



The legal protection of domain names in Jordanian legislation and the rules of the unified domain name dispute resolution policy issued by ICANN

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Abstract

Introduction to The Problem: The problem of the study was that the Jordanian legislative system is devoid of any special legal regulation or even a system that defines domain names in terms of their nature and means of legal protection for them. There is only the "Registration Policy" that the Ministry of Digital Economy and Entrepreneurship is implementing to register national domain names. This policy only addresses the technical and procedural aspect of domain name registration without specifying its legal nature.

Purpose/Objective Study: The purpose of the study is to illustrate the topic's uniqueness and theoretical and practical significance. Due to the lack of specific regulations in many countries and the rise of cases handled by courts in this area, it presents several practical and legal issues. Therefore, the study aims to shed light on this phenomenon and try to find the best solutions to it in light of Jordanian legislation and the rules of the Unified Policy for Resolving Domain Name Disputes issued by ICANN.

Design/Methodology/Approach: In its preparation, the study relies on the descriptive and analytical approach by describing the case, citing relevant legal texts, analyzing them, and applying them to reality. This is done by analyzing the texts of the Jordanian national domain name registration policy and comparing it with the legal texts contained in the rules of the Unified Policy for Resolving Domain Name Disputes issued by the ICANN under study.

Findings: The study recommended a number of recommendations, the most important of which is the need to enact legislation specific to national domain names to determine the nature of these names and their legal nature. This legislation also includes provisions for their legal protection, stipulating appropriate legal ways and means to confront the assault on them, and provisions for liability resulting from them.

Paper Type: Research Article

Keywords: domain names; legal protection; digital economy; intellectual property.



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Introduction

The domain name is the basis for creating websites on the Internet. Thus, it is the first key to enter the network. This is why this name should receive a large share of the attention of legislators to determine its nature and establish special legal rules to provide appropriate legal protection for it ([Froomkin & Lemley, 2003](#)).

In an email address, domain names are alphanumeric text strings that are positioned to the right of a "@" sign. In a World Wide Web address, domain names are immediately following the two slashes. The DNS Internet software utilizes a highly dispersed hierarchical system to efficiently and imperceptibly translate domain names into their corresponding IP numbers ([Froomkin, 2002](#)).

The Internet has provided many companies and institutions, whether private or public, with the opportunity to access many markets around the world through the creation of websites on the Internet called (websites). Through these sites, these companies and institutions display their various services and products in order to market and trade them electronically. Many universities and scientific institutions may also present their scientific activities, conferences, and scientific productions on them. While some other sites offer different types of entertainment. In order to know these sites and their activities, it is necessary to know how to access them on the Internet ([Kleinwächter, 2000](#)). This is done by the user typing some letters, symbols and numbers on the browser window so that he can access the websites he is aiming for. These writings are called domain names. These domain names have become of great importance to Internet users, who want to find sites with attractive names in order to attract the largest number of visitors and consumers to visit their websites ([Qazmar, 2018](#)).

The problem of the study is the lack of a special legal regulation to protect domain names in Jordanian legislation. The Jordanian legislative system is devoid of any special legal regulation or even a system that defines domain names in terms of their legal nature and means of legal protection for them. There is only the "Registration Policy" that the Ministry of Digital Economy and Entrepreneurship is implementing to register national domain names. This policy only addresses the technical and procedural aspect of registering domain names without specifying their legal nature. It is not known from this policy the legal nature of the domain name and whether it is considered an element of commercial property; Such as the trade name and trademark, or not. This reduces the importance of legal protection for domain names because with this policy, neither the applicable law nor the legal basis for domain



name disputes is known in the first place. In fact, Belgium has enacted a law for domain names disputes in 2003. The Belgian Act of 26 June 2003 on the abusive registration of domain names. From this standpoint, the importance of this study is highlighted in shedding light on the legal structure necessary to protect domain names. This is achieved by clarifying the nature of domain names and the adequacy of the legal means stipulated in Jordanian legislation to protect domain names.

The study aims to demonstrate the practical and theoretical importance of this topic and its novelty. It raises many practical and legal problems because there are no special rules regulating it in many countries and the increasing number of cases heard by courts in this field. Therefore, the study aims to shed light on this phenomenon and try to find the best solutions to it in light of Jordanian legislation and the rules of the Unified Policy for Resolving Domain Name Disputes issued by ICANN.

Based on the importance of domain names and the status they have acquired in the virtual and real world, and like any new element, they have attracted the attention of jurisprudence and legislation alike, which requires the task of clarifying their nature, and then explaining the legal means established to protect domain names in both Jordanian legislation and the rules of the unified policy. To resolve domain name disputes issued by ICANN.

Methodology

In its preparation, the study relies on the descriptive and analytical approach by describing the case, citing relevant legal texts, analyzing them, and applying them to reality. This is done by analyzing the texts of the Jordanian national domain name registration policy and comparing it with the legal texts contained in the rules of the Unified Policy for Resolving Domain Name Disputes issued by the ICANN under study. This is also done by clarifying its shortcomings and the extent of its suitability in practical reality in the procedures of its protection.

Based on the importance of domain names and the status they have gained in the virtual and real world, and like any new element, they have attracted the attention of jurisprudence and legislation alike. This requires the task of clarifying what it is, and then explaining the legal means established to protect domain names in both Jordanian legislation and the rules of the Unified Domain Name Dispute Resolution Policy issued by ICANN ([Klein, 2002](#)).

There have been numerous reports of domain name 'pirates' or 'squatters' holding a domain name for ransom. In other cases, the parties may be mere 'twins', with both having a lawful right to use the same name in different locations or situations. This raises the issue of 'reverse domain name hijacking' ([Ghosh, 2004](#)).

Results and Discussion

The Nature of Domain Names

The global information network “the Internet” and the nature of its global spread require that every computer connected to the Internet have a special identification code or number that distinguishes it from other devices, so that it can be accessed and communicated with via the network (Froomkin, 2000). This code and/or number or both are similar to a telephone number for using telephone services, and a postal address for traditional correspondence. In the Internet, this code is called the domain name. Its appearance dates back to 1984 when Jonathan B. Postel invented the first method of technical correspondence between website and computer addresses. Through the system he designed, any organization's website can be accessed on the Internet once the user knows the website's address (Ahmed, 2018).

The term domain name has many names, including: Website address, domain name, and email address. But the term domain name is the name used by the Internet Organization for Assigned Names and Numbers (ICANN). It is also approved by the National Information Technology Center in Jordan, which is concerned with registering Jordanian domain names ending in the Latin top-level domain jo at the first and second levels as well as the Jordanian Arabic top-level domain (Jordan) (Al-Atiyat, 2020; Al-Billeh, 2022).

Essentially, every website with a digital address is composed of four sets of “digits,” each containing a maximum of three numbers. Each category is delineated by a dot, exemplifying: (120.589.267.477). Due to the difficulty of remembering these numbers for their length, difficulty remembering them, or the possibility of changing them, they were replaced by domain names consisting of letters, so that these names became the common nominal addresses among network users instead of digital addresses. The address (www.icann.org), for example, is the domain name for ICANN. It is an address that is easy to use and recall to access the ICANN website (Al-Khudairi, 2020).

Jurisprudence has differed in defining domain names. Some went on to define it as: “a sign that takes the appearance of a combination of numbers and letters so that it determines the location of a computer, a site, or a page on the Internet” (Ibn Yunus, 2005). Others defined it as: “A name consisting of three syllables. The first is the fixed part and is represented by the syllable (http://www). This syllable means the Internet and the protocol used. It also determines the presence of the website on the network. This syllable must be for everyone who owns a website. The second is the second level domains. It is the most important part of the domain name, because it refers to the natural or legal person who owns the site. It is considered the basic identifier for it. Commercial establishments often have their own trademark or trade name. It consists of the first letters of the name of this organization or institution, or the letters of the entire name. It must be unique so that it is not permissible to register the address of another identical website. The third of them is the top-level domain,



which is located to the right of the last dot in the address. It is divided into two parts: the first, which is Generic Top-Level Domain (GTLD) to indicate the type of site activity that relates to activities carried out by individuals and institutions". For example: (org) for organizations, (edu) for educational institutions, (gov) for institutions and government agencies, (net) for networks, (com) for commercial projects, and (info). They are open domains that are not subject to censorship, allowing everyone to register freely. The second is the top-level domain (Country Code Top Level Domain: ccTLD). It is called the geographical scope to indicate the country or geographical region. Each country is expressed with a specific code, such as: Jordan (jo), Egypt (eg), Saudi Arabia (ksa) (Obaidat, 2007; Al-Billeh et al., 2023).

It has also been defined as: "Those addresses that identify a specific and distinct site. Once the user types the site address in the space designated in the browser program on the Internet, it connects him to the site specifically addressed to it. The site address distinguishes this website from other sites on the Internet. The network user cannot access any site except through it" (Obaidat, 2007).

By reviewing previous jurisprudential definitions, we find that they have differed and varied in their definition of the domain name. Some of them defined it according to its artistic nature. Another trend went to define it based on its composition on the Internet. While others based on the job it performs. This means that there is no precise and uniform definition of domain names (De Vey Mestdagh & Rijgersberg, 2007).

As for the legislative definition of domain names, since domain names are generally considered to be a recent issue on the legal scene, due to their recent inception, their existence is linked to the Internet. This was discovered and developed not long ago. This matter had a significant impact on its legal organization. Anyone who follows the legal regulation of domain names, whether at the international legislative level or at the national legislative level, will clearly find that there are no specific laws that have regulated the subject of domain names. Rather, it was organized according to rules contained in the form of foundations that were established by parties concerned with registering domain names and regulating what is related to them. Specifically, in the Hashemite Kingdom of Jordan, it is the National Center for Information Technology (Qtaishat, 2012).

One of the little international legislations that define domain names is the World Intellectual Property Organization (WIPO). It defined them as: "Names that are easy to remember and used to access websites on the Internet. These names correspond to single Internet Protocol numbers that serve as addresses to access the Internet and allow users to access websites on the Internet" (Younis, 2005a).

It is clear from the previous definition that the organization has based its definition of domain names on the basis of the function it performs. It constitutes the actual entity of websites on the Internet, as it is the identity and main address of each

website. It is considered the main means of accessing these sites without the need to search in search engines such as Google or Yahoo. That is, as an address placed on the Internet through which the owner of the site can be identified and what he offers to the world in terms of commercial, professional, scientific, or other products, services, or activities (King, 2004).

Referring to Jordanian legislation, we do not find anything helpful in explaining the definition of domain names. The Jordanian Electronic Transactions Law No. (15) of 2015 did not contain any definition of domain names, unlike some Arab legislation such as the Saudi legislator and the Bahraini legislator. This is what led us to research the regulatory rules that came in the form of a policy for registering Jordanian domain names (.jo) and (.Jordan). It also did not include any definition of domain names. The national domain name registration policy issued by the National Information Technology Center, which was succeeded by the Ministry of Digital Economy and Entrepreneurship in accordance with the law repealing the law on the employment of information technology resources in government institutions No. (20) of 2019, limited itself to mentioning the guidelines for choosing a domain name, its registration mechanism, and other regulatory and technical issues. This may open the door to criticism regarding the failure to address this legal vacuum. It is preferable to include a definition of domain names in the principles and procedures for registering domain names (Al-Atiyat & Al Nuemat, 2017).

Paragraph 9 of Article 1 of the Saudi Domain Name Registration Regulations defines a domain name as: "Any domain name that falls within the Saudi top-level domains (called a domain name for short)" (Article 1, The Saudi Domain Name Registration Regulations).

The first article of Resolution (11) of 2018 regarding regulating the registration and use of second- third-level domain names within the framework of the domain name of the Kingdom of Bahrain. Article 1 of Resolution (11) of 2018 regarding regulating the registration and use of second- and third-level domain names within the framework of the domain name of the Kingdom of Bahrain defined the domain name as: "second- and third-level domain names that are registered within the framework of the domain name of the Kingdom of Bahrain". The same article also defined the domain name for the Kingdom of Bahrain as: "The top level of the global domain name system assigned to the Kingdom of Bahrain on the Internet. It consists of the two letters (bh) according to the international standard ISO 1-3166 (codes for representing names of countries and their subdivisions) of the international organization, or from the word (Bahrain) corresponding to the two letters mentioned" (Article 1, Resolution regulating the registration and use of second- and third-level domain names within the domain name framework of the Kingdom of Bahrain, 2018).



Article (3) of the Law Repealing the Law on Employing Information Technology Resources in Government Institutions No (20) of 2019 in Jordan stipulates that: “A. The Ministry of Digital Economy and Entrepreneurship is considered the legal and de facto successor to the National Information Technology Center established in accordance with the provisions of the Law on Employing Information Technology Resources in “Temporary” government institutions No. (81) of 2003. All of the center’s rights, assets, and movable and immovable funds will be transferred to it, and it will bear all its obligations. B. All employees and users of the National Information Technology Center will be transferred to the Ministry. Their services are considered a continuation of their previous services” (Article 3, The Law to Repeal the Law on Employing Information Technology Resources in Government Institutions, 2019).

Based on the above, Jordanian domain names can be defined as: “The address of the website that is registered and managed through the National Center for Information Technology. It is composed of a set of symbols, letters and numbers arranged in a distinctive way that does not match another name in order to perform its function in identifying websites on the Internet.” The Internet is considered the only means through which one can access the site and view and browse its contents”.

Legal Means Established to Protect Domain Names at the National and International Levels

First, it must be noted that most disputes related to domain names occur in multiple different forms. However, the most prominent of these forms may often occur in a dispute between the owner of the domain name and the owner of the trademark. Or the dispute may occur between the legitimate owners of similar domain names. This may cause harm to the holder of the right to the name, in addition to misleading and deceiving the consuming public. In these cases, the owner of the affected domain name has the right to initiate legal procedures aimed at stopping any practices harmful to him and his various interests. This can be done either by resorting to the ordinary judiciary or by resorting to alternative means of litigation such as arbitration bodies ([Al-Adwan & Mabrouki, 2018](#)).

Regardless of the forms of infringement on the domain name, searching for the legal means available to protect it is almost not without difficulty. This difficulty stems from the lack of a legal system for domain names, especially at the national level - Jordanian legislation - which is the focus of our study here ([Froomkin, 2000](#)).

We will try to find out what can be adopted as legal means to protect domain names. At the national level, it is represented by Jordanian legislation, in addition to protecting domain names in accordance with the rules of the ICANN organization at the international level. The latter rules are the document on which the ICANN organization is based, under whose supervision the Jordanian Ministry of Digital Economy and Entrepreneurship operates ([Weinberg, 2000](#); [Al-Khawajah et al., 2023](#)).

Protection of Domain Names According to the National Domain Name Registration Policy (National Level)

The national domain name registration policy is concerned with clarifying the technical aspects of the domain names to be registered without delving into the nature of those names and the rights of their registrants (Al-Atiyat, 2020). This means that most of the procedural and technical rules contained in the national domain name registration policy are unable to grant adequate legal protection to national domain names for several reasons, including the following:

1. Most of its rules address the procedural and technical aspect of registering these domains without going into the details of their legal protection. This is clearly stated in the text of this policy, which indicates that the Center will not intervene in any disputes or disagreements related to the domain names registered with it (Al-Khudairi, 2020).

The entity responsible for registering and granting domain names in accordance with the national domain name registration policy provides some of the prescribed protection for domain names. This is done by taking certain measures, including, for example, refusing to register a domain name twice within the same domain. In other words, if the components of a particular domain name match the components of another domain name or another trademark previously registered and stored on the devices used for this purpose, the second name will never be registered (Al-Adwan & Mabrouki, 2018). The aforementioned authorities refuse to register it. This is what was stipulated in the second clause of the national domain name registration policy (jo). It states: "Names that are refused registration as domain names: 2. If the chosen domain name conflicts with one of the registered trademarks". Therefore, if the same domain name is to be registered, some of its components must be changed, such as changing some letters or syllables in it, or changing the domain, whether it is a national or international domain (Younis, 2005b).

The same policy also emphasizes that the domain name to be registered must be legitimate. That is, it does not violate the public order and morals of society in a given country. It must also not conflict with the effective regulation in force within the country (Mawlood, 2021). This is what is stated in the section on names prohibited from being used and registered as domain names, as follows: 1. Names that harm the security and stability of the Hashemite Kingdom of Jordan. 2. Names that violate the laws, regulations and legislation in force in the Hashemite Kingdom of Jordan. 3. Jordanian family names. 4. Names that violate prevailing Jordanian customs, norms, public morals and traditions. 5. Generic names and individual names unless the registration applicant holds a trademark therein. 6. Trade names used in the field of sexual pornography (pornographic films and magazines) (Al-Atiyat, 2020).



2. The National Domain Name Registration Policy does not address any provision that makes references to the UDRP Rules that the accredited arbitration center needs to have jurisdiction over the domain name dispute. This matter leaves no room for protecting these domains in the Kingdom except through judicial means in accordance with a lawsuit based on legal foundations and reasons that can be relied upon in existing Jordanian legislation ([Al-Atiyat, 2020](#)). We also did not find in Jordanian judicial rulings any previous rulings related to domain name disputes to be relied upon as judicial precedents until the issuance of specialized legislation that addresses the national domain name by regulation and specifically its legal protections.

Accordingly, we believe that most of the procedural and technical rules contained in the national domain name registration policy are unable to grant adequate legal protection for national domain names. This pushes us to look for another way to protect domain names. This includes judicial protection, which will be explained in the second section of this topic ([Mabrouki, 2017](#)).

Judicial Protection of Domain Names

Domain names are of great commercial and economic importance. This may motivate some people to scramble and race to own it to expand their projects and businesses via the Internet. Therefore, it is possible that domain names will be infringed upon. Many disputes and practices will occur that may harm the interests of the owners of these names. It may also harm the financial interests of various commercial institutions. This matter may prompt the owners of those names registered with the competent bodies to repel any attack they may be exposed to in the territory of the country that their domains represent. This is done by resorting to the national judiciary in order to file civil lawsuits to protect their domain names. It is an optional method that is resorted to in the event that the decisions of dispute settlement centers are not accepted ([Moamen, 2011](#)).

These lawsuits that the domain name owner may exercise are not governed by a single legal basis. Rather, it was dispersed in several legal rules. We can resort to general rules related to liability in order to protect it, or to trademark law in other cases. However, what is worth noting here is that these legal rules do not directly address the issue of resolving domain name disputes. However, it is possible to adapt these legal rules and try to apply them to the issue of domain names. This is what jurisprudence and judiciary have settled on in various national legislations ([Halasa, 2010](#)).

Thus, the owner of the domain name enjoys the right to repel the infringement by resorting to the judiciary through several lawsuits. The most prominent of which are: A. Unfair competition lawsuit and B. Compensation lawsuit. They will be explained as follows:

1. Unfair Competition Lawsuit

An unfair competition lawsuit is one that the owner of a domain name can bring before the court in order to respond to the infringement that occurred on this name from another domain name or from a trademark imitating this name. Unfair competition is defined as: “every act or means used to achieve a specific purpose and usurp customers from an industrial facility or commercial store” (Obaidat, 2007). Others defined it as: “the use of means that may lead the consumer to make a mistake by mixing him with an institution with an institution competing with the defendant in order to divert these consumers” (Leib, 2002).

As for the Jordanian legislation, it did not provide any definition of unfair competition. However, it has been made clear that any competition that conflicts with honest practices in industrial or commercial affairs is considered an act of unfair competition. The legislation specified them, as an example and not limited to, in accordance with the text of Article (2/A/1) of the Jordanian Unfair Competition and Trade Secrets Law No. (15) of 2000.

Article (2/A/1) of the Jordanian Unfair Competition and Trade Secrets Law No. (15) of 2000 stipulates that: “A. Any competition that conflicts with honest practices in industrial or commercial affairs in a manner that is unlawful is considered an act of unfair competition.” In particular, the following: 1. Business that, by its nature, causes confusion with a competitor’s facility, products, industrial activity, or merchants. 2. Untrue allegations in the practice of trade that may cause the loss of confidence in a competitor’s facility, products, industrial activity, or commercial activity. 3. Statements or claims whose use in commerce may mislead the public regarding the nature of the products, the method of manufacturing, their characteristics, quantities, or their suitability for use. 4. Any practice that may undermine the reputation of the product or create confusion regarding its external appearance or method of display, or may mislead the public when announcing the price of the product or the method of calculating it” (Article 2/A/1, The Jordanian Unfair Competition and Trade Secrets Law, 2000).

The importance of an unfair competition lawsuit is highlighted in protecting merchants and providers of products and services, as well as consumers. This is done by providing a safe environment for fair competition. Merchants and service providers compete to promote their services and products through several criteria that serve the consumer's need. Competition in this way is beneficial because it provides a balance between production and consumption. But this competition often leads to a departure from the legitimate legal framework of competition. This is done by trying to attract consumers by any means without caring about its legitimacy or harm to others, such as depriving the affected person of potential customers. This is considered a type of unfair competition, which the law addresses by granting the affected person the right to take several measures stipulated in Article (3/b) of the



same law. This includes granting him the right to file a claim for reparation for the harm he suffered ([Al-Adwan & Mabrouki, 2018](#); [Al-Billeh, 2023](#)).

Article (3/b) of the Jordanian Unfair Competition and Trade Secrets Law No. (15) of 2000 stipulates that: "B. When filing a civil lawsuit related to unfair competition or during the consideration of this lawsuit, the interested party may submit a request to the court. The competent authority, accompanied by a bank or cash guarantee accepted by it, may take any of the following measures: 1. Stop the practice of such competition. 2. Precautionary seizure of relevant materials and products wherever they are found. 3. Preservation of relevant evidence" (Article 3/b, The Jordanian Unfair Competition and Trade Secrets Law, 2000).

To initiate an unfair competition lawsuit, it is based on the same foundations as the rules of civil liability in general. The person must commit an act of unfair competition that results in harm to others. There should also be a causal relationship between the harm and the illegal act ([Obaidat, 2007](#)). The intended picture in this lawsuit is that there is confusion among consumers regarding similar or identical domain names, whether in the real or virtual world. For example, some domain name registrants may benefit from the popularity of a particular trademark by imitating or counterfeiting it. This is done in order to attract customers to his site due to the confusion that is generated in the mind of the consumer. This may cause harm to the trademark owner, including financial losses, distorting reputation, or diverting and misleading customers as a result of registering the domain name in bad faith. The penalty, if competition is proven, is obtaining fair compensation and stopping the illegal practices, in addition to imprisonment, a fine, or both. Unfair competition occurs when there is similarity in the provision of services or goods, which causes confusion among the consuming public. If they are not similar, then there is no competition here. It is a matter left to the judge's decision. The Jordanian legislator did not stipulate the moral element, but was limited to the act of unfair competition causing harm to the competitor ([Alkhasawneh, 2018](#)).

As for the position of the Jordanian legislator on the above, we can conclude by extrapolating its legislative system that it lacks a specific regulation of domain names. This matter requires saying that any attack on a domain name registered in Jordan that distinguishes the products and services of its owner is considered an attack criminalized by the Jordanian legislator in the Unfair Competition Law. This is especially true if the intention of the attack is to harm the owner of the domain name by misleading the consumer public and causing confusion among them (Article 2, The Jordanian Unfair Competition and Trade Secrets Law, 2000). These actions are considered acts of unfair competition that are punishable by Jordanian legislator ([Obaidat, 2007](#)).

2. Compensation Claim

The rule in civil liability is based on the fact that any harm to others obliges the perpetrator, even if he is non-discerning, to guarantee the harm (Article 256, Jordanian Civil Law, 1976). Thus, civil protection according to this rule establishes the right to compensation based on the general rules of liability contained in the Civil Code. Everyone who was assaulted has the right to claim compensation for the material and moral damage he suffered (Al-Khashrum, 2008). Therefore, any harm caused to the domain name owner, such as attacking the name through electronic piracy, or creating identical or similar domain names, or registering a trademark identical to the domain name for the purpose of causing confusion among the public, making a profit, or bargaining with the domain name owner with the intention of selling it, the owner of the domain name deserves compensation for the damages he suffered if this liability is proven. The responsibility and burden of proving the incident of infringement falls on the person who was harmed (Al-Atiyat, 2020).

Accordingly, a claim for compensation regarding the domain name is heard under the rules of civil liability on the basis of the usurpation and plagiarism of the names of this right and the harm it causes to the owner (Obaidat, 2007).

It should be noted here that despite the importance of these lawsuits, whether unfair competition or compensation, in providing a degree of protection to the owner of domain names, they may not be able to provide adequate legal protection for domain names for several reasons. Among them we mention the following:

- a. The many regulatory, procedural and technical amendments and changes to which domain names are subjected. They take place within an electronic environment that is subject to constant change in order to keep pace with all modern developments in this field, especially with regard to the Internet (Leib, 2002).
- b. Determining the criteria for confusion that occurs among the consumer public when there are similar or identical domain names is a matter left to the discretion of the judge of the matter. This may negatively affect the possibility of unifying the handling of domain name infringement cases, as there are no special references for resolving the dispute related to domain names for the local judge to refer to (Qtaishat, 2012).
- c. Resorting to the local court in order to settle domain name disputes may face many difficulties, such as the length of litigation procedures and the large expenses that these cases require. This may prompt the domain name owner to settle the dispute according to the Uniform Policy rules. They may provide him with the opportunity to settle the dispute within shorter time frames and with less financial expenses this will be explained in the third section of this topic (Al-Adwan & Mabrouki, 2018).



Protecting Domain Names According to the Rules of the Uniform Dispute Resolution Policy of ICANN (International Level)

The Uniform Dispute Resolution Policy rules applied to generic domain names by the Internet Corporation for Assigned Names and Numbers (ICANN) are the first amicable and voluntary dispute resolution procedure in the domain name space (Zouani, 2020). The World Intellectual Property Organization conducted a study on domain name disputes at the request of ICANN. This study was the reason for the introduction of the Uniform Policy Procedures for Resolving Domain Name Disputes as well as the establishment of foundations and rules for achieving solutions (Al-Adwan & Mabrouki, 2018). The Internet Registration Authority for Names and Numbers (ICANN) has adopted and approved these procedures to resolve disputes before it (World Intellectual Property Organization, WIPO Domain Name Program, at the Thirty-Sixth Meeting of the Organization, July 20, 2001, Geneva).

These rules are mandatory for all ICANN delegated countries, such as Jordan, with regard to “generic top-level” domain names. But it is optional for second-level domain names. National domain name registration centers are free to adopt these rules or not. However, if it adopts them, it must include a stipulation for the implementation of these unified rules in the domain name registration contract concluded between the national registry and the name registrant. These rules will then be mandatory to apply to resolve domain name disputes (Froomkin, 2003).

The ICANN Rules are applied by resorting to one of the ICANN-accredited arbitration bodies stipulated in Article (4/A) of the Standard Rules, which are: 1. The WIPO Arbitration and Mediation Center, 2. The National Arbitration Forum Headquartered in the United States of America, New York, 3. The Asian URL Dispute Resolution Center (ADNDRC), headquartered in Hong Kong (Ahmed, 2018).

The UDRP procedures applied by these bodies are based on two legal chapters. The first includes a unified domain name dispute resolution policy, which relates to general principles of the procedures followed. The second includes the rules for applying these procedures and is called the “Unified Domain Name Dispute Resolution Policy Rules,” which stipulates the application of general principles to domain names registered within specific public domains such as: (com.net. org). These principles are imposed on holders of domain names registered within these domains by means of a registration contract signed between the domain name holder and the registry office. Therefore, in the event of a dispute, the domain name holder accepts that it be settled by the dispute settlement body by applying the unified dispute settlement policy procedure (Froomkin, 2000).

The Unified Domain Name Dispute Resolution Policy stipulates that three conditions must be met in order for the dispute to be subject to this policy. The burden of proving that these conditions are met lies with the complainant. They are limited to the following:

1. Identification and similarity that leads to confusion among the consumer public. For a dispute to be subject to the Uniform Policy Procedures, the complainant must prove that the registration of the domain name by a third party is the same or similar to his domain name. This registration results in confusion among the consuming public. The assessment of this similarity is subject to the dispute settlement committee charged with examining the subject of the complaint. It evaluates this similarity on the basis of the general appearance without going into the specific details of all the elements of the existing conflict ([Al-Atiyat, 2020](#)).
2. Proving that the owner of the latter domain name does not have the right or legitimate interest in it. The domain name owner must prove that the registrant of the latter domain name does not have any right or legitimate interest in it, since the right to the domain name is based on the rule of first-come-first-served registration. Whoever first registers the domain name is the holder of the right to it and the rights deriving from it. Accordingly, the holder of this right has the right to object to the latter registration of its domain name ([Al-Khudairi, 2020](#)). As for the legitimate interest of the domain name registrant, it is represented in the cases mentioned in Paragraph (C) of the Unified Policy Rules. They are as follows: “1. The domain name owner must prove that, before becoming aware of the dispute related to his domain name, he had actually used it in good faith to offer products and services through it, or that he had taken actions indicating preparation for its use. 2. The domain name owner must prove that he is famous for the disputed domain name. 3. The domain name owner must prove that he has exploited his domain name in a non-commercial manner that does not aim to achieve profit by diverting potential customers to his site, or has the intention of harming the relevant service trademark”.
3. The registration and use of the domain name must have been done in bad faith. For a dispute to be subject to the Uniform Policy Procedures, proof of bad faith by the defendant when registering the domain name is required. The UDRP rules have attached great importance to the term bad faith. Paragraph (b) of Article Four of the Unified Policy Rules included four cases, but not limited to them⁵⁰. The Dispute Settlement Committee has discretionary authority to decide whether or not these cases exist ([Al-Adwan & Mabrouki, 2018](#)).

As for settlement procedures, the prevailing trend of legal jurisprudence has agreed to define them as follows:

1. Filing the case “complaint”. The complainant submits his claim to one of the settlement centers in paper or electronic form. This lawsuit includes all of the complainant’s data, the name of the defendant, his contact information, the address of the disputed domain name, a description of the method of attacking that name, and the solutions that the complainant wishes to implement. A copy of the lawsuit is also sent to the defendant within the specified period of the Panel’s receipt of the complaint. The complainant also submits all required documents and pays the prescribed fees ([Alkhasawneh, 2018](#)).



2. The defendant's response. The defendant must respond to the complaint within twenty days of being notified of it. His defense is that his use of the domain name was in good faith, or that he did not know the name, or that he did not use it commercially ([Mabrouki, 2017](#)).
3. Issuance of a decision on the complaint. The arbitration panel issues its decision within fourteen days. The decision must be in writing and reasoned. It is taken by majority if the arbitration panel is three-member. The decision (arbitration award) consists of transferring the domain name, deleting it, or rejecting the complaint. It shall be communicated to the parties within three days from the date of its issuance ([Al-Khashrum, 2008](#)).
4. Implementation of the decision. The arbitration award shall be implemented within ten days from the date of announcing it unless one of the parties files a lawsuit. This requires submitting an official copy of the lawsuit notice ten days before. In such a case, the implementation of the arbitration award will be suspended and the disputed domain name will remain suspended while the dispute is being considered judicially until a judicial decision is issued ([Al-Atiyat & Al Nuemat, 2017](#)).

Despite the comprehensiveness of the procedures of the unified rules and their coverage of all stages of dispute resolution, there are several things that we take from these unified rules for settling domain name disputes. Among them we mention the following:

1. We believe that these unified rules have been limited to setting rules and procedures for resolving domain name disputes related to trademarks only, without addressing all types of disputes that arise from domain names registered without a trademark name. The complaint subject that these rules address is only disputes related to the trademark. The complaint clause stated the following: "8. Identify the trademark(s) or service mark(s) on which the complaint is based, with regard to each mark describing the goods or services, if any, and specifying the nature of the trademarks used. Any complainant may describe other goods and services which, at the time of filing the complaint, are expected to use the mark in the future. 9. Description of the reasons for filing the complaint in accordance with the policy including in particular: A. The manner in which the domain name(s) is identical or confusingly similar to the trademark or service mark". There is no subject in this policy/uniform rules other than the connection of a domain name with a trademark that could be the subject of a dispute within the jurisdiction of these rules and their arbitration bodies ([Altahmeh, 2005](#)).

Therefore, we believe that these unified rules are insufficient to provide the necessary and comprehensive protection for all forms of national domain names in Jordan. Domain names are not limited in their composition to the trademark as stated previously ([Altahmeh, 2005](#)).

2. These rules may also be criticized for their lack of a binding element or the inability to stop the activity of the disputed website until the dispute is resolved. This makes the aggrieved party often prefer to resort to the courts in order to issue an order to suspend the disputed site until the dispute is resolved. Also, the decisions of the UDRP are not final. They grant the power to the disputing parties to bring the dispute before the judiciary at any stage of the initiation of the UDRP procedure (Zouani, 2020). This matter requires the Jordanian legislator to intervene to create a special law for domain names. This law will define what these names are and clarify their legal nature. It will also indicate the extent to which they are considered a moral right that grants its owner the right of ownership over it, in addition to determining the means of protection for these names (Klein, 2002).

Accordingly, we believe that the Jordanian legislation has not established legal protections for domain names. It also did not clearly specify the legal nature of those names. The Jordanian legislation must create a special law that addresses these problems, given the importance of domain names, as we mentioned above. They are the first key to accessing the Internet and performing electronic transactions in general and commercial transactions in particular (Qazmar, 2018; Khashashneh et al., 2023).

Conclusion

The issue of protecting domain names is an indispensable necessity nowadays, especially with regard to commercial transactions that take place through modern means of communication such as the Internet, whether at the local or international level. However, through the study we found that the Jordanian legislator did not succeed in providing legal protection for domain names. The Jordanian legislative system is devoid of any special legal regulation or even a system that defines domain names in terms of their legal nature and means of legal protection for them. In fact, there is only a "Registration Policy" that the Ministry of Digital Economy and Entrepreneurship is implementing to register national domain names. It only addresses the technical and procedural aspect of registering domain names without specifying the legal nature of those names. It is not known from this policy the legal nature of the domain name and whether it is considered an element of commercial property; Such as the trade name and trademark, or not. This detracts the provision of legal protection for domain names because it does not know the law applicable to domain name disputes. Also, the legal basis for it is not known primarily. On the other hand, the Jordanian registration policy for domain names does not stipulate the implementation of the principle of priority of registration, which raises many practical problems within Jordan.

Therefore, it turns out that ICANN's standard policy is insufficient to provide the necessary regulation and protection for domain names. It is only concerned with disputes between domain names and trademarks. As a result, a special law or system for national domain names must be enacted. This is to determine those names and



their legal nature. It is also intended to include provisions for its legal protection and to stipulate the principle of priority of registration, taking into account the issue of the regionality of commercial name registration centers. In Jordan, there is no single official authority for registering trade names. But each governorate has its own entity. However, it is possible that there is similarity in trade names within two or more governorates. This may cause problems for those merchants who own these trade names when they try to register their own domain names and distinguish them from each other.

Despite the UDRP's shortcomings, which can vary in severity, such as inconsistent and occasionally uninformed decisions, vague terminology, a notable disparity in the market among providers indicating service inequalities, and inadequate data for evaluating the fairness of decisions or processes, it has still achieved commendable results. Finally, the Jordanian legislation must establish legal mechanisms aimed at coordination between the register of national trademark owners and the registration of domain names, at the local and international levels. It must also provide a central database or website page that helps applicants to register domain names access it in order to mitigate conflicts that may arise due to attacks that occur as a result of the registration and use of domain names.

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Author contribution : Author 1: initiated the research ideas, instrument construction, data collection, analysis, and draft writing; Author 2: revised the research ideas, literature review, data presentation and analysis, and the final draft. Author 3: revised the research ideas, literature review, data presentation and analysis, and the final draft.

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