

The New Jordanian law of Standards of Metrology Organisation and its ability to Protect Original Trademarks

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The Amending Law of the Standards and Metrology Law No. 38 for the year 2015 (the "Law"), amending the Standards of Metrology Law No. 22 of 2000, has been issued by the Jordanian Standards of Metrology Organization (JSMO).

The law seeks to ensure that goods in the Jordanian market conform to the prescribed technical regulations. In order to do so, the law provides the JSMO with the authority to examine existing goods in the market as well as those which enter the Jordanian border crossings.

The amendments provided under the Law are substantial and include giving the JSMO the authority to confiscate counterfeit products and to raid shops suspected of selling or making counterfeit products. Through the Law, the JSMO and its employees have broader powers to exercise their mandate and to examine goods to ensure: 1) conformity with the technical regulations, 2) that they are not replicated or counterfeited, and 3) that they possess original trademarks.

The most important of these amendments is reflected in Article 33 of the Law where the JSMO's staff are considered Judicial Police with the right to inspect any place that produces, displays, sells, stores, distributes, or modifies any goods. Further, the JSAMO staff have the right to take samples of goods to check their compliance with the technical regulations and to ensure that no original trademarks are violated.

It is worth mentioning that the Law gives the JSMO's employees the right to seize counterfeit branded, imitated, or unsafe to use goods after examining goods already in the market, or through the monitoring and examining goods of entering through border crossings. This ensures a larger and wider protection against the imitation of original trademarks

Article 33(E) of the Law provides that if JSMO's staff find that the seized goods are counterfeit branded or do not conforming with the technical regulations, the importer will be prevented from entering with the goods and obliged to return the goods to their country of origin. In the alternative, JSMO may seize the goods and order their destruction. If counterfeit branded, imitated, or nonconforming goods are found in the market, the offender, the seller, will receive a written warning noting that action must be taken within a specified period to make the goods conform with the technical regulations. If the offender does not abide within the warning period, the shop will be closed by JSMO and the offender will be referred to the relevant court. In conjunction, the General Director of the JSMO will issue a decree to confiscate the nonconforming or counterfeit branded goods.

The Law has reiterated the sanctions to be implemented against offenders. Fines for breaching the provisions of the Law range from one thousand to ten thousand dinars, or imprisonment for a period of four to six months in conjunction with a fine of not less than one thousand dinars.