

Trademark Law of Syria

The Syrian legislator regulates commercial and industrial marks pursuant to legislative decree No.47 issued on October 9, 1946 and amended by Law No.28 dated 3/4/1980. The provisions of this Law are about defining the trademark, the depositing period, priority right, the trademark's temporary protection, registration procedures, publication, offenses, and penalties peculiar to marks and the prescribed penalties as well as judgments.

PART THREE

Chapter I

Article 64

The following are considered as industrial or commercial marks: differentiated names, denominations, emblems, seals, stamps, letters, impressions, relieves, signets, figures and generally any sign that serves to distinguish the nature and origin of any merchandise or industrial, commercial, agricultural, forest or mineral products.

Article 65

The distinguishing commercial and industrial marks are optional unless there are legal provisions to the contrary.

Article 66

The mark may be collective or individual; professional, regional, agricultural or industrial groups that have been licensed by the government and may possess a collective mark in order to secure the origin or the manufacture of their goods or products. Only the members of these groups shall have the right to use this collective mark independently of the individual mark which may be owned by each of them.

Article 67

The mark shall not represent either national or foreign decorations or mottos nor any word, picture, sign or emblem, which is seditious or contrary to public order or morality. Moreover, government mottos and mottos belonging to public departments may not be registered in the name of their creators or in the name of those who have acquired the right thereto. Registration which takes place outside Syrian territories shall be ineffective in Syria and every registration made or to be made contrary to the provisions of this article shall be considered null, void, and incapable of giving rise to any right.

Chapter II

Deposit and its Duration and Rights of Priority

Article 68

No personal ownership of any mark may be claimed unless such mark has previously been deposited in the Protection Office in accordance with the provisions of Article 71 and the subsequent articles thereto.

Article 69

All marks printed on sold goods, goods for sale, or manufactured in Syria, may be deposited. The owner of the trademark, in order to benefit from this legislative order, is not required to reside in Syria. A foreigner who wishes to deposit any mark must appoint a person, resident in Syria, to represent and act for him in carrying out the deposit formalities.

Article 70

The duration of the protection is Ten years and the deposit shall be renewed for successive periods of Ten years each provided payment is made of the fees in Article 78/1.

Article 71

The owner of the mark or his agent shall submit a written application bearing a stamp to the Director of the Protection Office. The application shall be null and void if it does not include the following information:

1. Name, surname, place of residence and nationality of the depositor.
2. Name, surname, place of residence and nationality of the agent if any.

3. Nature of the trade or industry carried out by the depositor.
4. A brief description of the mark.
5. The products or the goods on which the mark is to be placed.
6. The deposit made abroad in respect of the same mark if so made.
7. The date of the power of attorney of the depositor's agent if any.
8. The composition of the pharmaceutical product if there is a distinguishing mark relating to a pharmaceutical product.

The application shall be invalid unless the following documents are attached thereto:

1. Two specimens of the mark and when necessary a statement of its color and measurements.
2. The original power of attorney of the agent.
3. The cliché (stereotype) of the mark. There shall be attached to the mark if possible, a copy of the certificate of deposit delivered in respect of this mark in a foreign country and the certificates of temporary admission at exhibitions and fairs.

Article 72

No application for deposit shall be accepted unless the depositor pays the required fee.

Article 73

After payment of the fee or fees, the Director of the Office shall receive the application and documents appended thereto. He shall then examine and see at first if the mark is acceptable in accordance with the provisions of Article 68. If it appears to him that it cannot be acceptable, he shall transmit it to the Minister of Supply and Internal Trade accompanied with a detailed report. The Minister of Supply and Internal Trade shall decide by a final order as to the acceptance or refusal of the mark. In the event of the application being dismissed, half of the fees shall be returned to the depositor if he had no mala fide intention; the other half shall vest in the Office in the name of the secretary.

Article 74

If the mark is considered regular, it shall be deposited and the Director of the Office shall mention the following information in the register of the deposit of marks:

1. Serial number of the mark.
2. Hour, day, month and year of deposit.
3. Duration of the deposit.
4. Name, surname, domicile and nationality of the depositor.
5. Name, surname, domicile and nationality of the agent, if any.
6. Enumeration of the goods and products on which the marks are to be placed.
7. Previous deposits made in foreign countries if any.

One of the two specimens of the mark submitted with the application shall be affixed on the register in a column especially reserved for this purpose, every information tending to show the form of the mark and the purpose for which it was made and its use shall be mentioned. After the completion of these formalities the Director of the Office and the depositor shall sign the register.

Article 75

The certificate of deposit must be delivered to the depositor within 15 days from the entry in the register provided for in Article 74.

Article 76

The certificate of deposit, delivered to the depositor or his representative shall mention:

1. The number of the deposited mark.
2. Hour of the deposit and its date.
3. Duration of the deposit.
4. Name, surname, domicile and nationality of the depositor.
5. Name, surname, domicile and nationality of the agent, if any.

6. The goods and products on which the mark is to be affixed.
7. The deposits that may have taken place previously with regard to the foreign mark. The second specimen of the mark which has been submitted with the application must be affixed in a column especially reserved for this purpose and stamped with the office seal.

Article 77

The stereotype (cliché) shall be kept at the office pending the publication of the mark in the supplement of the Official Gazette pertaining to the Department of Protection. Instructions shall provide, in the application of the legislative order, for the measurements of the typographical stereotypes.

Article 78

The depositor may secure protection for his mark for ten years as from the first application for deposit, such protection is continuously renewable against the payment of the prescribed fee. The depositor shall mention in his application the products, goods, or services on which he shall place his mark according to the classes of international classification.

Article 79

The application for the renewal of the deposit shall be made to the Director of the Office and shall be drawn up in the same form in which the application for deposit is drawn up. The photographic stereotype and the printed specimens shall only be submitted provided the prescribed fee referred to in Article 78 should be paid; otherwise, the application shall be invalid. Where the deposit is renewed within six months as from the expiry date of the preceding deposit, an additional fee for the delay shall be paid; otherwise, the mark shall be deemed to have been canceled at the end of its statutory term.

Article 80

After verification, the Director of the Office shall proceed to effect the legal registration in the register of renewed deposits; the renewal of the former deposit shall be mentioned and the applicant for renewal shall within 15 days from the date of the application be delivered a certificate of renewal. At the same time, the certificate of the first deposit submitted by the applicant for renewal in accordance with the provisions of Article 79 shall be returned to him.

Article 81

The deposited trademark is transferable by way of inheritance or sale, or gratuitous transfer; or with or without commercial institutions exchange. A statement of every transfer should be submitted to the office to make it valid for opposition against third parties in pursuance of the provisions of this Law. Every registration of transfer requires payment of the prescribed fee. If the registration is effected on the application of the transferee, such application for registration should be submitted within a month beginning from the date of transfer (statutory distances are excluded). Delay in applying for registration requires payment of the additional prescribed fee for every two-month delay. Using the mark and changing the depositor's address or name is subject to the provisions of this Law and the fees prescribed in it. Having a copy of the mark or its depositor's address or name is subject to the prescribed fees.

Article 82

If within five years following the date of the deposit, no valid opposition is made against the ownership of the mark legally deposited in accordance with the Law, any opposition offered thereafter shall be invalid on the grounds that the first depositor has acquired a right of priority to its use, unless written proof is obtainable to the effect that the depositor was aware, when depositing, that the said mark belonged to a person who used it previously.

Article 83

Any person claiming to be the prior user of any mark, which has not been deposited, must establish such priority by written proof.

Article 84

Any person who proves, after the expiry of the five years mentioned in Article 82, his free and continued use of the mark prior to deposit, may preserve this right of use for 15 years only, commencing from the date of the deposit. Such right of use may be transferred together with the commercial concern. The owner of this right of use is entitled to bring actions of unfair competition in order to preserve his right of use.

PART FOUR
Chapter I

Temporary Protection For Fairs & Exhibitions In Syria & Foreign Countries - Awards

Article 85

Patentable inventions, industrial and commercial marks, designs and models may benefit from temporary protection at exhibitions and fairs, whether held in Syria or abroad, in case such exhibitions and fairs are officially organized. Such official participation or organization is a prerequisite for the application of this legislative decree.

Article 86

Whoever seeks protection of any article, which he intends to exhibit in fairs and exhibitions officially, held abroad in which Syria officially participates, must submit an application in this connection to the official representative of the Syrian Government at the exhibition or fair. This application must state the nature of the article (patentable invention, mark, model of design etc.) and should be accompanied with a certificate from the commissioner of the fairs or exhibitions testifying that the articles are actually exhibited.

Article 87

On receipt of these documents the representative of the Syrian state shall enter the same in an ad hoc register and give an entry certificate to the exhibitor against payment of the prescribed fee. The exhibitor shall submit an application for protection within three weeks as of the exhibiting day of the articles to be protected.

Article 88

On the conclusion of the exhibition, the official representative shall transmit the special register kept by him to the Protection Office in Syria. The person who has obtained temporary protection may transform it into a permanent protection within a period of one year beginning from the date of the closure of the fair or exhibition after turning in the certificate delivered to him in pursuance of Article 87. The actual protection shall take place from the date of the opening of the fair or exhibitions. The person interested shall submit his application for permanent protection in accordance with the provisions of this decree and of the articles relating to the protection of the various rights connected with commercial and industrial ownership.

Article 89

A special order shall be made before the opening of the fairs and exhibitions regulated officially in Syria, specifying the formalities which the exhibitors have to fulfill in order to ensure for their products temporary protection which may later be transformed into permanent protection if they consider it profitable.

Article 90

The temporary protection organized in this manner accords to those same rights granted by this legislative decree in Syria on patentable inventions, marks, designs and models which have been deposited.

Chapter II

Industrial and Commercial Awards

Article 91

Whoever wishes to make use of any commercial or industrial award, must, when mentioning this award, indicate the nature of the award, the correct name of the exhibition or the official authority granting such award and the full and exact date of the granting thereof.

Article 92

Whoever holds an award in his personal capacity, may alone make use of the award and may not transfer it to others with his commercial concern; whereas an award granted for a product follows such a product, and the transferee may benefit there from upon transfer of the commercial concern. Similarly, when the award is granted to a commercial or industrial institution, the person to whom the award is transferred can make use of it, on the grounds that the award is related to commercial concern.

The award granted to a person in his quality as assistant may only be used by such assistant, if mention is made of the concern, where he was employed.

PART FIVE

Single Chapter

Unfair Competition

Article 93

Unfair competition is:

- 1.** Any breach of this legislative decree, which would have been subject to the penalties provided for under Part 6 of this decree, had it not lacked the constituent elements necessary for the completion of the offense.
- 2.** Any act, which the courts would consider falling within acts of unfair competition.

Article 94

Acts of unlawful competition only entail action for discontinuance of such acts and for compensation, unless the said acts are punishable under criminal laws, or in pursuance of this legislative decree.

PART SIX

OFFENSES AND PENALTIES

Chapter I

Patents

Article 95

Every intentional violation of the rights of the patentee is considered a misdemeanor of forgery, and the offender shall be punishable with a fine from 100 Syrian Pounds to 500 Syrian Pounds.

Article 96

Ignorance as to the existence of the patent declared in accordance with the Law shall not be considered a valid excuse.

Article 97

The accomplices in the misdemeanor of forgery and especially the vendor of the forged product or the person concealing it are punishable with the same punishment as the principal offender.

Article 98

Judgment shall be given for double the amount of the maximum fine on the repetition of the offense; moreover, a sentence of imprisonment from two months to two years may be given against the person repeating the offense.

Article 99

is deemed a recurring offender, within a period of 5 years preceding the second conviction, whoever is convicted either as a principal actor or as an accomplice pursuant to this legislative decree for one of the misdemeanors provided for.

Article 100

In case an assistant, in any manner, to the patentee, whether as employee or workman, commits the misdemeanor of forgery against the rights of the patentee and in relation to an act which took place during or after such an assistance, he shall be liable to imprisonment from three months to three years

and a fine of no less than 250 Syrian Pounds and no more than 1000 Syrian pounds, or to one of the two penalties. The accomplice shall suffer the same penalty.

Chapter II

Commercial & Industrial Marks

Article 101

Whoever mentions in any manner that the trademark is registered whereas it is not registered or who forges or uses with knowledge a deposited mark without the permission of its owner, though he adds to such mark or such marks as "kind, class or composition or imitated or modeled" etc. and any person who places on his products or on his commercial products a mark belonging to another, and who sells or offers for sale with knowledge an article bearing a forged mark, or resembling the original mark in a manner calculated to deceive and who delivers any article other than the one asked for under a specified mark, shall be punished with a fine varying between 50 and 500 Syrian Pounds and with imprisonment from three months to three years or with one of these penalties.

Article 102

Any person who makes a mark that resembles another mark with the intention to deceive but without forging it though made in a manner calculated to deceive the purchaser as to the nature of the article, and who sells or offers for sale with knowledge an article with a mark resembling another mark with the intention to deceive or an article with a statement calculated to deceive the purchaser as to the nature of the article shall be punishable with a fine varying from 50 to 200 Syrian pounds, and with imprisonment from two months to two years or with either of these two penalties.

Article 103

The Courts are entitled to decide as regards the imitation which was intended to deceive and with regard to the forgery after putting themselves in the place of the consumer or after taking into consideration the resemblance of the real mark to the mark which is the subject matter of the complaint as to the general aspect of the marks rather than to their difference in details.

Article 104

Whoever omits to affix on his products a distinctive mark declared to be compulsory, who sells or offers for sale a product not bearing the compulsory mark pertaining to this product, who deals in the mark symbols contravening the provisions of Article 67 of this legislative decree, and who contravenes the provisions of Article 65 of the legislative decree shall be punishable with a fine from 50 to 500 Syrian Pounds and with a term imprisonment from two months to two years or with either of these two penalties.

Article 105

In case the offenses punishable under Articles 101, 102 and 104 are repeated, the penalty may not be less than the maximum limit specified in these articles nor more than double the amount of the said maximum limit, and a sentence of imprisonment from two months to five years shall be inflicted. Repetition of offenses shall be determined in accordance with Article 99 of this Law.

Article 106

The embezzlement of a trade name is punishable with the same penalties provided for under the Articles 101 and 105 of this legislative decree.

Chapter III

Industrial Designs & Models

Article 107

Every intentional violation of the rights guaranteed by the legislative decree in respect of industrial designs and models is punishable with a fine from 40 to 200 Syrian Pounds. In case the offender was or is an assistant to the injured person a sentence of imprisonment from 2 months to 6 months together with a fine shall be imposed.

Article 108

In case the offense is connected with a pharmaceutical product the fine imposed may not be less than 50 Syrian Pounds.

Article 109

In case of repetition mentioned in Article 99 of this legislative decree, the fine imposed may not be less than 250 nor more than 500 Syrian Pounds. A sentence of imprisonment from two months to two years may also be imposed.

Article 110

No act preceding registration can give to the injured party any right to bring any action arising under this legislative decree. With regard to acts taking place after registration and before publication no action brought by the injured party can be heard even if the civil action is brought under Article 107 unless the mala fide intention of the accused is proven.

Chapter IV

INDUSTRIAL AND COMMERCIAL AWARDS

A fine from 50 to 200 Syrian Pounds and a term of imprisonment from three months to two years or either of these two penalties provided that the fine is not less than 500 Syrian pounds when not accompanied by a sentence of imprisonment shall be all those who fraudulently attributed to themselves awards granted by commercial exhibitions or fairs or those who claimed imaginary awards and used them publicly by affixing them on commercial labels, covers of goods, and commercial papers, or by mentioning them on signboards or by any other method, and persons who attempted to persuade the public that they are in possession of awards which they in reality have not acquired and persons who contravened in any manner the provisions of the two Articles 91 and 92 of the legislative decree.

Chapter V

Auxiliary Penalties

Article 112

Even in cases of acquittal, the decision shall order for seizure of the items which caused the injury or were the means for the loss of rights secured by this legislative decree. In the same way, the Court shall decide in every case on the destruction of the marks, emblems, engravings and statements contravening this legislative decree.

Article 113

In case the compulsory mark has not been affixed, the court shall decide to affix it on the product to which it pertains, or it can give an order for its seizure and its sale to the benefit of the injured party or by way of fine.

Article 114

The judgment given in respect of any of the misdemeanors mentioned in this legislative decree and in respect of unlawful competition always requires the following auxiliary penalties:

1. Ineligibility of the person convicted for election as a member in chambers of commerce, committees and bodies of studies, syndicates and trade unions institutions and generally in each elective body.
2. Publication of the conviction in places specified by the Court and its publication in three newspapers, two of which should be in Arabic and one in a foreign language. The court, which issued the original judgment, shall choose these newspapers.

Article 115

The court may order payment of damages to the injured party even in case of acquittal at the criminal proceedings.

Chapter VI

Description, confiscation, Attachment, Judgment & Application

Article 116

Public prosecution may be instituted by:

1. The public prosecutor as a matter of course.
2. The injured party on a complaint lodged before the public prosecutor.
3. The injured party on a complaint brought before the Director of the Protection Office.

4. The Director of the Protection Office as a matter of course.
When investigation proceedings are commenced, the withdrawal of his action by the injured party does not affect the public prosecution.

Article 117

Whether or not the injured party has lodged a complaint, the public prosecutor shall undertake the designation of the suspected items, goods, articles, implements and instruments and the making of a detailed inventory thereof and the seizure thereof. The Director of the Protection Office has the same said powers.

Article 118

The following persons shall have the authority to designate the suspected items, make an inventory thereof and seize specimens of the same in accordance with Article 117: police commissioners, special police commissioners for railways and ports, customs and excise officials, employees of the Protection Office specially sworn for this purpose, and the official appointed by the Director of the Office in respect of cities other than Damascus and who are sworn in for this purpose. The officials act by virtue of orders of authorization issued by the public prosecution or by the Director of the Protection Office. They are to report to the office every contravention of the provisions of this legislative decree. The sworn in officials of the office shall have the capacity of judicial officers for the execution of the provisions of this legislative decree.

Article 119

The designation of the suspected items, an inventory thereof and the taking of specimens of the same may be made in the following places: stores, shops, workshops, vehicles and trucks used in commerce, depots, slaughter houses and appurtenances, halls, general markets, commercial markets, stations and ports of departure and arrival.

Article 120

An official report (Process-verbal) should be made of part of the samples and every designation thereof, or an inventory of the same and shall include the following:

1. The name, surname, occupation, domicile and nationality of the compiler of the report.
2. The date, hour and place of the transaction.
3. The authority ordering it and date of the order given to the official.
4. The name, surname, domicile and nationality of the person before whom the transaction took place, or the place where he lives and practices his occupation.
5. If the transaction took place on the road, the name, domicile and nationality of the persons whose names are mentioned in the consignment books or bills of consignment as consignees should be stated.
6. A brief description of the circumstances under which the report of the transaction took place and the enumeration of the persons who attended it.
7. The signature of the person in whose possession the things and goods were found or his refusal to sign.
8. Signatures of the persons making the report (process-verbal).

The possessor of the authority vested in him can mention in the report (process-verbal) all the data and reservations he deems necessary.

Article 121

The person making the report is not obliged to inform the possessor of the authority vested in him, before starting his investigation. When the investigation required is in respect of delivery of a product other than the product demanded under a specified trademark or design, or model which has been registered, he shall not be bound to inform the possessor with regard to the investigation except after making delivery of the product. The said official may be accompanied by an expert appointed by the authority granting the commission, or the authority in which his name is mentioned in.

Article 122

When the official considers it fit, he shall deliver to the possessor a copy of the order under which he acts. On the completion of the transaction proceedings, the possessor shall receive a copy of the report (process-verbal) and of the inventory of the things or articles in respect of which the said proceeding were

affected if an independent inventory in respect thereof had been drawn up.

Article 123

Civil or criminal action shall be lodged before the competent court within fifteen days from the date mentioned in the report (Process-verbal), in the absence of which the transaction effected shall be null. One day shall be added to the above interval in respect of each 5 myriameters distance between the place of the transaction and the place of residence of the party against whom the case is brought or his representative.

Article 124

The action instituted within the periods fixed in Article 123 shall be lodged before the competent court in the place of residence of the defendant. If the defendant has no residence, the action shall be brought in the court of the place where the transaction proceedings are affected. The court can, on the strength of an application of the party complaining and before the judgment is delivered, decide to seize all or some of the things mentioned in the report (process-verbal) and in the inventory. The court can in this case, orders the complainant to pay to the cashier of the Protection Office, prior to execution of the confiscation, a guarantee, the amount of which shall be determined by the court. The court shall appoint the official to carry out the confiscation, preference being given, in this choice to the official who drew up the report and who carried out the original identification or inventory stipulated in Article 117, if such had taken place. Finally, the said injunction may refer to the place where the confiscated articles should be deposited and appoint a watchman for their safekeeping.

Article 125

The attachment shall be ineffective unless the following documents are delivered to the person against whom the attachment was made:

1. The order of attachment.
2. The deed, which proves that a guarantee had been deposited. If this actually was made.
3. An inventory of the attached items.
4. The report of the attachment proceedings.

Article 126

The official who effected the attachment proceedings shall draw up at once a report in two copies and deliver one of these copies to the person against whom the attachment was made. The said report shall be drawn up on the way fully described in Article 120 and shall be accompanied by a list of the things attached. The person against whom the attachment was affected shall sign the two documents, and in case he should refuse to sign or that it was not possible for him to sign, such reasons for the lack of signature shall be noted in the space provided for the signature.

Article 127

The protection office shall collect the following fees, when the designation of the incriminated things, their attachment and confiscation takes place, and when the attachment and seizure of the things is effected through the said office:

Eighteen Syrian Pounds for the detailed description, designation and seizure of the sample.

Thirty six Syrian Pounds in respect of the attachment or confiscation.

If the office undertook the investigations on the complaint of the injured party, the latter should advance the said fees, which are recoverable in the event of a judgment being given against the defendant. If the office, however, undertook the investigations directly and without a previous complaint being made, the said fees shall be payable by the defendant if he is convicted.

Article 127 - Bis

The fees of the official in charge of carrying out the proceedings of Article 127 of Legislative Decree No.47 of 1946 shall be borne by the concerned party. Such fees will be decided by the Minister of Supply and Internal Trade. They will be paid by the concerned party to the Cashier (deposits) and to be paid to the Ministry's Representative by virtue of a statement duly signed by him and certified by the competent Director.

Article 128

Even in case of acquittal of the accused in a criminal case, the court may order attachment of the suspected things and goods and the sale thereof either for the benefit of the injured party or for the benefit of the office.

Article 129

Every judicial decision made pursuant to of the provisions of this legislative decree should be serviced to the protection office by the issuing Court within eight days at most. Any person desiring to obtain from the office a summary of a judicial decision should pay the fees provided for in the law. Each copy or certificate granted by the office manager is subjected to the prescribed fee.

Article 129 - Bis

Every person who wishes to benefit from the priority right of a previous filing made in any country which is a member in Paris Union for Industrial Property Protection shall be required to append his application with a written statement including the date and number of this previous deposit and the name of the country in which it is made. He shall produce within three months from the date of the subsequent filing a copy of such provision deposits duly confirmed by the issuing authority in that country together with an Arabic translation thereto. This proceeding must be preceded by the payment of the prescribed fees. Any negligence made to the proceedings contained herein shall lead to the loss of priority right.

Claiming priority rights of Patent, design or trademarks entail payment of the prescribed fee.

Article 130

As from the date of applying this legislative decree, all the systems, decrees, laws and previous decisions which deal with the same issues shall be canceled, namely the Ottoman law dated 11 March, 1888, the Ottoman Decree concerning the trade and industrial marks dated 8 October, 1888, the decision No.769 dated 19 March, 1921 concerning the temporary protection for the participants in Beirut's Fair, decision No.865 dated 27 March, 1921 about the protection of the trade and industrial marks, decision No.136 dated 5 December, 1921 which amended the previous decision and decision No.2385 dated 17 January, 1924.