

Copyright and Related Rights According to Jordan Legislations

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Abstract:

Study purpose : To identify copyright , materialistic and legal reality , and explain these rights protection and the actual need for legal protection , then identifying positives and negatives for the legislative situation for such kind of rights in Jordan . Also to indicate the defect and shortage if available , in addition providing suggestions and recommendations that may overcome this defect. Conclusion : By the end of this study , hope to be succeeded in referring to the main points of copyright and related protection which was presented through two demands ; literary and financial right , as I identify these rights and the difference between them and each right importance and characteristics .As by the second chapter , I present copyright related rights through two sides , the first is blogging right and other related rights for its identification , and characteristics. The second side is copyright protection whether by judicial control or before civil or penal courts . Through this research ; the researcher had the following recommendations : The researcher hope Jordan legislator to indicate the crimes against copyright with crime kind and it's danger , as texts indicating copyright protection came common and not classified.

Keywords: Copyright, Related Rights , Jordan Legislations .

I. Introduction & Preamble

To explain and present this kind of rights , the researcher reviewed references and scientific researches regarding to copyright , agreements and international treaties in this regard cause such right is not well-known in societies as trade and industrial rights . The reason for that is the new appear of this right and the need to protect it , and finding protective legislations that encourages writing and arranging notions . As many aggressive methods appeared against such right through new technological messages and communication means . Whereof , we hope through this study to cover an important side of copyright and related rights according to Jordan Copy right No. 23 for 2014.

Study Importance

Its importance is that this right doesn't contain a tangible material as financial different rights as it is characteristics is literary in addition to materialistic side. Also because this kind of rights was not

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known at that time, thereof legal protection for such rights raised after the scientific and technological development that accompanied New technological revolution and the scientific progress that this century witnessed . Accordingly , it is so important to search and investigate the importance of this right and the legal protection for it after presenting it's shape , and the legal reality in addition to the basis that led to the need to protection . And if legislative cover of these rights – according to Jordan law- is enough , or there is a legislative shortage which is incomplete , and is there rights related to copyright or it stands alone.

Study purpose:

To identify copyright, materialistic and legal reality , and explain these rights protection and the actual need for legal protection , then identifying positives and negatives for the legislative situation for such kind of rights in Jordan . Also to indicate the defect and shortage if available , in addition providing suggestions and recommendations that may overcome this defect.

Study division :

By reviewing studies and related references , we divide this study into two chapters which are :

1st chapter : copyright which shall be divided into many branches :

First : literary right

Second : Financial right

2nd : the rights related to copyright , as this chapter would be divided into many branches .

First : Blogging right , Radio and Television Commission and Sound recordings producers .

Second : indicates copyrights protection means .

II. Independent Chapter

Because thought is the noticeable human being characteristic , as it is the base that leads to nations development , so internationally copyright important protection raised and followed by locally protection . And because of the different classifications that appeared and led to intellectual creations in many different international communication means which is one of different fields of copyright . For the said reasons , the importance to have new legislations appeared or to modify them the way that protect these rights in a better way to get benefit more through admitting his financial and literary rights that is tied with his mental creation , so to protect it from right aggression to encourage him for more creation and to reassure him to publish his classifications without any fear from copy or theft illegally.

As mental production characterized internationally and exceeds publisher and composer home , thereof an international protection system for such production must be achieved through agreements and international treaties , as the most important treaty is Burn for protecting literary and artistic

classifications in 1886, thus this treaty became a source for most legislations that protect copyright all over the world.

Also Tribes Treaty related to intellectual copy right related to trade except intangible rights as this treaty deals with intellectual copy rights commercially only. After GAT was established and the technological data revolution that accompanied it with the international economic progress; thereof the copyright became one of this intellectual creation fruits. Intellectual Copyright expression is a legal expression used for many rights like copyright, related rights, patents, trade secrets, trade marks, illegal competition, integrated departments, industrial designs, and plants new kinds.

Cause article 6/second/2 of Burn treaty indicates that right granted to author shall be kept after his death unless the financial rights are settled, as such rights give the author all financial benefits for a period.

III. First Chapter : Copyright

First Branch : Literary right

Literary copyright expression indicates that the author shall have authorities and characteristics with moral value in addition to materialistic one.

The moral side means that the spiritual tie between mental production and his owner, that expresses the adhesion with the person, as its characteristic indicated in this production that expresses his indications and talents.

Elements of Literary right:

Author literary right is considered as personal right can't waiver it or drop it for long term, and any act regarding it shall be considered as illegal, and it is person intellectual creation.

Jordan legislation alluded this mark by virtue of article 13(3) that the author has the right to act in financial investment without alluding to literary said right; which means that it is not allowed to act (4) of such right whatever it could be. As using this literal right is one of aggression faces that law must protect which is aggression on author relation with his production through giving the right to other one.

This shall lead us to identify elements of author literary right which are :

1. Copy right in publishing his production
2. his right in relating his production to himself (fatherhood right)
3. the right to take his production from trading.
4. his right in facing aggression against it.

- 1) Suliman Morkos / Al Wafi in expressing civil law/2nd print 11987 page19
- 2) Sanhoury P 48

- 3) Jordan author protection right
- 4) Sanhoury P 409

And not to act in literary right by virtue of Burn Treaty that indicates author literary right terms and many other legislations like Swiss and France.

Author literal right positives that the production is linked with owner name and any action without his permission shall be considered aggression.

Whereas its negatives that it prohibits that any one may copy or translate this production freely without a permission of the production owner . I think that this evaluation is negative as it prevents the author from encouragement to have intellectual production cause it is not protected and could be aggressed , as it may lead to a mess because it is common for others (author opinion)

Characteristics of Author Moral side:

Jordan legislator enlarged Jordan right content if compared with Burn Treaty which only acknowledge of fatherhood right , and production respect right , whereof these characteristics indicated in :

1. This right can't be dropped by term and it is transferred to inheritors whether it is published before his death or not published unless he recommends not to publish it .
2. This right can't be seized or act with it like fatherhood , childhood and relatives .
3. It is an eternal right for author lifelong and after his death as it is not limited for a duration like financial investment according to articles (7,8,9,10,22,23) .

Second branch :

Financial Right : Author investment right commercially

This right characteristics :

1. This investment is author only right , and within the period that agreed for investment if declare for others or inheritors for such investment after his death . As this right shall be considered tangible one with the following characteristics:

- A- This right could be for short duration /temporary
- B- This right obtained by intellectual copyright not like other rights according to civil law (1)
- C- All actions related to author financial right must be written clearly to indicate investment way.
- D- The contract shall indicate the purpose of such investment , it's term , duration and place .
- E- This financial right shall not be allowed to what would be in the future , as it shall stand after being available materially.

It is allowed to agree achieving a production in the future that value is known previously

Legislative exception for financial investment:

Despite the matter that legislator was so hard in author literary and financial rights , some exceptions are mentioned in financial rights represented by :

1. For private investment purposes , one copy which is not origin is allowed for the product.
2. Law allows scientific performance for production without author approval if it was within family meeting or within a private society.
3. Copy is allowed for scientific or educational research or vocational training .
4. Universities , scientific centers are allowed to copy if necessary without going back to author or harming him .
5. Nouri Khater , P. 8

IV. Second Chapter : Copyright related rights :

First branch : Blogging right , Radio and Television Commission and Sound recordings producers :

According to article 23 paragraph (1) and article 11 indicate authors rights and prohibited aggressing fixed right whether artistic , music or others .

Also radio and television commissions which are indicated in protective commissions.

As Sound recordings producers shall be considered of legal right owners for such recordings such as making direct or indirect copies.

Second branch : Copy right Protection :

According to Jordan Law general terms , the author may ask to stop aggression on his production and to claim for civil compensation and penal punishment as :

1. By virtue of article 36 of author copy right , officers by author copyright office in national library department whom are authorized by the Minister are legal officers when they implement this law articles if any breach had happened . As they shall be allowed to inspect any place that make copy , production , or distribution , also to seize copies or the materials used for such action and to transfer committers to court and the Minister has the right to close the place by virtue of court decision .And no matter if the author was Jordanian or not , and every producer outside Jordan if registered by National Library Department shall take a number.
2. The court upon right owner or his inheritors or general or private successors ; may achieve what is indicated by 8,9,23 that identify production with it's relation to his owner , and investment way.
3. The court is allowed to take many procedures to face aggression such as :

Stop aggression according to article 46 and to catch the illegal production and used materials and results. This could be during lawsuit , before or after , and it could keep any precautionary measure to keep owner right.

The court may nominate experts to evaluate damage and fit compensation , and also to destroy these copies and the materials that were used in this breach . In addition the author has the right to ask the court to public the decision against the aggressive party via local or weekly newspapers on condemned party account by virtue of article 50.

4- By virtue of article 51 which deals with penal punishment which shall not less than three months and shall not exceed three years and a fine not less than 1000 and not exceeds 6000 or for both punishments . as this fine is for the state and it shall be considered as public right and not the his compensation , so it is not related to him.

If it is repeated , the fine and punishment shall be in it's maximum level , and according to article 52 , there is different punishments for other law articles breach .

To indicate that if this law warding contradicts any treaty or international agreement ; thereof agreement or treaty shall be applied rather that Law.

V. Conclusion:

By the end of this study , hope to be succeeded in referring to the main points of copyright and related protection which was presented through two demands ; literary and financial right , as I identify these rights and the difference between them and each right importance and characteristics .

As by the second chapter , I present copyright related rights through two sides , the first is blogging right and other related rights for its identification , and characteristics. The second side is copyright protection whether by judicial control or before civil or penal courts .

Hope to be succeeded in covering all practical aimed sides of this study .

Done by God Goodness,,

Researcher

VI. Results & Recommendations :

Through this study , I reached many results and recommendations

First : Results :

1. Human being production is not limited for what his hands produces , but what is produced by his mind and intellectual shall be the base production which is of so great value.
2. This intellectual production could be aggressed by theft , copy and imitation.

3. New technology means enables legislations that protect this intellectual production after the scientific and technological progress and availability of new communication means.

4. There is so many aggressive means on intellectual production , thereof we have to indicate such aggression with its elements and prevention means and it's importance.

5. Proving these rights shall not be with civil means , but with copyright legislations.

6. Technologies and communication means come over the distance as the world became and international digital village , the matter that obliges international society to find international protection in which led to international Treaties to protect copyright and intellectual copyright in general.

Recommendations :

Through this research ; the researcher had the following recommendations :

1. The researcher hope Jordan legislator to indicate the crimes against copyright with crime kind and it's danger , as texts indicating copyright protection came common and not classified.

2. Hope the legislator to indicate the relation between copyright protection available legislation and the international concerned treaties.

3. The researcher hopes that legal studies care about copyright elements continuously .

4. The researcher hopes to authenticate studies care about copyright , also to make legislation of intellectual property to be more controlled to facilitate if researcher , student and judge wants to go back to it.

5. Hope to hold training courses for judicial control members in National Library Department and court competent employees to treat these crimes and prevent them to achieve it's purpose of existence

Related Rights :

- Performers Rights / performing artists.
- Sound recordings producers rights.
- Radio and Television Commission with their programs .
- Protected classifications
- Written books and brochures.
- Oral lectures like lectures and sermons.
- Singing and acting drama .
- Music classifications .
- Cinema classifications
- Drawing , sculpture , taking photos , architecture , applied arts , decoration works.

- Illustrated arts , maps , designs , charts , and protected works.
- Computer programs .

Rights of copy right :

- To be attributed to him
- To publish it's author
- Make modification.
- Protect it
- Prevent trading
- Making copy.
- Commercial rent.
- To be distributed for audience .
- To be protected I borders according to customs Code No. 20 for 1998 and border procedures for intellectual copyright protection No. 7 for 2000.

Cassation Court Decisions :

2058/2004 conservatory procedure for First Instance court in copy rights cases.

2684 /2003 literary rights which are personal rights to be kept after author death and after transferring these rights , the keep the right of keeping the production form misrepresentation or any acknowledgement that affects production honor .

2797/1999 Cassation rights

To deposit the production on order to protect it according to article 45 of law , paragraph 22 for 92 of copy right protection (Jordan Books Deposit Center) .

78/1999 Supreme justice

The competent court shall be first instance according to article 22 for 1992 of copyright protection.

- Copy right means the rights that are granted to the creative authors to protect their artistic and literary productions indicating all productions that were expressed by writing , sound , drawing, taking photos , or movements such as books , novels , poems , dramas , music , cinema , radio , moving drawings , sculpture , computer programs , maps , sketches and decoration works .

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