CIVIL LAWSUITS TO PROTECT TRADEMARKS FROM ELECTRONIC INFRINGEMENT (A COMPARATIVE STUDY BETWEEN THE SAUDI SYSTEM AND FRENCH LAW)

DR AHMED MOHAMED FATHY ELKHOLY
https://orcid.org/0000-0003-0666-904X
Assistant Professor of Private Law, Department of law, College of Business Administration, Majmaah University, AL- Majmaah, 11952, Saudi Arabia
Email: am.elkholy@mu.edu.sa

Abstract: As a result of the tremendous development in information technology, websites appeared, which in turn facilitated the great development in trade and its transformation from traditional trade to electronic commerce, so trade became carried out through a world that does not include any physical presence, but communication is done electronically and the volume of electronic exchange expanded, and this development had a great impact on intellectual property rights, especially trademarks, with increased competition, and trademarks were one of the most damaged intellectual property rights. Through what is known as electronic robbery, where after opportunistic people registered websites in the name of trademarks, and when the company that owns the mark wanted to register a website with the mark, it found that there is already a site that it does not own, and if the signatory wanted to pay a lot of money, this resulted in disputes and disputes between the owners of those marks and the registrars of electronic addresses, and we will address through this research the civil lawsuits that the injured person resorts to from registering his trademark to obtain his right if he is subjected to this type of burglary Through civil lawsuits such as unfair competition lawsuit or tort lawsuit approved by the French legislator or through specialized committees approved by some regulations such as the Saudi regulator such as the Committee for the Resolution of Violation of the Competition Law.

Keywords: Trademarks - Unfair Competition Claim - Tort Liability

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1: INTRODUCTION

The world has witnessed a great development in the recent period, this development has led to major transformations in the methods, practices and methods used by business institutions, as they have become performing their business and activities through a world that does not include any physical presence, but through which communication is carried out informationally through a virtual entity, which is the Internet, and this contributed to the increase in the volume of trade exchange between countries and each other, and there was great competition in various goods and services have emerged new terms such as e-commerce that are marketed via the Internet.

Information technology has had a significant impact on intellectual property rights, especially trademarks, as it has facilitated the globalization of trademarks, whose value and presence have increased in the framework of economic growth and increased competition among traders due to the diversity of large markets.

On the other hand, trademarks were one of the most affected property rights as a result of infringement by registrars of electronic addresses, taking advantage of the difference in the registration system of the latter from the trademark system, as many opportunists obtained in the early years of the emergence of the Internet huge revenues from the owners of these marks who were affected by these attacks according to what is known as electronic robbery due to lack of awareness. The owners of these marks are the importance of the Internet as realized by these aggressors, most companies were surprised when they registered their trademark as a website address that it had previously been registered by others, this resulted in disputes and disputes between the owners of these marks and the registrars of electronic addresses, and attempts to resolve these disputes are still going on in courts around the world.

Through this study, we clarified the civil lawsuits that the trademark owner resorts to compensate him for the damage he suffered before the national courts so that he can face these attacks that caused him serious damage by falling on his trademark owned by him, and these lawsuits vary between public lawsuits and private lawsuits, with regard to public lawsuits that the trademark owner may file if an attack occurs by electronic addresses. One of the most important lawsuits that we discussed is the unfair competition lawsuit and the tort liability lawsuit, where the right to the trademark enjoys civil protection and the person who has suffered damage by infringing on his trademark has the right to file a civil lawsuit against the person who caused this assault, demanding compensation based on the unfair competition lawsuit when its conditions are met, or the tort lawsuit.
if its conditions are met. Or some specialized committees such as committees for the adjudication of violations of the competition law.

1.1: Problematic research

Are civil lawsuits such as unfair competition lawsuits and tort lawsuits sufficient for the victim of electronic infringement on trademarks to obtain appropriate compensation, and is the Committee for the Resolution of Violations of Unfair Competition established by the Saudi system sufficient to compensate the injured person or not.

1.2: Importance of research

The importance of this research is to clarify the civil lawsuits that protect trademark owners from infringement of these marks and protect them by filing lawsuits before national courts to respond to these attacks that occurred on the trademark owned by him and compensate for them, specifically clarifying everything related to the unfair competition lawsuit and the tort lawsuit. While clarifying the mechanism resorted to by the Saudi regulator to confront these attacks, all this compared to some judicial rulings based on the French Civil Code.

1.3: Research methodology

This research is based on three methodological axes: descriptive, analytical, and comparative, we first clarify the nature of the civil lawsuits resorted to by the injured in the event of an assault on his trademarks to compensate him for the damage suffered, trying to analyze and compare each of the law issued by the Saudi regulator issued by Royal Decree No. M / 75 dated 29/6/1440 AH Date 8/3/1428 and the executive regulations of the competition system issued by the decision of the Board of Directors of the General Authority for Competition No. 337 dated 25/1/1441 AH with the opinions of jurisprudence and the applications of the French judiciary and the texts of legislation.

1.4: Research plan

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2: UNFAIR COMPETITION LAWSUIT FOR ELECTRONICALLY INFRINGED TRADEMARKS

We will explain here the concept of unfair competition lawsuit, then we will clarify the elements of the unfair competition lawsuit and then the provisions of the unfair competition lawsuit for trademarks electronically.
2.1: Concept and conditions of unfair competition action

In the beginning, when defining competition, we can define it as the relationship between producers and traders in their struggle over customers honestly and legally by that each trader attracts customers by any legal means he sees in accordance with the principle of freedom of competition, but the matter is not absolute, but there are some restrictions on it. If the merchant violates these restrictions and harms another trader, the injured trader has the right to file a lawsuit known as the unfair competition lawsuit. He has the right to demand compensation for the damage he suffered, but he also has the right to demand the cessation and removal of illegal acts along with compensation (Zain al-Din, 2009, p. 60).

2.1.1: The concept of unfair competition lawsuit

Thus, unfair competition can be defined as “committing acts contrary to the law or customs or using means contrary to the principles of honor and honesty in transactions, as it is intended to cause confusion between two commercial establishments or create disturbance between them and would attract customers of one of the establishments to the other or distract the customers of the establishment from it. (Karaman, 2005, p. 234)

As for the Saudi regulator, there was no corporal for the competition that is not legislated in it, and reference was made to the images and practices that he considered unfair competition, for example

1- Selling the good or service at a price lower than the total cost, to remove facilities from the market or expose them to serious losses or impede the entry of potential facilities

2- Reducing or increasing the available quantities of products, in order to arbitrate prices and fabricate an abundance or deficit that is not real. (Article 6 of the Competition Law issued by Royal Decree M/75 dated 29/6/1440 AH)

Through the previous definitions, it is clear to us that the merchant who owns the trademark has the right to claim the removal of the damage and to claim compensation through an unfair competition lawsuit if any damage is caused by the competition of his trademark illegally, based on the rules of tort liability, which is based on the fact that any person who suffered damage due to the fault of another person is obligated to compensate.

And we must differentiate between unfair competition and prohibited competition, as prohibited competition is a competition that the state sometimes intervenes and prevents it with a legal text and the main goal is consumer protection, for example, determining the weights of some goods, and competition may be prohibited by agreement of the parties and not by a legal text, such as that the agreement between the employer and the productive traders is not to compete with him in the same brand that belongs to him

There is also what is known as parasitic competition, when a person takes advantage of the fame and good reputation that others have legitimately acquired as a result of his personal effort without necessarily leading to any danger to the merchant or confusion affecting the public, for example, a person using successful advertising methods prepared for a particular category belonging to others in order to attract customers and convert them towards goods of another class completely different from the first. (Al-Mawajda, 2013, p. 101)
2.1.2: Elements of the competition lawsuit

There was a dispute between jurisprudence and the judiciary on the legal basis on which the lawsuit of competition is based and they agreed that it is based and based on the tort lawsuit and therefore the elements on which the tort lawsuit is based must be available and they are three pillars: Error, damage and causal relationship. The error is the existence of competition in illegal ways between two individuals so that there is an act contrary to commercial laws and customs.

2.1.2.1: Error

We must first know that the error is a breach of a legal obligation, as the French law stipulates that "as an act whatever it causes damage to others, the one who caused the damage by his mistake must repair it" (Article No. 1240 of the French Civil Code) and in order to find the error in the unfair competition lawsuit, it is first required that there is competition between two existing projects and the two projects aimed at profit. But if the harmful act occurs outside the framework of competition, the unfair competition lawsuit does not exist, but we are dealing with an ordinary liability lawsuit. It is not enough just to have a perfect match between the two projects, it is enough to have some kind of similarity between them, which leads to any of the two projects affecting the customers of the other project, and not only that, but the similarity must cause a kind of confusion and confusion among the consumer or reduce the value of the competing commercial shop or the goods it deals with or the reputation of the merchant or the form of the act is an assault on the internal system of the commercial project or intended to cause General disruption in the market until the damage is achieved and the injured party has the right to file a lawsuit for unfair competition. (Said, 2011, p. 349)

2.1.2.2: Damage

One of the important elements of the unfair competition lawsuit is the existence of damage, whether this damage is material damage or moral damage that affects reputation, and whether the damage is serious or trivial, and there is no place for liability unless the unfair competition results in damage, but if the damage is likely to occur, the trademark owner may take precautionary measures in order to prevent the occurrence of this damage or can keep evidence until the actual damage occurs and submit it to the judiciary until he obtains appropriate compensation for what he suffered. From harm.

2.1.2.3: Causal link

For the establishment of responsibility for the illegal property, there must be a causal link between the error and the damage, the injured person must prove that there is a direct relationship between the error and the damage suffered by him, in the sense that the damage caused to the owner of the trademark is a result of the act or behavior issued by the aggressor on the mark, then civil liability is established, but if this relationship between error and damage is absent, civil liability does not exist, and it is scheduled to extract the causal link between the error and damage from Questions of fact by which the Court of First Instance is independent.
However, due to the special nature of the unfair competition lawsuit, it is sometimes difficult to prove the causal link, so the responsibility of the perpetrator of the unfair competition act in these cases is not proven. (Bayadiya, 2007, p. 64)

2.2: Provisions of the Unfair Trademark Competition Lawsuit Electronically

We mentioned earlier the general rules of unfair competition, but can the provisions of the unfair competition lawsuit apply to trademarks electronically? In fact, yes, this can be authentic in cases where the mark is not registered, but it was used by its owner, because criminal protection goes to registered trademarks only, and the competition lawsuit can be filed in a complementary manner by the owner of the registered trademark along with criminal protection in order to put an end to all types of disputes that arise between trademark owners and electronic aggressors. Therefore, legal protection extends to the crimes stipulated by law such as counterfeiting and imitation of the trademark of this trademark electronically and also extends to all actions that are considered unfair competition of these marks according to one of the electronic images. (Matar, 2009, 145)

Hence, the owner of the trademark whose mark has been infringed has the right to file an unfair competition lawsuit before the courts against the owner of the infringed website, whether his mark is registered or unregistered.

While the principle of precedence in the registration of electronic addresses would prevent the owner of famous marks from registering electronic addresses that match and represent their marks on the Internet, he cannot deprive the owners of those marks from resorting to the judiciary in order to prevent others from registering identical or even similar electronic addresses to their trademarks, based on the claim of unfair competition.

One of the conditions for accepting a lawsuit for unfair competition in the assault on traditional trademarks is the existence of commercial competition between two projects or traders when they were practicing the same commercial activity or a similar activity, it is also required that there is competition between the activity of the trademark owner and the activity of the electronic infringer, if the owner of the trademark assaulted by the website filed an unfair competition lawsuit against the owner of the site, i.e. the registrar of that site and the court proved that, it shall rule for the owner of the trademark by compensation. (Ghannam, 2008, p. 167).

One of the judicial applications in this regard is the judgment issued by the Lille Court of First Instance on July 10, 2001. In this judgment, the court convicted the conduct of the company (C) that registered the e-mail address “boistropicaux.com”, as it assaulted the trademark and trade name Bois Tropicaux owned by Le commerce du Bois. The court based its judgment on the confusion and confusion that arose in the minds of the public as a result of registering the e-mail address and practicing similar activities through it. (Tabshat, 2009, p. 235)

2.2.1: The concept of electronic error in unfair competition:

In the field of unfair competition on the Internet between the electronic address and the trademark, we find that the issue of confusion and confusion is one of the most common and common forms of error. The use of this address by the owner of the e-mail address imitating the mark of the competing project leads to the embezzlement of his customers and attracts them to the e-mail address. Hence, customer theft, which results in significant damage to the trademark, is considered and these are
the predominant image of error in the unfair competition lawsuit on the Internet. The rest of the
other images are rare, as shown by the rulings issued in the field of electronic address disputes. One
of the judicial applications that show the image of confusion or confusion is the judgment issued in
the Guy Laroche case. In this case, the Court noted that when customers on the Internet access the
disputed website, it refers them to the site of the competing company and not to Guy Laroche, the
company that owns the trademark, thus losing many customers and causing serious damage.
When customers on the Internet go to the disputed email address, they reach the website of the
competing company and not to the company Guy Laroche, the owner of the trademark, which loses
many customers (Azan, 2006, p. 450).

The provisions of unfair competition apply even if the registered company does not attempt to attract
customers to its lounge, but as soon as the registration and use of the e-mail address results in
attracting customers in favor of another company, as long as the confusion caused by the registration
of the e-mail address occurs. It is sufficient for the provisions of unfair competition to provide the
intention to attract customers to the owner of the website so that his intention is clear even if this
has not already been done. (Zain al-Din, 2009, p. 86)

In application of this, the Nanterre Court of First Instance concluded in its judgment in the SER case
that the defendant W3 System Inc. had caused significant damage to the plaintiff company SER by
attracting its customers as a result of registering its e-mail address.

Although there was no competition in the first place between the defendant company and the
plaintiff company due to the different activity practiced by both companies, the court held that
customers using the e-mail address “sfr.com” find themselves in front of the website of the competitor
of SER, France Telecom. It linked the e-mail address to the trademark of its competitor company.
The court considered that such conduct on the part of W3 System Inc creates significant damage and
makes it civilly liable for damages caused on the basis of unfair competition and generates its civil
liability on the basis of unfair competition. (Badawi, 2006, 109)

We conclude from this that the judiciary has been keen to provide the greatest possible protection
for trademarks on the Internet, as the mere registration of the electronic address was considered an
infringement on the trademark

2.2.2: Electronic damage in unfair competition:

To determine liability, we are not satisfied only with the occurrence of error, but must cause damage
to the owner of the trademark, and damage in general is “the breach of a legitimate realized interest
of the injured person, i.e., harm to any person in one of his rights or in his legitimate interest” (Kilani,
2011, p. 97). The damage has several forms, so it affects the person in a financial interest, so it is
material damage and may affect his reputation, so it is moral damage

To clarify the nature and ways of damage to the trademark, it does not depart from attempts to
attack the trademark by reducing its value through its use by others and achieving illegal material
gains and profiting from this mark, and this is done by attracting consumers and customers of that
mark to the products and services of competing companies, and thus the owner of the original mark
inflicts great damage as he is deprived of a large part of his customers as a result of this assault, and
this is the result of the confusion in which consumers fall. The damage caused to the rights of
trademark owners can be moral damage, by linking trademarks electronically to websites that violate morals and morals, which negatively affects the image of that mark among consumers and ultimately results in significant material damage as a result of leaving Consumers of the services and products represented by that brand and their orientation to services and products of competing marks.

One of the applications of this case is the judgment issued by the Marseille Court in 1998, in this case the court found that there was unfair competition on the part of one of the old workers of Lum service by registering the e-mail address Lumiphmra.com imitating the trademark owned by this company, and in addition to imitating the trademark, the court concluded that there was unfair competition on the part of this factor represented in that he used the company's mark as an e-mail address for it on the Internet, and he offered products Match with the products of this company, which are pharmaceutical products sold over the Internet, the court relied on the similarity of the products between the e-mail address and the trademark to estimate the existence of unfair competition. (Tabishat, 2009, 237)

In our opinion, the conditions of the unfair competition lawsuit, represented in error and electronic damage and the causal relationship between them, have been met in this case, the error was achieved by the worker of Lum service Company registering its trademark as an electronic address Lumiphmra.com™ Not only that, but he also offered products similar to the products that this company specializes in (drug products), as well as the availability of the element of damage in that incident, where the result of the behavior of this factor depriving the company that works for it from registering its trademark as an electronic address represented by the Internet through which its products are displayed, and also may result in the display of products similar to the company's products to cause confusion among the public dealing with it by believing that those products belong to this company, as well as the availability of the causal relationship corner that the damage caused to the company is caused by the fault of this factor, so the court concluded that there was unfair competition on the part of this factor. (Said, 2001, p. 345).

2.3: Provisions for adjudicating unfair competition disputes in the Saudi system

Unfair competition contains some illegal behaviors that caused trademark owners many damages, so the Saudi system has established special committees that adjudicate on unfair competitions, and these committees have a specific formation and procedures dedicated to them, according to what was stated in the new competition system issued in 1440 AH.

2.3.1: Formation of the Committee for the Resolution of Competition Proceedings and Determination of its Competence and Nature of Decisions

Article 18 of the Competition Law issued in 1444 AH stipulates that the Committee consists of five members and the Law stipulates that one of these members should be specialized in the regulations (Article 15 of the Competition Law issued by Royal Decree 2/25 dated 4/5/1425 AH)

The law also stipulates that this committee shall have a secretariat of advisers, administrators and a secretary other than members of the committee, and the secretary shall have a set of tasks, including receiving the lists of the public prosecution from the prosecutor, informing the parties to the case of the date of the committee, and editing the minutes of the meetings (article 74-75-78 of the competition law issued by Royal Decree 2/25 dated 4/5/1425 AH).
Article 18 stipulates that one of the original competencies of the Committee for the Resolution of Violations of the Law and its Regulations and the imposition of penalties stipulated in the Law is to be the Committee.

We find that there are exceptions approved by the new system, and this is what was stated in paragraph 1 of Article 12 related to the practice of business by members of the Committee, where the Authority or members of the Board were prohibited from doing business except for members who choose for themselves, and also the employees of the Authority were prohibited from practicing any profession that conflicts with the work of the Authority in order to ensure the integrity and impartiality of the Authority with the adoption of the Board of Disclosure and Transparency Rules. The system tightened the penalties on those who violated and disclosed secrets related to the work of the members of the Council or the employees of the Authority with the intention of achieving material or moral benefit, as he put a fine of one million Saudi riyals, which is a large amount, but this tightening came to preserve the confidentiality of information in the Committee, which is um Mahmoud (M 24 of the Competition Law issued by Royal Decree 2/25 dated 4/5/1425 AH)

2.3.2: Procedures for filing and considering a competition action before the Commission

Before talking about the procedures for filing a competition lawsuit before the Committee, we should first indicate the place where the Committee is held, as the system stipulated in Article No. 71 of the Executive Regulations that the headquarters of the Committee shall be held at the headquarters of the Authority and that it may be held, when necessary, in another place, provided that they include the Chairman or his deputy, as for the time of the meeting, the system did not specify the time of the Committee's convening and left it to the discretion of the administration.

The lawsuit is filed through the Attorney General appointed by the Authority's Board to file the lawsuit with a list to be deposited with the Committee's secretariat, provided that this regulation must include a set of data, including:

1. Full name and address of the defendant establishment according to the register
2. Subject matter of the lawsuit and the plaintiff's requests
3. Date of filing of the statement of claim

The Secretary of the Committee shall notify the parties to the case of the date of the first hearing at least 15 days before the specified date.

The regulation stipulates that the meetings of the Committee shall be held in public, unless it deems them confidential for the benefit of its discretion (Article 62 of the Executive Regulations of the Competition Law issued by the Authority's Board of Directors Resolution No. 337 dated 25/1/1444 AH).

The regulation also stipulates a set of procedures taken by the Committee during its consideration of the lawsuit, including summoning witnesses, addressing government agencies and others to request the documents and information they need, and seeking the opinion of specialists and experts in the cases pending before it, and the Committee may decide to make the pleading by visual or audio means of communication to facilitate the parties to the lawsuit (Article 82 of the Executive Regulations of the Competition Law issued by the Authority's Board of Directors Resolution No. 337 dated 25/1/1444 AH)
2.3.3: Legal nature of and objection to Committee decisions

The Competition Law stipulates Article No. 18 that the decisions of the Committee shall be issued by majority and shall be reasoned and the decisions of the Committee shall be considered preliminary decisions that may be challenged by cancellation before the competent court and the system and regulations specified a period of 30 days to appeal against the decision calculated from the date of informing the defendant of it or from the date specified for its receipt, if the period expires without grievance, the decision is considered final (Article18 of the Competition Law issued by Royal Decree 2/25 dated 4/5/1425 AH).

As for the objection to the committee's decision, Article 85 of the Law stipulates that the objector may swallow the Authority within 3 working days from the date of his grievance, indicating the number of the case registration with the competent court (administrative courts).

The decisions of the Committee shall be effective immediately upon their issuance and shall be enforceable from the date of their notification or from the date specified for their delivery or from the date specified for their delivery to the parties unless a judgment is issued by the competent court to suspend the implementation (Article 86 of the Executive Regulations of the Competition Law issued by the Board of Directors of the Authority for Competition No. 337 dated 25/1/1444 AH).

3: TORT CLAIM

There is no doubt that liability in civil law is based on several foundations, the first of which is contractual liability based on breach of a contractual duty and tort liability based on breach of legal duty and the source of this breach is a mistake that caused damage to others whose owner is obligated to compensate. The unfair competition lawsuit is a special application of tort lawsuits, and by applying it to the trademark owner, he can benefit from the provisions of tort liability by filing a tort lawsuit if its conditions are met and the trademark owner can prove the infringement by proving its elements.

3.1: Dilution error

One of the ways to attack trademarks is for a person who has nothing to do with the trademark to register a website in the name of the mark and he has nothing to do with this mark whether from near or far If a person searches for the trademark, this site appears to him and displays other products that have nothing to do with the product in place of the mark, so the customer is deceived. We thought that these products follow the trademark, so American law and French law considered this a kind of assault on the mark Commercial. (Al-Atiyat, 2008, p. 362)

This type of error can be defined as “the diminution of the ability of the famous mark to identify and distinguish goods and services without regard to the presence or absence of competition between the owner of the famous mark and other parties or the possibility of distortion, error or deception.” (Al-Atiyat, 2008, p. 363)

Thus, the owner of the infringed mark has the right to file a civil lawsuit according to the tort lawsuit, provided that its elements are available, which is the error, and this error is sufficient to convict the electronic address registrar. In this case, it is sufficient for the owner of the offended mark to prove that there is a registration of an electronic address in the name of the mark by third parties, and if
the court ascertains the existence of this registration and that there is no legitimate right or benefit for the electronic address registrar. From this registration, it is required to compensate the trademark owner for the damages suffered by him as a result of this registration (Matar, 2009, p. 204).

There are several examples that illustrate the idea of error represented in the assault on the image of the trademark according to the theory of error based on the idea of mitigation and summary of the incident A judgment in the Vichy case of the Nanterre Court of First Instance in 1999. In this case, the court affirmed that “registration of the Vichy.com email address” resulted in the company's customers on the Internet when they went to this site expecting that they would find Vichy products owned by the company, Loreal, they do not find these products. This situation causes the company that owns the trademark to cause serious damage to its image and assesses the liability of the person who caused it on the basis of tort liability. (Younes, 2005, p. 164)

We note that the French judiciary has expanded the issue of protection provided to trademark owners from piracy of electronic address registrars, making it consider the mere registration of an electronic address an attack on the image of the trademark in the eyes of its customers sufficient to convict the electronic address registrar. (Tabishat, 2009, p. 295)

3.2: Error on the basis of abuse of the freedom to register the electronic address

The French judiciary has embraced the idea of error based on arbitrariness in the freedom of registration of electronic addresses in order to protect trademark owners from piracy of electronic address registrars or arbitrary registration of addresses (Ghannam, 2008, p. 167).

This is due to the principle on which the registration of electronic addresses is based, i.e. the principle of precedence in registration or "first come, first served" so that any person who meets the conditions may register what he wants from the electronic addresses as long as they are available and have not previously been registered and it is not required that the person has a legitimate right to the designation he chose or not Some have taken advantage of this principle and deliberately registered electronic addresses identical to the marks and names belonging to others, so this was considered arbitrary in Freedom of registration and not abuse of the address. Therefore, this situation differs from the case of abuse of the right, which is based on the idea that the person owns a right and abuses it.

The French judiciary has used the idea of abuse of freedom of registration instead of abuse of the right of registration because the person registered an address over which he has no legitimate right or interest.

One of the applications of that judgment issued by the French judiciary on the case of (Celia), where the court rejected the ruling to imitate this mark on the basis of the lack of the principle of assignment, i.e., the asymmetry of the products and services represented by the trademark and the electronic address, and based its judgment on the deposit of the mark in category (38) for the service of communications, e-mail, etc. (Younes, 2005, p. 169)

The court convicted the defendant based on the arbitrariness of the freedom to register the electronic address and compensation and the suspension of the use of this address, and the judgment stated, "It is clear from the facts of the case that Mr. J, the registrar of the electronic address
(Celio.com), had the intention to register this address for resale to the rightful owner of the mark ((Celio), and thus he committed an error for registering the electronic address represented in the abuse of the freedom to register an address over which he has no legitimate right or interest. We find that the matter has spread strongly recently the registration of addresses corresponding to trademarks arbitrarily with the intention of obtaining illegal interests from trademark owners, so the French judiciary hastened to develop a mechanism for this type of error in order to provide adequate protection for trademark owners and compensate them appropriately. (Tabishat, 2009, p. 305)

As for the Saudi regulator, it protected the trademark from infringement, whether intentionally or unintentionally, and stipulated that it is not permissible to infringe on trademarks by any act that harms the owner of the mark, and the basis of that protection for the famous mark is its registration according to the Saudi Trademark Law, which stipulated the rights owned by the owner of the famous mark, including the right to compensation, because the claim of liability Tort is based on the idea of harming the owner of the famous mark and is considered an illegal act or act, which achieves damage to the trademark.

4: CONCLUSION

With the progress of technology, there has been a significant increase in the infringement of the rights of others, including the assault on trademarks electronically, as the Internet has allowed companies to create websites to display their products and brand, and these sites can only be accessed through the electronic addresses that you specify over the network, and these sites can only be accessed through the electronic address, and because of the rule governing the registration of these addresses, "Precedence in registration, each company has a special address And special to her.

A legal problem has arisen known as electronic piracy or arbitrary registration of trademarks according to the principle of precedence in the registration of the electronic address, some register a website similar to the famous trademark with the intention of benefiting from its fame, harming it or imitating it.

As a result of this increase in the assault on trademarks, it was necessary to address them and provide legal protection for trademarks, and we tried through our research to clarify the opinion of the French legislator and the Saudi regulator in civil lawsuits and the possibility of applying the provisions of the unfair competition lawsuit and the tort lawsuit to those attacks.

5: RESULTS

1- There are several forms of electronic assault, such as registering an electronic address in an identical or similar image to an existing trademark in order to resell it to him for exorbitant amounts

2- Counterfeiting and electronic piracy of trademarks is a phenomenon that negatively affects national products, as well as threatens the safety and security of the country economically, and this requires more emphasis on markets and products.
3- Trademark infringement may occur by the bodies in charge of registering electronic addresses in certain cases when the registration of the address ends or when the electronic addresses are tested or stored in order to benefit financially from them later.

4- The extent to which the provisions of unfair competition can be applied to the infringement of trademarks electronically, and there are many forms of error on which the behavior of unfair competition in the electronic field is based with the multiplicity of forms of infringement of marks electronically

5- The Saudi system established a special committee to adjudicate violations of unfair competition by competitors and made it have procedures and formation of its own and how to object to its decisions.

6: RECOMMENDATIONS:

1- The need to introduce amendments to trademark laws to confront the phenomenon of domain name piracy so that it clearly states that registering a site name that is identical or confusingly similar to a trademark constitutes an infringement on the trademark

2- The need to reconsider the work of the Committee for the Resolution of the Competition Law and study the possibility of including it in the commercial courts, because the work of the Committee relates to commercial businesses that fall within the jurisdiction of commercial courts

3- Provide an opportunity for judges or members of the Committee for the Resolution of Unfair Competition Disputes to attend workshops and seminars that will qualify them to understand issues related to the Internet and e-commerce, especially technical issues related to trademarks from an electronic point of view.

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