

The Principle of Exhaustion of Intellectual Property Rights in Jordanian Legislation

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Abstract

Although the principle of the exhaustion of intellectual property rights has not been adequately studied and explained by law makers, and despite the importance of this principle, which reduces the legal protection of intellectual property rights. Although this principle operates in many countries of the world, the Jordanian legislature has not regulated the subject of the principle of the exhaustion of intellectual property rights in clear and explicit terms, particularly in Jordanian legislation governing intellectual property rights.

Keywords: The Principle of Exhaustion, Intellectual Property Rights, Jordanian Legislation.

A. INTRODUCTION

An international exhibition of inventions was held in Vienna in (1873). But he failed because of the foreign inventors' symptoms of participating in this international exhibition. For many reasons, the most important of which is that their inventions are stolen, invested and commercialized, without any rights, whether material or moral. This has led States to take a firm stand in this situation and has resulted in a serious effort to protect the rights of intellectual property owners not only on a domestic or national scale, but also at an international level, where many international conventions have been concluded and concluded. The first international convention was concluded to achieve the aim of the (1883) Paris Convention for the Protection of Industrial Property. The scope of these conventions, which covered only industrial property, was developed into the protection of intellectual property and was guided by the Turpes Convention. The TRIPS Convention has addressed intellectual property rights in seven parts: General provisions and basic principles, Standards on the Provision, Scope and Use of Intellectual Property Rights, Acquisition and continuation of intellectual property rights and related procedures among their parties, prevention and settlement of disputes, transitional arrangements

Institutional arrangements and final provisions

These conventions have sought to give legal protection to inventions and innovations, thereby encouraging creativity and discrimination. They are therefore aimed at promoting technological innovation, technology transfer and diffusion. for the common benefit of producers and users of technological knowledge, in a manner

that brings about social and economic well-being and a balance between rights and duties.

However, concerns have begun to exist from most developing countries about the harsh clauses placed in the body of this Convention for the protection of intellectual property rights because of the disruption of the growth, development and prosperity that most developing countries seek. As a result, developing countries have held a number of meetings in order to reject this injustice by developed countries, including the United States of America. However, these endeavours failed in the face of the tenacity and intransigence of the United States of America, which led the United States Congress to approve the addition of section (301) super to the American Trade Act¹.

Accordingly, the United States Government has been given the power to impose economic sanctions on States that refrain from protecting intellectual property rights (small, without a year of publication).

This is a reality that has forced developing countries, particularly Arab countries, to seek legal means available under international conventions, in particular the TERPES Convention, to reduce the severity of this Convention so that it is not an obstacle to advancing progress. At the same time, it had no impact on health and technology, and one of the most important principles of international operation was the exhaustion of property rights.

This study, which focuses on the issue of the exhaustion of intellectual property rights and the role of this principle in mitigating the rigidity imposed by the Terbes Convention, and as one of the mechanisms for the provision of appropriate goods at appropriate prices to consumers, therefore came about.

The analytical approach has been followed in setting out the position of international conventions, in particular the Terbes Convention, on this principle.

Hence the problem of the study was to indicate what was meant by the principle of exhaustion of intellectual property rights, whether the Jordanian legislator had adopted that principle, whether the appropriate legal rules had been established to regulate the principle and what the legal consequences of the adoption of the principle were for the holder of the right.

The above questions will be answered by dividing this study into two researchers. The first will speak of what the intellectual property right is and the second will address what the right of exhaustion is and the effect of this principle on the holder of the right.

First Searcher
What intellectual property right

The great interest in intellectual property rights is due to the fact that they are considered to be treatable, seized and traded financial rights. These rights have a special nature, namely, their non-material moral nature, which cannot be retained and transferred without the consent of the owner.

As a result, the universal information of human rights, which has recognized the right, has made moral and material use of the work of inventions and literary and artistic compositions. Intellectual property has been defined by the Egyptian Centre for Intellectual Property and Information Technology as: "All that is produced and created by the human mind and mind are ideas that are embodied in concrete forms that can be protected, namely, intellectual and mental innovations and innovations such as inventions, labels, drawings and models" (Zidane, 2020).²

Based on this definition, we find the characteristics of intellectual property to be moral (right of investment) and material (right of investment), but is this right absolute or restricted in practice, which has imposed itself on the many disadvantages that require a review of intellectual property rules rather than their elimination³.

These rights, which have been protected by the International Convention and, in particular, the TERPES Convention, the fourth article of which is protected under the domestic laws of the States of the Union by anyone who has filed an application for a patent or registration of a utility model, a drawing, an industrial model, or an industrial or commercial mark.

He and his successor have a right of priority, as the application is considered registered in all States signatories to this Convention on the same date and has a right of priority to ownership over any subsequent application made in those States. But is this protection absolute for life what is the case with certain types of rights in kind, such as the right to property, and is this right not subject to statute of limitations or to non-use?

Is it possible for a State to acquire this right for the public good, as in some types of rights in kind, that answering these questions requires a researcher to look into what intellectual property right is by looking at the characteristics of intellectual property right in section I, and then we will address in section II the elements of intellectual property right.

Section I

Characteristics of an intellectual property right (Abedi, 2021)⁴

The right to property is characterized by many characteristics, including general characteristics. It is a timely prohibited umbrella right. One of these features is that it responds to a particular intangible thing. The characteristics of the intellectual property right will be examined in support of the text of article (21)⁵ of the Patent Property Rights.

The patent owner acquires the following rights

1. Prevent third parties from obtaining the consent of the patent owner for the manufacture, exploitation, use, sale, sale or import of the product that is the subject of the invention, if the subject of the patent is a product.
2. Preventing third parties, if they do not obtain the consent of the patent owner, from using the method of manufacture, from using the product made directly in this way, or from offering it for sale, sale or import, if the subject matter of the patent is the method of manufacture.

B. The owner of the patent has the right to waive it to others or to contract the licence to exploit it.

Article(26)⁶ Rights of trademark owner: Subject to any limitations and conditions in the registry, the registration of a person owning a trademark gives that person the right to use independently that trademark on the goods for which it was registered. If registration is legal, if two or more registered persons are owners of a single trademark (or a very similar mark) belonging to the same goods, none of them shall be entitled to travel using it under that registration. (Except to the extent that the Registrar or the Supreme Court of Justice have appointed him/her rights), they each have the same rights as if they were the only registered owners of that mark.

Article(9)⁷. An author shall have the right to exploit his or her compiler in any manner of his or her choice. No other person may engage in any conduct as set out below without the written authorization of the author or his or her successor:

- A. Reproduction in any way or form, whether temporary or permanent, including photography, cinematography or electronic digital recording.
- B. Translation into another language, quoting, music distribution or any modification.
- C. Commercial leasing of the original or a copy of the compilation to the public.
- D. Distribution or copying of the classifier by sale or other transfer of property.
- E. Import of copies of the compiler in commercial quantities, although such copies have been prepared with the consent of the holder.
- F. Transfer of the compiler to the public by means of recitation, casting, presentation, acting, radio, television, film or other means.

On the basis of the foregoing, it turns out that intellectual property properties.

First: It's a universal right.

This right gives the holder the right to take full advantage of it in order to obtain all of its advantages, which are the powers of use, exploitation and conduct, which has the legal consequences that no one can prevent it from such authorities unless there is agreement or under the provisions of the law (El Obeidi, 2021)⁸.

Second: It's a right.

The fact that the owner is entitled to this right alone is the exclusive benefit of his property, and that he has the right to prevent any person who wishes to participate in it, even if he is not harmed by this work, but in this type of right, which has a

special nature in benefiting others from this work, he is subject to special conditions and provisions relating to the nature of the work.

Third, it's a temporary right.

The second element is the owner of the right. The property is described as the relationship between the place of ownership and the property. The property remains as long as the business remains and the physical right to intellectual property is a temporary right, because it enjoys the legal protection established by law, since such a legally prescribed period of time becomes public property.

Thus, article (30)⁹ provides that the period of protection shall apply to the financial rights of the author provided for in this Act for the entire life of the author and for 50 years after the death of the author, or after the death of the last surviving author of the author, if they are more than one author. For the purposes of calculating the period of protection, the date of death shall be deemed to be at 1 January of the year following the actual date of death of the author. Article(17)¹⁰ also provides for the protection of the invention for 20 years from the date of deposit of the application for registration in accordance with the provisions of this Act.

Fourth: Title is extinguished by non-use

Thus, article 22 (b)¹¹ provides that if the owner of the patent fails to exploit the patent or if his or her exploitation of the patent is insufficient before the expiration of three years from the date of the patent or four years from the date of filing of the application for registration of the patent, that is, the two terms of office expire at the end of the day, the Minister may decide to grant the patent owner an additional period of time if he or she finds that reasons beyond the control of the patent owner have prevented it.

Accordingly, the researcher considers that the intellectual property right is extinguished by non-use, resulting in the Minister granting a licence to exploit the invention to the non-patent owner and without his or her consent in the public interest.

Having explained the characteristics of an intellectual property right, the researcher found that they were compatible with this type of financial right, and in the interests of the private, while the researcher found that the right had elements.

Section II

Elements of an intellectual property right:

The universal right of intellectual property gives the owner all possible powers over the thing, which include use, exploitation and disposition. These powers will be clarified:

First: resuscitate

This element is intended to mean that the intellectual property owner is entitled to use the property in question according to its nature, such as the use of the book to read or the invented object and to illuminate the use of intellectual property for any

other purpose as long as it is legitimate, and that such power may be granted to third parties, which is on a narrower scale than the authority of the owner bound by agreement or by law (Obadat, 2020)¹².

The author of the copyright intellectual property right also has the right to decide whether or not to publish the compiler. According to this element, an owner has the right to grant intellectual creation or invention as an extension of his personality (Zidane, 2020).¹³

Second: Exploitation

According to this element, the owner can obtain the fruits of the property subject (Obadat, p. 2020). In addition, the owner of the right has the right to submit the generator or inventor to the public, as well as the right (El Far, 2019).¹⁴

Third: Conduct

A material act referred to in the article of the object, called "material disposition," in which the author may dispose of it to a third party, shall be regarded as a part thereof entrusted to him free of charge or in exchange.

On the basis of the foregoing, the researcher considers that this type of property has a special nature. This nature is derived from the type of right to be protected, especially with respect to the intangible or non-tangible aspect to which its particular nature has been imposed, in terms of both its characteristics and its elements.

What is most important is that it is a right that is for a fixed term, unlike rights in kind, which are indefinite, but which has long-term benefits.

However, the general benefit of this right at the near level may fade after a certain period of time, which may have impeded the growth and prosperity of States. At the same time, the right to property is given, as it turns out, the investment right of the owner of the right to import the protected product from the market of another State. Thus, by applying this prohibition to its release, it has many consequences, including giving the right, whether it relates to items, trademarks or patents, to divide markets, to put out products and to price them from State to State.

This has created a significant gap in economic progress and technology among States, which has led States affected by this legislative imbalance to seek legal norms capable of avoiding such a gap. One of the most important of these legislative principles is the principle of international exhaustion of intellectual property rights. In this section, therefore, the definition and concept of this principle, the conditions for the operation of this principle and the effect of this principle will be set out.

Second Searcher

What is the principle of exhaustion of intellectual property rights

What has been shown in the past with regard to the protection established in intellectual property that gives the right holder the power to induce and exploit this power, which is almost absolute, has caused harm to developing countries because of these international laws and conventions that prevent third parties from using these rights associated with intellectual property, thereby impeding their progress, development and enhancement. But as we study this subject, we ask the following

questions: Is this right absolute or restricted? And what are the legal ways to break these rules? Does the principle of international exhaustion extinguish the right of the holder of intellectual property to prevent third parties from using that right?

What rights are covered by the right of exhaustion of intellectual property and whether the rights of estoppel end with the first sale of the product or the right to intellectual property will be answered in section I: Definition of the principle of exhaustion of intellectual property rights and then in section II the conditions for the use of the principle of exhaustion. Then in section III the types of exhaustion of intellectual rights will be addressed. After termination, in section IV the position of some conventions and legislation on the principle of exhaustion of intellectual property rights and, finally, in section V, the effect of the principle of exhaustion of intellectual property rights will be explained.

Section I:

Definition of the principle of exhaustion of intellectual property rights

"The sale by the holder of intellectual property rights of a product protected by law and the outcome of that right in accordance with the principle of exhaustion extinguishes his right to prevent third parties from using or reusing the product".

The doctrine of exhaustion of IP rights is the principle that, once an article has been placed lawfully on the market by the IP rights owner or with his consent, there will be no infringement of those IP rights if that article is subsequently placed within a certain territory by a parallel trader. Exhaustion can apply nationally, regionally and internationally depending on the applicable legal regime in a particular territory, and the regime that applies in a specific territory can be mixed or asymmetrical¹⁵

The Principle of International Exhaustion means that the right of the patent owner to prevent the import of protected products by third parties as soon as they are placed on the market of a State either by itself or by one of its followers or with its consent (El-Saghir, 2009)¹⁶

It is intended to illuminate "that once a product protected by intellectual rights has been sold to an independent party in legitimate ways, in good faith and in the will of the inventor, the rights of the patent holder or intellectual rights to determine the conditions under which the product or commodity can be resale will benefit from the first sale, and the price cannot later be controlled in the second sale forever" (Saadi, no year)¹⁷.

It also states that "when a product or its agent sells a patented product in good faith to an independent party, the rights of the patent holder are exhausted and terminated in determining the conditions under which the product is re-sold again, and if there is a difference in prices between the customers of the original product, any customer may engage in a pure transaction to exploit these differences and differences in prices" (Mwalimu, 2012)¹⁸

In order to give effect to this principle, certain conditions must be met for the use of this principle.

Section II

Conditions for the use of the exhaustion principle:

1. This right is protected by intellectual property rights
If this right is not protected by the provisions of the law if the conditions are met, it enjoys the legal protection accorded to it by the law. If this product is not protected by the law, the present situation does not require the operation of this principle or rule.

2.If the holder of this right has not waived his right to the power of exhortation and use, if he has waived this right, then he has no claim to use this principle, because with such a waiver, he is allowed to use this product or right, even if it is protected from the law.

3.That this right has not lost the time for protection of this right over intellectual property, since the right has a legal period within which it is subject to legal protection. After that period, it cannot claim any right due from the use of this product or the right over intellectual property.

4.If the product has not been used by sale, donation or renunciation, all such conduct loses the holder of the right legal protection and therefore there is no need to resort to this principle because the product or right has lost legal protection.

5.Legitimate transfer of ownership of the material good that includes or includes the origin of the intellectual property in question. Thus, the exhaustion of rights is an ordinary consequence of the intangible nature of the assets covered by intellectual property, expressions, knowledge, fame, quality and origin. Because of the intangible nature of these assets, they do not follow the material commodity to which they are linked. Generally, the exhaustion of rights relates to rights of an exclusive commercial nature out of all rights to which intellectual property applies. These rights are drained in any process that leads to the transfer of ownership - a process that is generally but not always commercial in nature.

6.The sale of the product without condition or restriction from the intellectual property owner, which gives the buyer the right to enjoy the goods in full and at the same time the original intellectual property owner is not entitled to sell the product again.

On the basis of the foregoing, if these conditions are met, third parties are permitted by law to exercise any act on the intellectual property right, but this conclusion contains three types;

First: National exhaustion
Second: Regional exhaustion
Third: International exhaustion

Type I: National exhaustion

In this case, the right of the holder of intellectual property loses the legal protection established by law by the sale of that right within the State's borders, and it follows that the buyer exercises the rights permitted by law from resale and import within the State's borders (Saadi, op. cit.)¹⁹.

In this case, the consent of the original right holder is not required because ownership has passed to third parties in this case and the right to use or invest is removed by such purchase, and the consent of the owner of the product is not required. At the same time, the right lost is within the territory of the country to which the product is disposed, and America has adopted this system (p2 Matthe, w)²⁰. The United States judiciary has adopted this trend in its decision.²¹

Type II: International exhaustion

India has adopted this system in this type²². The power of the right holder to raise the intellectual property right is extinguished if the right or product is sold in any market around science. This means that the right to prevent or induce ends with the first sale in any region of the world (Maskus, without a year) and the limitation of the right to raise the right only within the territory.

Type III: Regional exhaustion

This type of exhaustion is based on the fact that the right of the right is restricted by the holder after the intellectual property right is sold in the markets of a group of States at the regional level, and therefore the right of the right of the intellectual property holder is outside the territorial scope in which the right was sold (Maskus, K.E, op)²³

This type has been adopted by the European Union, which provides that in the event of the first sale in any State of the Union, the first sale makes import and the second sale authorized without the consent of the intellectual property holder or the licence of the inventor (Matthew, p2)²⁴.

Section IV

Position of some conventions and legislation on the principle of exhaustion of intellectual property rights

First: The role of the TRIPS Convention from the exhaustion of intellectual property rights principle

It is clear from the text of article 6 of the Terps Convention, which provides that "for the purposes of the settlement of disputes under this Convention taking into account the provisions of articles 4.3, nothing shall be used in this Convention to deal with the exhaustion of intellectual property rights." The adoption of the principle of international exhaustion by WTO member States is therefore not contrary to the provisions of the TRIPS Convention.

The introduction of the principle of international exhaustion of intellectual property rights allowed parallel import, and it was therefore in the interest of developing countries to adopt it in their national legislation to provide protected products in the domestic market at the lowest global prices, particularly pharmaceutical products.

Second: The role of some Arab legislation in the principle of international exhaustion of intellectual property rights

Member States and signatories to the Terbes Convention were divided between toughters not to adopt the principle of international exhaustion of the protection of intellectual property rights, and other States that have adopted this principle.

In order for States and developing countries to benefit from the absence of clear and explicit provisions determining the authority of the holder of intellectual property over its rights acquired through the provisions of the law, especially when the holder of the right sells its product on the domestic, regional or international market, Accordingly, States could take advantage of this legislative imbalance in the TERPES Convention, which in its texts gave the member States regulating this Convention the freedom to establish legal rules for the protection of intellectual property, but provided that the minimum of these rights were available, the member States were divided into a section that took this principle into account.

These include States taken under an effective convention with the CCC Community Treaty Convention.

On the basis of this Convention, if the goods are sold on the European market, the goods protected by the patent do not apply to them, and the States of the European Union and the United Kingdom have therefore introduced the principle of territorial exhaustion (Saadi, p. 98). In Saudi Arabia, the goods protected by the patent if they enter the European Union market, intellectual property rights are extinguished by such sale (Colston, 1999)²⁵.

1.Egyptian legislator suspended:

The Egyptian legislature has acted in accordance with article 1, paragraph 1, of the Convention, which gives member countries the freedom to determine the appropriate method and mechanism for implementing the provisions of the Convention in their legislation and legal systems. It has also established the principle of the exhaustion of the rights of the owner of the right to industrial property in respect of trademark, such as the exhaustion of the right to a monopoly on the exploitation of innocence or the monopoly on the exploitation of the planning of integrated services. How much we've seen before. The exhaustion principle means the loss of the right of the owner of the trademark to prevent third parties from importing, using or selling the products or goods in the place of the trademark if it is established that such products or goods have been placed in other markets, whether the proposal by the owner of the trademark is a manufacturer of the manufacture or distribution of such products It is based on the fact that the owner of the trademark has allowed the manufacture or distribution of the products of the protected brand in the market or other commercial markets. There is no sense in denying the trademark to others within the State.

In other words, the wisdom of enjoying the monopoly on the import of protected products or goods as a result of its possession of the mark is sacrificed without reason and illogical as long as it itself allows such products or goods to be placed in another State. This is called the national exhaustion of the rights of the owner of the trademark to the exclusive right to a monopoly on the import of the trademark, which entails the possibility that products or goods may be sold at home or in any State where the trademark is registered without the owner of the trademark, without prejudice to the rights of the owner of the trademark.

As we see it, there is no provision in the Convention preventing Member States from providing in their national legislation for the principle of exhaustion of rights as long as goods or products are placed in other markets. On the basis of that, article VI of the Convention left freedom to national legislation in matters of exhaustion.

In addition, article 51 of the Convention itself provides that: "It is understood that there is no obligation to apply these measures to imported goods placed on the market in another country by or with the consent of the holder of the right." Accordingly, Egyptian legislation has been incorporated into article 71 of the Code. Protection of intellectual property rights: It is the intention of the legislator to make the most of the means and exceptions available under the Convention in favour of developing States to mitigate the binding and restrictive effects of those States, which have the worst economic effects on them.

Under the above-mentioned article 71, an attack on the rights of the owner of the trademark shall not be considered when a third party imports, uses, sells or distributes products or goods marked by the mark as long as it is established that the holder of the right markets them by himself or by means of his or her licence to third parties in any State²⁶.

2. Jordanian legislator's position:

Under article 15, paragraph 1, of the Patent Act, the Jordanian legislator decides to grant the patent, subject to the conditions required under this Act. The patent is a certificate indicating the grant and registration of the invention at the request of the inventor. It contains data on the invention and a complete description of the invention²⁷.

As a result, the owner has the right to exploit and invest in accordance with the law and the right to conduct them in all types of conduct permitted by law in exchange or free of charge or to give them up in whole or in part, and to allow third parties, with or without a permit, to exploit them at all or without a licence, in accordance with the law.

Based on the above, it means that the patent gives the owner the right to take advantage of the invention, but on this right:

The patent applicant has the right to exploit his invention only from the date on which the patent was issued, as established by the Jordanian legislature in article 17 of the Act.

After obtaining an acquittal, the applicant shall continue to enjoy this right for the duration of the legal protection specified in the article. Here, we have the right to

stop to discuss a matter of great importance, namely, whether the Jordanian legislator grants the patent owner an appeal right to prevent third parties from importing the product protected by the invention from the market of any state for the duration of the legal protection referred to above.

Does not the application of this principle at all enable the patent owner to prevent third parties from importing all protected industrial products, including those for sale abroad by the patent owner himself or herself or by others, and with his or her consent, and thus patent owners will have the capacity and the possibility to monopolize the market and to offer such products on the domestic market at very high prices?

The answer would certainly be positive. In order to avoid this situation, some legislation, such as Egyptian legislation, has adopted the so-called principle of international exhaustion of intellectual property rights. Article 71 of the Protection of Intellectual Property Rights Act No. 82 of 2002 (The right of the patent owner to prevent the import of protected products is exhausted once he or she has put such products up for trade in the market of any State, either himself or through one of his or her followers or with his or her consent. In reference to the provisions of the TRIPS Convention, the position of the TRIPS Convention on Intellectual Property Rights is unclear on this principle, although it is important in the interest of developing countries,

However, it is noted that article 6 recognizes that (for the purposes of dispute settlement) There is nothing in the Convention that can be used to deal with the issue of the expiry of intellectual property rights, which means that the Convention expressly recognizes the exclusion of any recourse to its provisions with respect to member States' disputes concerning the exhaustion of intellectual property rights, thus suggesting that member States, in particular developing States, can apply this principle, especially since the article (8) of the Convention itself authorizes any State to take the necessary measures to prevent owners of intellectual property rights from abusing them or carrying out any actions that would lead to unreasonable trade restriction or negative impact on the international transfer of technology.

Since the adoption of this principle is in the interest of developing countries through the provision of protected products in the domestic market at the lowest prevailing global prices, especially consumer products of major social interest, it is necessary for the Jordanian legislature to adopt this principle in the national interest and to fill the door against attempts to monopolize markets and control prices by providing for in the amended Patent Law No. 32 of 1999 by amending the text of article 12 of the Law.

The patent grants its owner the following rights:

1. Prevent third parties from obtaining the consent of the patent owner for the manufacture, exploitation, use, sale, sale or import of the product subject to the invention if the subject matter of the patent is a product.

2. Prevent third parties from obtaining the consent of the patent owner of the manufacture, exploitation, use, sale, sale or import of the product subject to the invention if the subject matter of the patent is the method of manufacture.

3. Notwithstanding the above-mentioned paragraphs, the patent owner shall exhaust his or her right to prevent the import, use, sale or distribution of the goods if he or she offers them in any State or licences for that product.

Section V

Impact of the intellectual property rights principle

1. Limiting Monopoly
2. Makes and increases profit opportunities among national markets
4. Reduces the high cost of goods and provides access to the commodity at a low cost
5. Tool to enable access to medication at an appropriate price

B. CONCLUSION

This study dealt with the principle of exhaustion of intellectual property rights in Jordanian legislation in order to demonstrate their adequacy, given the important role that this principle plays in the lives of societies, individuals and States, and in economic development and investment. Since Jordanian legislation is devoid of the legal regulation of this principle, this study requires reference to legislation, whether Arab or foreign, that applies this principle and provides for it in its laws and regulations.

This study produced several findings:

1. After researching the laws governing the protection of intellectual property rights, the researcher did not find a clear and explicit text on this principle.
2. The researcher, after researching the Terps Convention, found that it was a stroke on this principle.
3. There is no clear and specific criterion for this principle.
4. States introducing this principle differed as to the scope of this principle.

The researcher recommends the following recommendations to the Jordanian legislature:

1. Make a clear and explicit statement of this principle
2. Define the standard for the application of this principle
3. Define the scope of this principle

REFERENCES

1. Zidan Moayad: Intellectual Property Rights, Syrian Virtual University Publications, (2020), p. 23

2. Al-Obaidi, Ali Hadi, Explanation of the Civil Code of Rights in Kind According to the Latest Amendments and of the Real Estate Ownership Law Budget Study (2021), p. 28
3. El Far, Abdel Qader, (2019), The Entrance to the Study of Legal Sciences, House of Culture for Publishing and Distribution. p 142
4. Hossam El-Din Abdel Ghain El-Saghir, Foundations and Principles of the TRIPS Agreement on Trade-Related Aspects of Intellectual Property Rights, an analytical study that includes the situations of developing countries with interest in patents, first edition, Arab Renaissance House, 2009. p. 153
5. Umy Ally Mwalimu, Implications of WTO/TRIPs in East Africa- With Special; Emphasis on Pharmaceutical
6. Patents, Workshop on Globalization and East Africa 15-16 th April 2002, at Economic and Social Research
7. Foundation (ESRF) Dar Es Salaam, Tenzania. Available at: <http://www.esrftz.orgglobaloutputglob007.pdf>.
8. (Visited on 11.7.2012), p19.
Matthew Burgess and Lewis Evans, Parallel Importation and Service Quality: An Empirical Investigation, 2005, p2
9. Maskus, K.E, "Parallel Imports in Pharmaceuticals: Implications for Competition And Prices In Developing
10. Countries", Final Report to World Intellectual Property Organization, April 2001. p11. Available at:
11. http://www.wipo.int/aboutip/en/studies/pdf/ssa_maskus_pi.pdf. (Visited on 9.10.2012).

¹ Section 301 of the Trade Act of 1974 (19 U.S.C. §2411) grants the Office of the United States Trade Representative (USTR) a range of responsibilities and authorities to investigate and take action to enforce U.S. rights under trade agreements and respond to certain foreign trade practices. Prior to the Trump Administration and since the conclusion of the Uruguay Round of multilateral trade negotiations in 1995, which established the World Trade Organization (WTO), the United States has used Section 301 authorities primarily to build cases and pursue dispute settlement at the WTO. However, former President Trump was more willing to act unilaterally under these authorities to promote what its Administration considered to be "free," "fair," and "reciprocal" trade. The recent use of Section 301 has been the subject of congressional and broader international debate. The Trump Administration attributed this shift i <https://crsreports.congress.gov/product/pdf/IF/IF11346>.

²Zidan Moayad: Intellectual Property Rights, Syrian Virtual University Publications, (2020), p. 23

³ Neem tree (NEEM TREE) is used in India in treatment, contraception and agriculture, but it was not licensed through a patent (Patent). In the mid-eighties of the last century, many American and Japanese companies obtained a number of patents on materials extracted from the tree. In this way, the knowledge that Locally compiled by Indian researchers and villagers have been plundered from people outside India, after they added a little something to the whole process. Zidan Moayad: Intellectual Property Rights, Syrian Virtual University Publications, (2020), p. 31

⁴ Al-Obaidi, Ali Hadi, Explanation of the Civil Code of Rights in Kind According to the Latest Amendments and of the Real Estate Ownership Law Budget Study (2021), p. 28

⁵ Patent Law No. 32 of 1999

⁶ Copyright Law of 1992, amended in 2005 (Jordan)

⁷ Copyright Law of 1992, amended in 2005 (Jordan)

Al-Obaidi, Ali Hadi, Explanation of the Civil Code of Rights in Kind, House of Culture for Publishing and Distribution (2021), p. 28⁸

⁹ Copyright Law of 1992, amended in 2005 (Jordan)

¹⁰ Patent Law No. 32 of 1999

¹¹ Patent Law No. 32 of 1999

¹² Obeidat Youssef Muhammad Qassem, (2020), Rights in Kind, Modern Book World for Publishing and Distribution.

¹³Zaidan, Moayad, (2020) Intellectual Property Rights, Syrian Virtual University. p 24

¹⁴ El Far, Abdel Qader, (2019), The Entrance to the Study of Legal Sciences, House of Culture for Publishing and Distribution. p 142

¹⁵ End of Brexit transition period: Exhaustion of Intellectual Property Rights and Parallel Trade in the UK and EU By Dr Beatriz San Martin, Shishu Chen & John Schmidt on December 17, 2020 POSTED IN BREXIT, IP LAW, PARALLEL TRADE <https://www.biosliceblog.com/2020/12/end-of-brexit-transition-period-exhaustion-of-intellectual-property-rights-and-parallel-trade-in-the-uk-and-eu/>

¹⁶ Hossam El-Din Abdel Ghain El-Saghir, Foundations and Principles of the TRIPS Agreement on Trade-Related Aspects of Intellectual Property Rights, an analytical study that includes the situations of developing countries with interest in patents, first edition, Arab Renaissance House, 2009. p. 153

¹⁷Saadi, Farhad Saeed, Parallel Importation and International Exhaustion of Intellectual Rights in International Trade. A study in the trade of patented pharmaceutical products, previous source, p. 89

¹⁸ Umyy Ally Mwalimu, Implications of WTO/TRIPs in East Africa- With Special; Emphasis on Pharmaceutical Patents, orkshop on Globalization and East Africa 15-16 th April 2002, at Economic and Social Research Foundation (ESRF) Dar Es Salaam, Tanzania. Available at: <http://www.esrfz.orgglobaloutputglob007.pdf> . Visited on 11.7.2012), p19.

¹⁹ Saadi, Farhad Saeed / Parallel Import and International Exhaustion of Intellectual Rights in International Trade A Study in the Trade of Pharmaceutical Products innocence, research published on the website <https://www.semanticscholar.org/paper>

²⁰ Matthew Burgess and Lewis Evans, op. cit²

²¹ The United States Supreme Court analyzed the territorial dimension of exhaustion in *Keeler v. Standard Folding Bed Co.* (1895). This case involved a patent which had been assigned to different beneficiaries in different territories. The defendants had purchased a certain amount of the patent articles in Michigan, where they had been manufactured by the assignees of the patent for that state, and sold them in the State of Massachusetts, where the same patent had been assigned to another company. The latter sued on grounds of infringement of his rights in the State of Massachusetts. A divided Supreme Court held that the defendants, "having purchased the patented articles in Michigan from the assignee of the patent for the territory included in that state, had a right to sell them anywhere within the United States, including Massachusetts, where the patent rights had been assigned to another assignee."³³ The reason was that the first sale had exhausted the patent rights in the entire territory of the United States: "Where the patentee has not parted, by assignment, with any of his original rights, but chooses himself to make and vend a patented article of manufacture, it is obvious that a purchaser can use the article in any part of the United States, and, unless restrained by contract with the patentee, can sell or dispose of the same. It has passed outside the monopoly, and is no longer under the peculiar protection granted to patented rights."³⁴

²² Section 107A of the Indian patent act 1970 talks about exhaustion rights under patented products. Its sub-clause (b) clearly states that importation of patented products by any person from a person who is duly authorized under the law to produce and sell or distribute the product, shall not be considered as an infringement of patent rights. This signifies once the patent product is sold (anywhere in the world including India) by a person duly authorized by law, further can sell, distribute and produce the good.

²³ Maskus, K.E, op.cit, p 3. Copied (Dr. Saadi, Farhad Eid, op.cit., p. 94)

²⁴ Maskus, K.E, op.cit, p 3. Copied (Dr. Saadi, Farhad Eid, op.cit., p. 94)

²⁵ Catherine Colston, Principles of Intellectual Property law, Cavendish Publishing Limited, Great Britain, London, 1999, p 128

²⁶ <https://igips.com.eg/ar/%D8%A7%D8%B3%D8%AA%D9%86%D9%81%D8%A7%D8%AF-%D8%AD%D9%82-%D9%85%D8%A7%D9%84%D9%83-%D8%A7%D9%84%D8%B9%D9%84%D8%A7%D9%85%D8%A9-%D8%A7%D9%84%D8%AA%D8%AC%D8%A7%D8%B1%D9%8A%D8%A9>

²⁷ - Trademarks Law No. (33) of 1952.- Goods Marks Law No. (19) of 1953.- Copyright Law No. (22) of 1992.- Patent Law No. 32 of 1999.- Unfair Competition Law and Trade Secrets No. (15) of 2000.- Industrial Drawings and Industrial Models Law No. (4) of 2000.- Law on Protection of Designs for Integrated Circuits No. (10) of 2000.- Geographical Indications Law No. (8) of 2000.- Law New Plant Varieties No. (4) of 2000. - Instructions for Border Measures to Protect Intellectual Property Rights No. (7) of 2000.