

## 16. TRADEMARK DISPUTES UNDER FRANCHISE LAW IN SAUDI ARABIA

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### ABSTRACT

The passing of the new Saudi Franchise Law in October 2019 raised questions about the implications of this law on trademark and other intellectual property rights, which primarily drive franchise rights and interests. This research paper explores the potential impact of this new law by exploring the key differences between franchise contract and trademark law. This research will aid foreign investors who intend to invest in a trademark by licensing a franchise as well as make note of possible legal ramifications in Saudi Arabia. This study will compare franchise contract and trademark law in order to fill the gaps that may lead to disputes between parties. Case studies, including relevant on-going disputes before courts in Saudi Arabia, will provide some concrete examples of interpretation and consequences of owning a franchise, specifically those arising out of trademark and contract law.

**Keywords:** *trademark; franchise; contracts; entrepreneurs; licensing; intellectual property*

### 1. INTRODUCTION

Saudi Arabia has been a member of the World Trade Organization (WTO) since 2005. Prior to that year, it amended several laws in order to meet WTO's minimum requirements.

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<sup>1</sup> Ahmed Makhloof, *Intellectual Property Rights* (Dar Elejeda, 2<sup>nd</sup> edn, 2018) 13.

<sup>2</sup> Paris Convention for the Protection of Industrial Property, concluded in 1883, was revised at Brussels in 1900, at Washington

in 1911, at The Hague in 1925, at London in 1934, at Lisbon in 1958 and at Stockholm in 1967, and was amended in 1979, WIPO, *'Treaties and Contracting Parties'*, <[https://www.wipo.int/treaties/en/remarks.jsp?cnty\\_id=1754C](https://www.wipo.int/treaties/en/remarks.jsp?cnty_id=1754C)> accessed 1 October 2019.

Saudi Arabia has also joined other international conventions and treaties such as the Paris Convention for the Protection of Industrial Property.<sup>2</sup> However, there are other treaties and conventions that Saudi Arabia has not joined, or are being assessed by the Saudi Arabian government, such as the Nice Agreement, which concerns the International Classification of Goods and Services for the Purposes of the Registration of Marks.<sup>3</sup>

Saudi Arabia's history of forming a country-wide position statement on intellectual property laws began when intellectual property authorities were divided between several government agencies such as the Ministry of Commerce and King Abdulaziz City for Science and Technology. In 2018, however, Saudi Arabia took a significant step towards a countrywide intellectual property position when the government established the Saudi Authority for Intellectual Property (SAIP) as an independent governmental authority.<sup>4</sup>

To date, the SAIP has played an important role in reassessing numerous national laws such as the copyright law and other regulations.<sup>5</sup> Further, in order to be more engaged with the international community, SAIP has adapted many initiatives to join international conventions such as the Budapest Treaty

in 1911, at The Hague in 1925, at London in 1934, at Lisbon in 1958 and at Stockholm in 1967, and was amended in 1979, WIPO, *'Treaties and Contracting Parties'*, <[https://www.wipo.int/treaties/en/remarks.jsp?cnty\\_id=1754C](https://www.wipo.int/treaties/en/remarks.jsp?cnty_id=1754C)> accessed 1 October 2019.

<sup>3</sup> Saudi Authority for Intellectual Property <<https://www.saip.gov.sa/en/>> accessed 20 December 2019.

<sup>4</sup> Saudi Authority for Intellectual Property <<https://www.saip.gov.sa/en/>> accessed 20 September 2019.

<sup>5</sup> Makhloof (n 1) 7.

on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Budapest Treaty), Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Agreement), and Hague Agreement Concerning the International Registration of Industrial Designs (Hague Agreement). They are still under assessment.<sup>6</sup>

The significant progress of Saudi Arabian government is being led by the 2030 Saudi vision. That vision aims to achieve substantial economic reforms, which will also make Saudi Arabia more attractive to foreign investors. Consequently, protecting intellectual property is one of the major objectives that has been steadily improved in recent years. As 2030 vision indicates, building a strong legal ground will support economic reforms.<sup>7</sup>

In alignment with the 2030 vision, the Saudi General Authority for Small and Medium Enterprises (Monshaat) proposed the Franchise Law to the Saudi Council of Ministers for approval. The Council officially approved the Franchise Law on 10<sup>th</sup> October 2019, denoting the first law passed related to franchise interests.<sup>8</sup>

In addition to the new Franchise Law, Monshaat has also proposed two franchise contracts to the entrepreneurs as samples and guidance. The Trademark Law (2004), Franchise Law (2019), and Monshaat's sample contracts contribute heavily to the basis of this research paper. These sources will

be assessed in the light of possible brand disputes between parties to franchise contracts.<sup>9</sup>

Trademarks have a significant role in franchise contracts. Instead of starting a new brand, entrepreneurs reduce their risks by obtaining a license from successful entrepreneurs and pay a small portion of fees as royalties. The franchisor will not only license his trademark to the franchisee, but he may also license other intellectual property such as patents and know-how.<sup>10</sup> In addition, the franchisor will provide training and other technical support to the franchisee in order to avoid misuse or weakening of the brand.<sup>11</sup>

Therefore, one of the main purposes of the franchisee seeking a franchise, if not the main purpose, is to benefit from the popularity of trademarks that the franchisor owns. Thus, there is always a relationship between the franchise and trademarks, since franchise is simply the sale of brands to others.<sup>12</sup>

From here, this paper will consider both franchise and trademark laws. It will point out common rules between trademark and franchise laws. Moreover, it will particularly study certain legal matters in the new Franchise Law. After taking the trademark and Franchise Laws and sample contracts into consideration, the main research question here concerns the possible legal disputes that may occur in the area of trademarks between franchise parties. In addition, this paper will identify the best legal suggestions to avoid such disputes.

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<sup>6</sup> Saudi Authority for Intellectual Property, *Request for Public Consultations* <<https://www.saip.gov.sa/en/public-opinions/>> accessed 20 September 2019.

<sup>7</sup> 2030 Vision, *THRIVING ECONOMY* <<https://vision2030.gov.sa/en/node/383>> accessed 19 September 2019.

<sup>8</sup> Franchise Law 2019 (نظام الفرنشازير), also see Saudi Press Agency, *King Salman Chairs Cabinet's Session 4 Riyadh* <<https://www.spa.gov.sa/viewstory.php?lang=en&newsid=1979846>> accessed 15 October 2019.

<sup>9</sup> Small and Medium Enterprises General Authority 'Monshaat', *Franchise Contracts*

<<https://emtiyaz.monshaat.gov.sa/en/contracts>> accessed 15 October 2019.

<sup>10</sup> Saleh Abdulkarim Sawi, *The Commercial Franchise Contract - an Islamic Applied Jurisprudential Study*, PhD thesis, Yarmouk University (2014), 59.

<sup>11</sup> WIPO, *Making a Mark, An Introduction to Trademarks for Small and Medium-sized Enterprises* (WIPO publication), 70 <[https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_900\\_1.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_900_1.pdf)> accessed 30 September 2019.

<sup>12</sup> Makhloof (n 1) 169.

## 2. THE NATURE OF THE RELATIONSHIP OF THE FRANCHISE PARTIES AFTER THE NEW FRANCHISE LAW WAS PASSED

The relationship between franchisee and franchisor is originally a contractual relationship. The passing of the new Franchise Law, however, prompts an examination of whether the new law affects this relationship. In Saudi Arabia, contractual relations are mainly ruled by *Fiqh*, which is mainly the scholarly books written by Islamic scholars. *Fiqh* can also be called the jurisprudence of Sharia Law.

In addition, *Fiqh* has many rules and principles that Saudi Arabian judges professionally apply.<sup>13</sup> As a result, *Fiqh* is sufficiently flexible for contractual relationships. This new law is primarily based on the general rules of *Fiqh*. However, after enforcing the Franchise Law, the law will be the dominant regulation on this relationship.

In other words, franchise parties will be regulated by Franchise Law, which is compatible with Sharia's principles. However, if the disputes have not been regulated in the law, then courts will consider the principles of *Fiqh* as next source of regulation. Furthermore, the competent court is the commercial court, which is primarily ruled by Sharia law when there is no a specific law that governs the dispute.<sup>14</sup>

## 3. THE CAUSES AND CONSEQUENCES OF POSSIBLE TRADEMARK DISPUTES BASED ON INFRINGEMENT OF FRANCHISE CONTRACTS

Monshaat has provided two samples of franchise contracts to the public. Contractors, of course, can create their own contract without even looking at these samples. However, these samples are only for guidance to help make franchise contractors aware of typical duties and rights. Consequently, such sample contracts are usually used by businesses or at least are affected by these samples. Due to the important role

that these samples have, they will be studied to provide perspective on what franchise contracts look like in Saudi Arabia.

In fact, the only relevant difference between the two samples is their degree of exclusivity. One agreement is non-exclusive and the other is an exclusive country/area franchise agreement.<sup>15</sup> Accordingly, this research will study them as one contract since the difference does not directly affect our subject here.

The first point that needs to be discussed is in the preamble, which states the sample contract's assumption that the trademark is officially registered. However, it does not state the consequences for possible deception by a franchisor who falsely reports that his trademark is registered.<sup>16</sup>

Although the law regulates this possibility, the franchisee can stipulate damages for harm caused by the deception. In Sharia law, the range of stipulations is relatively unlimited so long as it is not against Sharia principles.<sup>17</sup> Therefore, the franchisee has the right to stipulate any condition that protects his interests.

A franchisee can also be brought to court by the general prosecutor for selling or licensing unauthorized trademark products. Therefore, it is important to have an appropriate contract and a legitimate authorization on the trademark that franchisee uses.<sup>18</sup>

The second point is that the sample contract makes it unambiguously prohibitive for the franchisee to attempt to register or procure to register the trademark and associated intellectual property rights or any such rights that are similar to the franchisor's trademark. This prohibition is to protect the franchisor rights on his trademark.<sup>19</sup>

<sup>13</sup> Saleh Alglayga, *Forms of Contracts in Fiqh* (1<sup>st</sup> ed. Konooz Eshbilia 2007) 23.

<sup>14</sup> Alglayga (n 13) 25.

<sup>15</sup> Monshaat Franchise Contracts (n 7), Preamble.

<sup>16</sup> *ibid.*

<sup>17</sup> Alglayga (n 13) 35.

<sup>18</sup> Saudi Commercial Court, case number 1/4472, 2008, 1428 Hijri, It is important to mention that Saudi Courts do not mention the names of case's parties. The cases can only be referenced by the number of the case and date.

<sup>19</sup> Monshaat Franchise Contracts (n 7), art Fourteen/5.

Although such prohibition is mainly ruled by regulations on competition laws, a franchisor can take further steps to protect his trademark. For example, in addition to invalidating the contract, franchisors can stipulate in the contract that the franchisee must forfeit the franchise, even if they only attempt to register a similar trademark or if they take an action that poses a competitive threat to the trademarked brand.<sup>20</sup>

Broadly, laws are mainly in place to protect the public's rights; however, contract laws primarily protect private rights. Consequently, contracting parties should stipulate conditions that protects their rights, so long as these conditions do not damage others' rights.<sup>21</sup>

The sample contract also stipulates a similar prohibition on unauthorized registration or establishment of a company or use of a corporate name under the trademark or any of the franchisor's intellectual property rights or any such rights. As mentioned earlier, this action of using unauthorized registration should result to forfeit the franchise.<sup>22</sup>

However, affiliated companies can cause more damage since the franchisee has extensive knowledge of how to compete with the original company. Saudi Arabian courts have a number of such cases, which should direct contractors to take additional steps to protect their contractual obligations and rights from this possible violation by taking further preventative actions.<sup>23</sup>

For example, a franchisor should have to pay more attention to the franchisee's legal history, such as previous claims and charges, if found. Another example is that contracting parties should manage the franchise arrangement. Many franchisors

do not carefully follow up with the franchisee's business as long as the franchisee has a good income, which is wrong.<sup>24</sup>

As a result of the agreement, a franchisee is going to use the franchisor's trademark and name. Therefore, there is a possibility that the franchisee could damage a trademark's reputation through misused practice. To reduce the risk of this possibility, the franchisor should closely observe the franchisee's business according to the agreement.<sup>25</sup>

The sample contract also mentions that 'Franchisee shall take all necessary or appropriate action to cancel all fictitious or assumed name or equivalent registrations relating to the Franchisee's use of any of the Franchisor's Trademarks and associated Intellectual Property Rights.'<sup>26</sup>

To clarify, this rule is intended to protect not only the franchisor's trademark, but also protect the franchisee's business, since he significantly relies on the popularity of the franchisor's trademark. Therefore, it should not only be the franchisor's interest to protect his trademark, but also in the interest of the franchisee since he has local competitors that may negatively affect his business.

Therefore, a franchisee has an obligation to take all necessary action against all other businesses who use similar trademarks or any other activities that may affect the franchise success. For example, franchisee has an obligation to sue any business who use a trademark that may take away benefits from the popularity of franchisor's trademark.<sup>27</sup>

There is also a possibility for the franchisee to face claims that arise in connection with the business where the franchisee has operated the business in compliance with the contract and guidance of franchisor. The question here is whether the franchisee can be held liable or at least obligated to

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<sup>20</sup> Abdulrahman S. Aldossary, *Commercial Contracts and Bank Transactions* (1<sup>st</sup> ed Elketaab Aljamai 2018) 155.

<sup>21</sup> *ibid* 156.

<sup>22</sup> Mohammed Alibar, *Commercial Contract and Bank Transactions* (2<sup>nd</sup> ed King Saud University Press 1998) 109.

<sup>23</sup> Monshaat Franchise Contracts (n 7), art Fourteen/8.

<sup>24</sup> Aldossary (n 20) 149.

<sup>25</sup> *ibid*.

<sup>26</sup> Monshaat Franchise Contracts (n 7), Article Twenty-Two/11.

<sup>27</sup> Mohammed Shyaab, 'Saudi Sight on Famous Trademark,

Comparative Study' (2019) Jordan University Volume 46, 757.

<<https://journals.ju.edu.jo/DirasatLaw/article/view/103660/9971>> accessed 29 September 2019.

compensate the franchisor for his losses. The sample contract explicitly states that the franchisor shall indemnify and hold the franchisee and his affiliates harmless against any liability or claims.<sup>28</sup>

#### 4. THE CAUSES AND CONSEQUENCES OF TRADEMARK POSSIBLE DISPUTES BASED ON THE INFRINGEMENTS OF TRADEMARK AND FRANCHISE LAWS.

In the past, the Ministry of Commerce used to partially refer to the Commercial Agencies Law as the model of rules for franchise contracts since there was no a formal franchise law.<sup>29</sup> However, after appointing the Monshaat as the competent authority for franchising in 2016, it legislated the first Franchise Law in October 2019. It primarily aimed to encourage franchise businesses and to protect the rights of both the franchisor and franchisee. Consequently, Franchise Law was legislated to clarify the rules, and create binding, concrete rules in order to reduce conflicts and to protect parties' rights.<sup>30</sup>

As per the trademark law, the obligations in franchise contracts should be constant with the trademark's legal protection.<sup>31</sup> However, some possible exceptions need to be addressed. For example, well-known marks do not always need to be renewed to keep the protection; they receive protection even when the owner has not renewed its registration.<sup>32</sup>

According to the Paris Convention for the Protection of Industrial Property (Paris Convention)<sup>33</sup> and the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement),<sup>34</sup> popularity is a method that may protect

trademark without registration. Since Saudi Arabia is bound by the Paris Convention and TRIPS Agreement, well-known trademarks are protected even if they are not registered. Although, it is advisable to always seek registration, especially small entrepreneurs since some countries like Saudi Arabia still need to take further steps to control unauthorized use of trademarks which may weaken their values.<sup>35</sup>

Having said that, there should be no difference between small and big companies with reference to the concept of well-known trademark protection. In fact, most franchises are small and medium entrepreneurs.<sup>36</sup>

In Trademark Law, it is prohibited to resell the trademark license to a sub-franchisee unless all parties have agreed to do so.<sup>37</sup> Although Franchise Law has the same rule, it adds that franchisee must practice the franchise license for at least one year in Saudi Arabia before they can resell to sub-franchisee. This means that the contracting parties cannot resell the license to sub-franchisee until they complete one year according to Franchise Law.<sup>38</sup>

On the other hand, if the franchisee is willing to abandon the contract for a new franchisee, he can do so within the exceptions of at least five specific cases. One exception arises when the abandonee has insufficient assets to run the business.<sup>39</sup> Second, is when the abandonee is unable to meet the franchisor's requirements and standards.<sup>40</sup>

Third, is when the abandonee is not licensed to conduct a particular business. Fourth, is when the abandonee has not contractually accepted responsibilities of the franchise.<sup>41</sup> Fifth is when the abandonee does not pay the requisite fees

<sup>28</sup> Monshaat Franchise Contracts (n 7), art Twenty-Five/2.

<sup>29</sup> Aljbar (n 22) 111.

<sup>30</sup> Franchise Law 2019, art 2.

<sup>31</sup> Franchise Law 2019, art 11.

<sup>32</sup> Shyaab (n 27) 757.

<sup>33</sup> The Paris Convention for the Protection of Industrial Property (adopted in 1883) [hereinafter the Paris Convention].

<sup>34</sup> Agreement on the Trade-Related Aspects of Intellectual Property Rights (15 April 1994) 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994) [hereinafter TRIPS Agreement].

<sup>35</sup> WIPO (n 8) 15.

<sup>36</sup> Donald F. Kuratko, *Entrepreneurship: Theory, Process, Practice* (10th ed, Boston MA, Cengage Learning, 2017) 81.

<sup>37</sup> Franchise Law, art five/1.

<sup>38</sup> *ibid.*

<sup>39</sup> Saudi Commercial Court Case number 10018/1 2012-1433hijri ruled in 2015-1436 Hijri, 2060.

<sup>40</sup> *ibid.*

<sup>41</sup> Franchise Law, art thirteen.

to the franchisor. In addition, executive regulations, which have not been declared yet, may indicate more exceptions.<sup>42</sup>

## 5. CASE STUDY<sup>43</sup>

This is a brief case of trademark and franchise that was litigated at the commercial court in Riyadh, the capital city of Saudi Arabia, in 2014 and ruled in 2016.

### A. FACTS:

The plaintiff, who is the franchisor, entered into a 10-year franchise agreement with the defendant, who is the franchisee, to use trademarks and sell goods and services exclusively in Riyadh in 2005. The agreement should last until 2015.

#### (i) Plaintiff's Claims:

- 1) Defendant breached the agreement by selling competitor's products.
- 2) Defendant counterfeited the franchisor's brand and used it on his own products. His intent was to create confusion between the franchisor's mark and his own mark. This resulted in damage to the franchisor's trademark reputation.
- 3) Defendant also used other intellectual property rights such as promotional phrases, packaging and designs to make the products appear similar to the original goods and services.
- 4) In 2007, Defendant received a Commercial Registration with a similar name and trademark to that of plaintiff. Defendant aimed to use the licensed trademark under this registered corporation.
- 5) Therefore, the plaintiff requested the following:
  - a) Compensation of 100,000 SAR (33.333 USD) as the agreement stated, 'when the second party (franchisee)

breached one of the agreement's terms, he must pay the franchisee 100,000 SAR as compensation.'

- b) Payment of 5,000,000 SAR (1,333,333 USD) for the damages and loses caused by the defendant.
  - c) To terminate the agreement with the franchisee. To invalidate the franchisee's corporation that was established in 2007.
- 6) After deliberations, plaintiff narrowed his requests to only the payment of 5,000,000 SAR for the damages.

#### (ii) Defendant's Responses:

- 1) Defendant denied that he breached the franchise agreement. Defendant claimed that he fully adhered to the agreement protecting the plaintiff's intellectual property rights. Thus, defendant said the plaintiff does not deserve the 100,000 SAR because there was no breach.
- 2) The agreement stated that: 'After the franchisor sends a written notice, the agreement is terminated if franchisee fails to solve and correct his violations of the agreement within three months starting from the date of receiving the written notice,' however, plaintiff has failed to send a written notice. Instead, this emphasizes that the plaintiff is violating the agreement by not sending a notice when he believed there was a violation.
- 3) In responding to the request of termination, the defendant has already terminated the agreement since the plaintiff stopped supplying the products according to the agreement. Moreover, the defendant paid 498,600 SAR (132,960 USD) for 1500 cartons of certain products according to the agreement. However, the defendant had not received the products since then. Instead, plaintiff blocked the money and had not returned it back. The plaintiff admitted that he has this money as a guarantee until he secures the damages.

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<sup>42</sup> *ibid.*

<sup>43</sup> Saudi Commercial Court Case number 15860/1 Year 2014-1434 Hijri and ruled in 2016-1436 Hijri, 2064 – 2079.

4) The defendant admitted that he received commercial registration in 2007, two years after the franchise agreement. He emphasized this was not a registration of trademark, nor had any relevance to any goods or the business related to the agreement with the plaintiff. Thus, there was not any confusion between this corporation's goods and services and the franchisor's. Defendant also questioned why the plaintiff had presumptively remained silent for seven years since he believed that the corporation was violating his rights. This should be considered as evidence of non-violation.

5) The defendant demanded to return the amount of 498,600 SAR as an undue money.

#### **B. ISSUES:**

Whether defendant violated trademark law by exploiting the mark against the franchise agreement. Whether the amount of 498,600 SAR is due money to be paid for the franchisor.

#### **C. HOLDING:**

Plaintiff is bound to pay the defendant 498,600 SAR. The Court rejected other requests.

#### **D. REASONS:**

(i) The plaintiff's claim is mainly based on the defendant's failure to comply with the franchise agreement. However, according to the agreement, plaintiff should have sent a notice as a required action when franchisee failed to meet the agreement's terms and give allow him three months to comply with the agreement, which the franchisor failed to do. This failure to send a notice results in rejection of the franchisor's claim that franchisee failed to comply with the agreement.

(ii) In addition, plaintiff did not submit any evidence of his damages. As general rule, any compensation claim must meet three conditions: (1) proof of damages; (2) a

mistake has occurred; and (3) there must be proof of the relationship between the damage and mistake.

(iii) The court rejected the claim that defendant established a new corporation in 2007 for the purpose of selling counterfeited products because the plaintiff was silent for seven years while he should have acted within a reasonable amount of time after the violation. This indicates that there are no damages as long as there is no similarity between the commercial name of that corporation and the franchisor's trademark.

(iv) The court ruled in the defendant's favor, holding the plaintiff owed 498,600 SAR to the defendant for the following reasons:

1. This matter came from the agreement, which is the main basis of the dispute.
2. The plaintiff admitted having this money.
3. The plaintiff did not deserve the money since he admitted that he did not send out the products to the franchisee.

#### **E. OBSERVATIONS:**

The objective of this case is to give a sense of how Saudi Arabian courts consider trademark under the franchise agreements. This case is also intended to provide a sense of the importance of contractual conditions so long as they do not conflict with the law. Although judges rule by Sharia law, they take into consideration the agreement as the dominant legal source.

There was no franchise law at the time of that case. The question here is whether the new Franchise Law will change the basis of similar disputes in the courts today. To illustrate, Franchise Law comes only to clarify the rules and make some of them more stabilized by making them binding in order to protect parties' rights. Therefore, there is no vital change in the Franchise Law today. Consequently, it is expected that franchise rules and judgments will be more consistent. After the new law was legislated, parties should be more aware of their rights and obligations before engaging into any franchise agreement because the law is now written and unambiguous.

## 6. CONCLUSIONS

This research started with a definition of the legal basis of trademark and franchise disputes in Saudi Arabia. It introduced *Fiqh* as the jurisprudence of Sharia law, which Saudi judges mainly consider in the ruling of contractual disputes. It discussed the consequences that the new Franchise Law on the contractual relationship since it used to depend on mainly the general rules of *Fiqh*.

Essentially, the research discussed the contract that the competent authority has offer to the public. Even if the sample contract is a good model, this research discussed some suggested rules that the contractors should be aware of.

This paper argued that relying on franchise law is not sufficient to protect the franchisor's trademark. Rather, it suggested that franchisor could take further steps to protect his trademark by stipulating additional conditions in the franchise contract.

This paper argued that since the sample contracts are intended to be guidance only, they should not be offered by any governmental authority. The government authorities' main duty is to legislate laws and observe the implementation of these laws. This is what the authorities should focus on. After legislating Franchise Law, rules of franchise are no longer exclusively dependent on contracts. Hence, franchise contracts are now ruled by Franchise Law.

Contracts' conditions are primarily based on parties' needs. Their needs vary based on many factors such as region, laws and regulations, and the nature of goods and services.<sup>44</sup> Although sample contracts are helpful, they should be accompanied with further consultations and discussions. Thus, this can only be done through legal advice rather than government authorities.

## BIBLIOGRAPHY

2030 Vision <<https://vision2030.gov.sa/en>> Accessed 20 October 2019

Abdulrahman S. Aldossary, *Commercial Contracts and Bank Transactions* (1<sup>st</sup> edition Elketaab Aljamai 2018)

Agreement on the Trade-Related Aspects of Intellectual Property Rights (15 April 1994) 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994)

Makhloof A, *Intellectual Property Rights* (Dar Elejada, 2<sup>nd</sup> edition 2018)

Kuratko D F, *Entrepreneurship: Theory, Process, Practice* (10<sup>th</sup> edition, Boston MA, Cengage Learning 2017).

Aljbar M, *Commercial Contract and Bank Transactions* (King Saud University Press, 2<sup>nd</sup> edition, 1998), p109.

Shyaab M, 'Saudi Sight on Famous Trademark, Comparative Study' (2019) Jordan University Volume 46 <<https://journals.ju.edu.jo/DirasatLaw/article/view/103660/9971>> Accessed 20 October 2019

Paris Convention for the Protection of Industrial Property (adapted in 1883, last amended on September 28, 1979)

Alglayga S, *Forms of Contracts in Fiqh* (Konooz Eshbilia 1<sup>st</sup> edition 2007).

Sawi S A, 'The Commercial Franchise Contract -an Islamic Applied Jurisprudential Study,' PhD thesis, Yarmouk University (2014).

Saudi Authority for Intellectual Property <<https://www.saip.gov.sa/en/>> Accessed 20 October 2019

Saudi Commercial Court, case number 1/4472, 2008, 1428 Hijri, It is important to mention that Saudi Courts do not mention the names of case's parties.

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<sup>44</sup> Aldossary (n 20) 15

Saudi Commercial Court Case number 10018/1 2012-1433hijri ruled in 2015-1436 hijri p.2060

Saudi Commercial Court Case number 15860/1 Year 2014-1434 Hijri and ruled in 2016-1436 Hijri p2064 to 2079

Saudi Press Agency <<https://www.spa.gov.sa/>> Accessed 20 October 2019

Small and Medium Enterprises General Authority  
<<https://www.monshaat.gov.sa/ar>> Accessed 20 October 2019

The Saudi Franchise Law 2019

The Saudi Trademark Law 2002

*Making a Mark: An Introduction to Trademarks for Small and Medium-sized Enterprises* (WIPO publication)

<[https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_900\\_1.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_900_1.pdf)> Accessed 20 October 2019

World Intellectual Property Organization  
<<https://www.wipo.int/>> Accessed 20 October 2019

