contact with the Industrial Property Protection Directorate to identify property rights owners and the characteristics of the original goods. This is reflects positively on the investment environment in the Kingdom and intellectual property protection services.

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3) Cooperation with brand owners.

Intellectual rights owners are the most important link in the process of cooperation in combating counterfeiting and commercial fraud with the Customs Department, as property rights owners are affected by acts of fraud, counterfeiting, so coordination and cooperation between the rights owners and the Customs Department is required to provide effective preventive guarantees against all illegal acts.

The preventive partnership is an agreement between the Customs Department and intellectual rights owners based on common strategies for effective cooperation by information exchange to facilitate intellectual property rights protection task and trademarks. The owner of the property right must also inform the Department of his address to get protection.

The End

The Jordanian Customs Department and other administrative agencies take the appropriate measures to reach implementation of all laws that related to the intellectual property protection, especially who pass through borders of the Hashemite Kingdom of Jordan.

In order to reach the goal of protecting human creativity and trademarks, patents, industrial designs, integrated circuit designs, and geographical indications, the Jordanian Customs Department cooperates with many official and private institutions, including the Industrial Property Protection Directorate, the Anti-Corruption Directorate, the Judicial Council and the Public Security Directorate.

Search results:

We can conclude the most important results:

-Intellectual property protection requires the advanced and effective ways to combat all forms of counterfeiting and protect intellectual effort with the requirements of international protection of intellectual property rights and the national economy.

- Legal and regulatory means should be developed to enhance intellectual property protection and technical capabilities under the protection of the legal, economic and social systems in the country.

Through the study, there are a few recommendations:

- 1) Spread the culture of intellectual property in society, especially among manufacturers.
- 2) Put mechanisms to ensure law enforcement.
- 3) Rehabilitate and train who works in the sectors of the judiciary, customs, and other security services.

References:

- 1) Amir Hatem Khoury, Commercial Patent Office, United States of America, 2005
- 2) Gerald O'Driscoll, Property Rights and Welfare, Journal of Economic Reform, Center for International Private Enterprise (CIPE), Arabic version - USA, 2002
- 3) Haidi Issa Hassan, Laws Conflict in Intellectual Property Matters, Lamar Publishing, 2021
- 4) Hossam El-Din Abd Alghani Al-Sagheer, Foundations of Trade-Related Aspects Agreement in Intellectual Property Rights, First Edition, Arab Renaissance House, Cairo, 1999
- 5) Hassan Jamie, Enforcement and Border Measures Based on the TRIPS Convention, WIPO Publications, Geneva, 2004
- 6) Amer Mohammed Al-Kiswani, Intellectual Property, Al-Jib Publishing and Distribution House, Amman, 1998
- 7) Amer Ibrahim Kandilji, Encyclopedic Dictionary of Information Technology and Internet, Amman, Dar Mubasra, 2003
- 8) Abd al-Razzaq al-Sanhouri, Mediator in Explaining Civil Law, Part VIII, The Ownership Right , Dar al-Nahda al-Arabiya for printing, publishing and distribution, 1991
- 9) Talal Abu-Ghazaleh Organization - Intellectual Property and the Digital Age – Alexandrina library 2003
- 10) Sayed Hassaballah Ahmed Muhammad Al-Shami, - The Arabic Encyclopedia of Library, Information and Computer Science², Cairo, 2001
- 11) Regulation No. 99 of 2021, the Border Measures System for Intellectual Property Rights Protection, issued Paragraph (j) of Article (41) of the Customs Law No. (20) of 1998, Official newspaper No. 4732, 9/22/2021
- 12) Annual reports of Customs Department.
- 13) Instructions of the Jordanian Customs Department No. (7) regarding border measures to protect intellectual property rights, 2000
- 14) World Intellectual Property Organization, Methodology for the Development of National Intellectual ..., 2016
- 15) Bentayebi ,and Bellaoui (2019)(Legal Studies and Research Journal, the number the tow, 2020 , Algeria
- 16) jamaeah Madani, Scientific Journal of Intellectual Property and Innovation Managemen ,number the fourth, Jul2021, egypt