

## JORDANIAN DOMAIN NAMES (.JO) THE CONCEPT AND THE LEGAL NATURE

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**ABSTRACT:** *This study addressed the concept of Jordanian Domain Names (.jo) with regards to definition, explaining the key characteristics and registerable domain types in accordance with Domain Name Registration Policy that is accredited in Jordan. Therefore, it examined the legal nature and adaptation. Moreover, how their roles have been developed to be a legal tool after being a technical tool, to mark the online presence for people, which urged the legislation interference in several countries to organize related issues to the concept of those domains and their legal adaptation which is not found in Jordanian legislations that didn't state internet domain names. Specifically, Jordanian domain under (.jo) neither the concept nor identifying the legal nature for domains and their position in legal concepts prevailed in Jordanian legal system. the registration policy addressed the technical procedural aspect for domains registration process without indicating their concept, nature and rights emanating from this registration. This matter urges legislation interference to organize legal issues related to those national domains which are distinguished, private and significant due to the considerations of independent legal nature added to the elements of Jordanian legal system.*

**KEYWORDS:** Internet, E-commerce, Domain Name, ICANN, .jo, Intellectual Property.

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## INTRODUCTION

Currently, e-commerce is significant due to the development of communications and exchange information. As we believe that the world is moving towards introducing technology in all fields of human activity, specially, business activities. E-commerce provides projects with success requirements by reducing production cost, enhancing competitiveness and increasing the ability to go-to-market. international e-commerce removed borders and restrictions of go-to-market, hence making the world as an open market for customers, regardless vendors' or customers' locations. Therefore, the transform will be towards digital economy that depends on exchange of information, goods and services, in addition to marketing and attract investments.<sup>1</sup>

E-commerce size in Jordan is week in comparison to the international real markets size and potentials. Jordan ranked 80<sup>th</sup> in the world according to e-commerce Index issued by The

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<sup>1</sup> Electronic Commerce is production, advertising, sales and distribution of products through electronic communication networks. Visit to international Trade Glossary listed in WTO available at: < [www.wto.org/English/lossary](http://www.wto.org/English/lossary)>. accessed on 1<sup>st</sup> June, 2017. It also defined as “the business activities that take place by using broadcasting electronic information on-line, See Hammad, Tarek, *E-Commerce: Concepts Experiences - Challenges - Technological, Financial, Marketing and Legal Dimensions*, (Aldar Aljam'ia , Cairo, 2<sup>nd</sup> Edition, 2007) P. 10.

United Nations Conference on Trade and Development (UNCTAD) 2016 with total size estimated with 400m\$, 44% internet users of total population.<sup>2</sup>

Internet<sup>3</sup> plays a key role in evolving e-commerce transactions since it is international yet neither owned by any entity nor restricted by geographic location as well as it is opened to all. It is a network of several networks managed separately and decentralized. In addition, each network uses internally, deferent computers technologies and networks, hence, internet is an international system to merge connected computer network, such computers and related networks exchange information by using protocol (TCP/IP) which allows electronic exchange of data via telecommunication networks.<sup>4</sup>

To optimally use internet and utilize significant investment opportunities to reach several markets and wide range of customers, businesspeople and organizations created websites to promote their products as well as find ways to contact customers. Consequently, they are able to spread, introducing themselves through global means, which does not recognize international borders. To make such website accessible to customers. In the past, domain names used to comprise long digits, which was hard to be memorized. Later they are replaced with letters and symbols to identify the ID and business of the website owner. Domain name has been so significant due to the its role in accessing websites and distinguishing them. Thus, domains are the technical mean to access websites and their contents. Currently, domains names' have become important in economical, commercial, legal and financial sides beside technical side, because they are the foundation of the internet. The Internet Corporation for Assigned Names and Numbers (ICANN) oversees the system of domains names on international level, which is non-profit technical organization with international representation establishing domain names across organizations, sub-institutions to stabilize internet and develops required policies to ensure proper working by Generic Top Level Domain (GTLTLD). Internet domains at the national level always end with country code Top Level Domain (ccTLD).

ICANN authorized several entities to register and manage on international level such as specialized companies and internal governmental entities to develop decentralized system to record domain names in both types on international high-level or national level related to registering and managing domain names for each country.

In Jordan, National Information Technology Center manages registering process, national domains that ends with .jo under the authorization by ICANN to manage and registering Jordanian domains, through following international criteria and the best practices in registering such domains.

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2 The report of United Nations Conference on Trade and Development (UNCTAD), UNCTAD B2C E-commerce Index 2016, published online on UNCTAD available at:

<[www.unctad.org/en/publicationslibrary/tn\\_unctad\\_ict4d07\\_en.pdf](http://www.unctad.org/en/publicationslibrary/tn_unctad_ict4d07_en.pdf)> accessed on 1st June, 2017.

In the same context, the report pointed out that the volume of B2B e-commerce reached more than15 Tn\$ and the B2C volume of e-commerce exceeded.

3Internet stands for International Network, which is a global network connects millions of computer devices in more than 190 countries worldwide, with users exceeded 302 Bn user worldwide in 2015, see International Telecommunication Union report 2015, an agency of the United Nations, published on BBC

available at: <[www.bbc.com/arabic/scienceandtech/2015/05/150526\\_internet\\_users\\_itu](http://www.bbc.com/arabic/scienceandtech/2015/05/150526_internet_users_itu)>. accessed on 1<sup>st</sup> June, 2017.

4 IP: a system responsible for splitting information into Packets, which determined by TCP, and the destination of end packets, the functions of this protocol are therefore addressing, routing and detecting errors, available at: < [IP www.ar.wikipedia.org/wiki](http://www.ar.wikipedia.org/wiki) >. accessed on 1st June, 2017.

Despite the great significance of domain names on both, national and international levels, and although accurate details for forming technically and technologically, we find that related legal aspects are inadequate to be able to address all sides on the same level of correspondent importance. On the international level, ICANN has not been focusing on legal aspects for domain names as much as technical aspects due to technological nature that distinguishes this organization, delegating regulations to internal legislations in each country, which led to a difference in concept, legal adaptation and judiciary dealing with these domains in each country.

Jordan is one of the first countries for using domains names .jo simultaneously with rising this system on international level. However, its role is limited in registration and not exceeded to related legal aspects, where word domain .jo was not mentioned in Jordanian codes and even in the Electronic Transactions Law of Jordan in first Version 2001 and amended in 2015. Thus, we will find legal gap in addressing this modern concept and related to using internet and websites.

On judiciary level and related provisions of domain names disputes, there are increasing in cases and related disputes, if judiciary didn't develop specific regulations for legal nature for domain names due to its own nature that differentiating them from other legal concepts. Jordanian judiciary's provisions lacks to the concept and legal nature of such domains given the scarcity of issues related to e-commerce operations in general.

It is noticed that juristic studies that previously addressed domain names in general with concentrating on high-level domains without the ecosystem of domain name on the internal level ending with the countries' code and identifying its legal concept and nature.

In this study, we seek addressing the concept, characteristics and types of national domain names (.jo). In addition, the attempts to identify the legal nature of the domain name through approximating of similar legal concepts and conducting comparisons to achieve legal adaption that consistent with existing Jordanian legislation.

### **The Essence of Domain Names**

Searching the domain names at the national level (.jo) and domain names in general raises a lot of controversy, due to the angle seen by the jurisprudence and the law or even the judiciary to such names because of the nature of the technical nature, components and function performed online. Given the different types of these domains between the general at the international level not specified in a particular national domain, and between national domains confined to the symbols of states are regulated in the internal legislative foundations in each country. Thus, this part will be divided into two sections we will address in the first section, the definition of domain names, and in the second section, the types of domain names.

### **The Definition of Domain Names**

When word "Domain name" translated into Arabic, Arab translators did not agree on the same word in law and legislation; some of them transliterated with Arabic letters while others translated it to "web location", or "website".

The difference in terminology for the technical nature of domain name which expressing the website. Considering it as an address enabling internet users, to access websites by keying-in

letters and digits. However, we will use “domain name” because it is used by ICANN, the authorized organization related to domain names worldwide as well as it is accredited by National Information Technology Center of Jordan when they register domain names for codes (.jo), Domain name registration policy under the .jo domain.

Legal and jurisprudential definitions of domains are varied in general, some were based on the technical side played by this name and function, or definition dealing with domain name configuration, however, legal nature of the domain name and its location in the legal system were missed in each country.

At the legislative level in Jordan, the legislator did not state domain name in related legislations; Electronic Transactions Law of Jordan, because it is the law closest to the subject of the domain name and whose provisions have not been addressed in any other legislation.<sup>5</sup> in comparison to some Arab legislations that defined domain names, Bahraini legislator<sup>6</sup> defined domain name in Article (21/3) of the Bahrain E-Transaction Laws: "For the application of the provisions of this Article, “by domain name”, means the top level of the global domain name systems assigned to Bahrain according to the two-letter code in the International Standard ISO 3166-1 (Codes for Representation of names of Countries and their Subdivision) of the International Organization for Standardization".

The Kuwaiti legislator called it the "electronic domain" when defined it in Electronic Media law as “Electronic domain: it is the domain registered on the internet or any other communications network, and electronic sites are entered through it.”<sup>7</sup> While the Syrian legislator used the term, "website name" as a set of alphabetically and digitally meaningful symbols that correspond to a web site address. This name consists of a set of hierarchical fields that separate each two consecutive sequences.<sup>8</sup>

We note here, that the above legal definitions for domain names have been used several terms indicating the formative aspect for domain name and technical function in accessing website, as attempting to connect domain name to website that representing it as part of it without legal definition indicating the legal nature of the title and the nature of the rights granted to the domain name registrar.

Most of the jurisprudence, the definition of the domain name based on the previous legislative style. Based on the technical, functional aspect or even the formation of the domain name to determine the meaning of the term, depending on configuration and technical nature for domain name; it is defined as "merely converting or transferring a set of numbers

<sup>5</sup> Jordan Electronic Transactions Law No. 12 of 2015, published on page 5292 of the Official Gazette on 15/April/2015, which repealed the Temporary Electronic Transactions Law No. 85 of 2001. We refer to the specialized laws that did not handle the definition of the domain name or its provisions such as the Jordanian Telecommunications Law No. 13 of 1995 and its amendments. The temporary law no. 81 for 2003 entitled “Deployment of Information Technology Resources in Government Organization”, as well as the intellectual property legislation relating to the subject of domain names such as the Jordanian Trademarks Law No. 52 of 1952 and its amendments and the Brand names Law No. 9 of 2006. The Tunisian Electronic Commerce and Exchange Act No. 83 of 2000 and the Dubai Law on Transactions and Electronic Commerce No. 2 of 2002 do not mention that the concept and definition of the domain name. While the Egyptian Draft Law on E-Commerce stated domain name under the name of the domain name and defined it as "individual addresses assigned by the licensed party to the users of the information network, allowing finding a website of the domain name owner to identify his personality and distinguish him from others".

<sup>6</sup> Transaction laws of Bahrain No 28 of 2002 published on Ministry of Industry, Commerce and Tourism of Bahrain available at: <[www.moic.gov.bh](http://www.moic.gov.bh)>. Accessed on 18 June 2017.

<sup>7</sup> Law No 8 of 2016 regarding the regulation of electronic media in Kuwait.

<sup>8</sup> Syria’s Electronic Signature and Network Services Law No. 4 of 2009.

in a letter form that is a term consistent with the name of the project or organization.<sup>9</sup> In the same context, it is known as "a unique and distinctive address consisting of a number of Latin alphabet or numbers that can be accessed by a site on the Internet."<sup>10</sup>

In terms of configuration, it is defined as website consists of two parts: Fixed part and variable part. The fixed part is in the section `http://www` which refers to the protocol used on the network, It is variable part follows the fixed part distinguishes the project from other projects (Domain Name) This part is divided into two types: (I) Top Level Domain (TLD); the most prominent example is the .com domain, or Country Code. Top Level Domain (ccTLD) at national domain .jo that refers to the Hashemite Kingdom of Jordan, while (II) Second Level Domain (SLD), which represents letters and names that reflect the name of the legislator or organization on the network.<sup>11</sup>

In terms of functionality, domain name is defined "A specific address or domain on the Internet through an entity, institution or economic group. Accessible for shopping in connection with an item produced or services provided. Domain name of the product or service on the network."<sup>12</sup> In the same functional context of the domain name, defined "a unique name by an online holder whose task is to identify sites and pages on the Internet".<sup>13</sup>

Some have tried to combine several aspects of the domain name into their definition to be defined as "a set of letters, numbers or phrases used to denote the address or location of a computer used by a natural or legal person on the Internet to identify this site and distinguish it from other sites".<sup>14</sup>

Based on the above definitions of domain names in general, focusing on technical and configuration aspects for domains without specifying their nature as a property right, authorizing registrar to conduct legal actions at registered address. Domain name is: "The special configuration of characters or numbers or a mixture between them is placed in a fixed and moving technical form. The fixed part indicates the network used the nature of the activity practiced by the registrar in general, while the moving part indicating the name of the natural, legal person or the nature of work related to their personal or professional activity. Registrar is granted ownership rights for domain registered in their name during the registration period, and authorizes them to conduct the legal acts resulting from such registration".

<sup>9</sup> Ghannam, Sherif, *Protection of Online Trademarks in their Relationship to the Electronic Address*, (Dar Al-Nahda Al Arabiya, Cairo, 1<sup>st</sup> Edition, 2004) p. 10. See also Holtenhoff, Marc, "International Domains and Their Influence on Global E-commerce", *Journal of Internet Law*, June 2001 (10-15).

<sup>10</sup> Alwan, Rami, "Disputes on Trademarks and Internet Names", *Journal of Shari'a and Law*, UAE 19th Year, 22nd Issue, 2005. P. 246, in the same sense, the domain name is defined as chains of letters and numbers that replace the digital system for Internet protocols, which are used to connect computers between them and provide the end user with the information required from the Internet. See: Rooksby, J., "Defining Domain: Higher Education's Battles for cyberspace", *Brooklyn Law Review*, 2015, Vol. 80:3, Pp. 861-862.

<sup>11</sup> Ghannam, note 10 above, P. 12, also see Sunderland, S., "Domain Name Speculation: Are we playing Whac-A-Mole", *Berkeley Technology Law Journal*, 2010, Vo.25:465.P. 467.

<sup>12</sup> Mansour, Mohammed, *Electronic Responsibility*, (Dar Aljame'a Al Jadida, Alexandria 1st Edition, 2003) p. 244.

<sup>13</sup> Ben Younis, Omar, "ICANN" (*Organization for the Identification of Names and Numbers via the Internet*), (Dar al-Nahda al-Arabiya, Cairo, 1<sup>st</sup> edition, 2005), P. 29, see also Zine El-Din, Salah, *Introduction to Intellectual Property: Its origin, concept, scope, importance, adaptation, organization and protection*, (Dar Al-Thaqafa, Amman 2nd edition, 2015) P.64.

<sup>14</sup> Musallam, "Online domain names", *Rafidain Magazine*, P.146.



To define specific concept of each country's domestic national domain. The national domain name ends with the code of each country in accordance with the standard set by the World Standards Organization (ISO3166-1) to indicate people's activities on the Internet across each country and to determine geographical locations of users on the Internet.<sup>15</sup> Revising Jordanian domain name registration rules (.jo). are issued by the National Information Technology Center, can be defined: "the set of letters, numbers and symbols reflect the name of the registered entity in full, main name of the registered entity, or an abbreviation thereof, or a translation of the name that complies with Jordanian laws and customs, registered within the Kingdom according to the scale of types of such domains available for registration".

According to the above, Jordanian domain names (.jo) have a set of characteristics as follows:

- **First:** National privacy of domain names, including the Jordanian domain (.jo) In terms of internal legislative jurisdiction and its difference from those public domains that are not restricted by a specific geographical area which are not subject to any internal legislative jurisdiction. The consequence of this difference that national domain names are subject to domestic legislation and legal organization across each country. Although general basis for registration is derived from the general rules of ICANN as the technical and organizational authority for all types of DNS. However, the scope of legal protection established for such internal domains varies from state to state according to the internal legislator's view for these domains and their classification within intellectual property rights or regulation under independent legislation highlighting privacy and means of legal protection.
- **Second:** Domain name is distinct in terms of configuration, associated with a specific set of letters, numbers, symbols or a combination of them; that does not allow domain names to match at least within the same category in which this domain is registered as a category .com .jo. Which indicates business activities across the Kingdom, such distinction to the rule applied in the registration of domain names by the registration authorities and the priority of registration. Therefore, domain name of pre-requests are available to those who apply for registration will be granted first. Consequently, the rejection of any application to register the domain again within the category in which it was registered, for example domain name registration of [www.aau.edu.jo](http://www.aau.edu.jo) Amman Arab University, which represents the first letters of its name in English, will not allow the Amman Private University to register this domain again within the category of edu.jo. Although it can be registered by third parties in another category of domains such as .org.jo, for example, which gives a distinctive characteristic of these ranges and the projects they represent, so that each natural person or legal a scope and a special location distinguishes it from others.
- **Third:** There is no association between the registered domain name and the location represented by this domain, a domain name can be registered for immediate use or for future use, in this case a, it is not required to create a website representing this registered domain. The design and content of the website may take a long or short period depending on the purpose of registering and using such domain. Accordingly, the absence of website for domain name does not necessary mean that the domain is unregistered as well as the

<sup>15</sup> See the ICANN website on ccTLDs, , available at: <  
[www.icann.org/resources/pages/cctlds-21-2012-02025-eng](http://www.icann.org/resources/pages/cctlds-21-2012-02025-eng)>. accessed on 18<sup>th</sup>  
 June 2017.

using of domain is not pre-requirement at registration end to accredit domain and using is not post-requirement by registrar to maintain their right in registered domain.

- **Fourth:** National DNS system is endowed by country codes, including Jordanian domain (jo) which gives accurately all information and details related to domain registrar in terms of personal information, nature of activity and work. Although registrar need to submit application to accredited registration authority and supporting this information with the required supporting documents according to each category and to each activity, so, attaching registration certificate of in the commercial register. A registration applicant is required in the .com.jo sub domain. However, this accuracy is not clear in gTLD information as a .com domain. It is mainly intended to reflect only business activities; however, registration is open to all commercial or other activities. Thus, classification of websites according to the national Internet domain name registration system accurately reflects the activities related to these websites and is subject to regulatory bases that ascertain their identity and the nature of their activities.

### The Types of Domain Names

The domain name made generally by three levels: first level for domains www. It shows the World Wide Web, and, the next one is second level domain (SLD), which contains of letters and numbers indicating identity and activity. Mark or name of the registrar, followed by the top-level domain (TLD). Determining the general activity adopted by the ICANN, or the country code for the registration of the second domain names across local jurisdiction. For example, [www.google.com](http://www.google.com) consists of the www and google as a second level to indicate Google and its brand (SLD) and the nature of the activity within the approved high public domain on the (TLD) com.<sup>16</sup>

Within the TLDs, domains are classified into two categories, first, top Level Domain Generic (gTLD) which began in the mid of 1980s (.com,edu,.gov,.gov,.net,org,.mil,int) In the second phase, a new group of domains was added at the high general level (biz,.int,.name,.pro,.aero,.coop.museum).<sup>17</sup>

Especially, after ICANN<sup>18</sup> establishing in 1988. It has been working to expand the base of public domains. In addition, the latest development announced and implemented its plan to magnify such domains to become non-specific with pre-set domains, to allow people, companies and users of online DNS to register domain names, that reflect their names or the

<sup>16</sup> See the glossary approved by ICANN, available at: [www.icann.org/resources/pages/glossary-2014-02-03-en#g](http://www.icann.org/resources/pages/glossary-2014-02-03-en#g). Accessed on 21 June, 2017. Also: Blue, L., "Internet and Domain Name Governance: Antitrust Litigation and ICANN", *Berkeley Technology Law Journal*, 2004, Vol. 19:387.

<sup>17</sup> Top-level domain (.com) is the most common domain name, and is specifically designed to express business activities while the .org domain refers to nonprofit organizations and the .net domain to organizations and businesses related to Internet and technology, domain .int to international organizations, Education and .gov to US government authorities as well as the .mil domain for US military sites. To see the full list of the Top-level domain, available at: [www.iana.org/domains/root/db](http://www.iana.org/domains/root/db). Accessed on 21 June 2017.

<sup>18</sup> Internet Cooperation for Assigned Names and Numbers (ICANA): non-governmental organization established in California in the United States of America to manage the DNS and to maintain the operational continuity of the Internet through the Root Server administration. It operates through its affiliated organizations such as IANA and a number of committees that is composed of representatives of governments and countries around the world. For more information, available at: [www.icann.org](http://www.icann.org) accessed on 25 June 2017.

names of their companies or organizations as a generic high domain instead of the traditional public domains as .com domain and using local languages as well.<sup>19</sup>

Second category of top-level domain names are domains ending with symbols country code Top-Level Domain (ccTLDs) adopted by IANA and then by ICANN in accordance with the benchmarked document ISO3166-1<sup>20</sup> that defined the national code for each of the two letters in English issued by the International Organization for Standardization (ISO), which adopted the national domain name (.jo) for registration of domain names in the Hashemite Kingdom of Jordan in accordance with the mandate granted to the National Information Technology Center by ICANN as an internal registry in the Kingdom For all Jordanian domains (jo).<sup>21</sup>

**The Jordanian national domains available for registration in the category (jo) are:<sup>22</sup>**

|         |   |
|---------|---|
| .com.jo | Profitable entities such as companies, restaurants, service providers and hospitals.                                |
| .net.jo | It expresses networks such as service providers, banks, medical networks, insurance networks                        |
| .org.jo | It expresses non-profit organizations   |
| .mil.jo | Jordanian Armed Forces such as the Arab Army, Air Force, Public Security, Civil Defense, Gendarmerie                |
| .gov.jo | Jordanian government institutions and departments such as ministries and independent government authorities.        |
| .edu.jo | Jordanian educational institutions - public and private - such as universities, colleges, schools, training centers |
| .sch.jo | Jordanian public and private schools  |
| .per.jo | Jordanians and non-Jordanian reside in Jordan.  |

<sup>19</sup> The New GTLDs system allows companies, organizations, and users to register domain names ending with their symbols, names, or brands without subscribing to domains and pre-defined domains as a .com domain, which extends the base of these domains to an unlimited number, Google has registered the google domain. To express the entity of the company without relying on the domain .com alone. Thus, all parties according to the new system can adopt the name of the organization or company as a public system to enhance the prestige of its brand, and in a recent development on the DNS has enabled ICANN to register domain names in approved local languages so that the domain name can be registered in Amman. As a GLTD without being constrained by country codes adopted in the national domain system. See Partridge, M. & Arnot, J., "Expansion of Domain Name System: Advantages, Objections and Contentions", *Depaul J. Art, Tech & IP Law*, 2012, Vol XXII: 317-336. ICANN link, available at: <[www.icaan.org/resources/pages/idu-2012-02-25-en](http://www.icaan.org/resources/pages/idu-2012-02-25-en)>. Accessed on 25<sup>th</sup> June, 2017.

<sup>20</sup> ISO 3166-1 is coding Standard defined each country's two-letter code indicates the state concerned according to the list issued by International Standardization Organization which is part 3166 that comprised of 3 sections 3166-1 to identify countries' codes, 3166-2 to identify sub-domains inside countries as Amm-jo to denote the capital, Amman in Jordan while the third section is 3166-3 to identify code list of countries that has not been used, this accredited standard to identify countries code in DNS accredited by ICANN while granting national authorities in each country has the authority to register Internet domain names ending with the country code, available at: <[www.ISO.org/iso-3166-country-codes.html](http://www.ISO.org/iso-3166-country-codes.html)> accessed on 25<sup>th</sup> June, 2017.

<sup>21</sup> The National Information Technology Center (NITC) was established in 2003 in accordance with the temporary law no. 81 for 2003 entitled "Deployment of Information Technology Resources in Government Organization". Clauses number 6 and 19 stipulated the establishment of a "National Information Technology Center" as a legal successor to the "National Information Center", which was established in 1992. A Board of Directors chaired by the Minister of Information and Communication Technology manages NITC - as an independent government institute -. NITC In accordance with Article 8 paragraph three of Deployment of Information Technology Resources in Government Organization". Management and registration of Internet domains in the known domain (.jo). See the National Information Technology Center available at: <[www.idn.jo](http://www.idn.jo)>. accessed on 25<sup>th</sup> June, 2017.

<sup>22</sup> Published on the website of the National Information Technology Center, available at: <[www.Dns.jo/jo-family.aspx](http://www.Dns.jo/jo-family.aspx)>. Accessed on 25 June 2017.



|         |   |
|---------|---|
| .phd.jo | Jordanians and non-Jordanians PhD holders, working in Jordanian educational institutions  |
| .jo     | All right handed and left handed residents in Jordan who, PhD holders and expats working in Jordanian educational institutions. |

it is noted that sub-domain across domain (.jo) which adopted in Jordan not included and aligned with the gTLDs approved at the time of adopting domain system, even in its old way. There are accredited gTLD for a long period such as (.traw, .tel, .jobs, .biz, .name, .tel, .coop, .info). The expansion of the sub-domain base within the .jo domain more accurately reflects the activity of the individuals and performs and expresses the function of these domains in identifying the websites and their work, then prevents potential conflicts between these persons regarding the property of the domain name within that domain. The sub-domain, allowing the registrar to choose the domain name that matches their business is not limited to the domain .com.jo which reflects the business in general in the Kingdom.

There is also an overlap in the sub domains of the .jo family. The .com.jo domain expresses profit entities as commercial companies and .net.jo domain reflects networks like (Service providers, banks, medical networks, insurance networks ...) depending on the term network user networks by banks and insurance companies. Although the general asset to which the .net domain is allocated is the technical and telecommunication services companies, i.e. the technical companies that use the telecommunication networks. Banks, insurance companies and other commercial companies are classified as .com.jo as the original domain of commercial activity, even if they use a network term in their business. They can also use the generic .jo domain.

Overlap in single domains reflected the same category of activities. The domain of .edu.jo refers to educational institutions of all levels, universities, schools, colleges and training centers. The domain of .sch.jo comes to include schools only though they are covered by the concept of .edu.jo. The sub domains division is based on shortening these domains to a minimum of activities. The edu.jo domain is intended to encompass all educational sectors in Jordan, although the aim is to expand the sub domain base. We are introducing sub domains within the education sector such as uni.jo to include universities and coll. To include colleges and thus identify the sectors concerned more accurately.

The concerned sectors with registering the domain of org.jo have been limited to non-profit organizations, and back to the target categories of registration in the general high-level .org, we find that international organizations and the difference is clear between the two target categories of registration if the non-profit organizations are meant to be associations is the .coop. Here we ask about the non-profit companies and where they are divided, for example .com.jo or org.jo. In both cases, the current division does not reflect the nature of its business, and the notice can be made with regard to the scope of the .per.jo for Jordanian and non-Jordanian natural persons by a higher public domain name.

Thus, the Jordanian domain family (.jo) is missing the intended specialization of Domain name registration system and not keeping pace with the developments and updates in the field of registration of domain names, which are no longer limited to general domains covering and classifying the activities of natural and legal persons. To make domain name of a company or organization, public domain registers and records the company or its brand, that is a huge development in the Internet domain name system at the global level, was not

accompanied by the Jordanian system to register domain names Jordan, which kept the traditional division in addition to a lack of precision in dealing with him as we noted earlier. Which was reflected in the number of registered Jordanian domain and we said due to the lack of options offered by the existing system.<sup>23</sup>

We observe the development in the use of local languages in the registration of domain names, including Arabic, which was technically adopted in accordance with the new domain name registration system, and the replacement of the Latin-based system with a character-based system for each language supported by ICANN, this allowed the registration of the domain (Jordan). As TLD registering domains representing Jordanian websites through it.<sup>24</sup>

There are differences between the two top-level domain names (gTLDs) or ccTLDs, in terms of registration procedures since these registration rules originate from DNS-based international DNS entities, but the difference may exceed legal aspect of subjecting the national domain names, to the legal system of each country, carries its code. Therefore, subject to the internal legal regulations relating to registration procedures, their effects and disputes that arise near registered domains. Especially, when they included an attack on the rights of owners of trademarks and trade names and the jurisdiction of the courts to deal with such disputes, which requires determining the legal nature and legal adaptation of Internet domain names consistent with their particular nature.

The registration of national domains under the category, "jo" is subject to a registration policy issued by the National Information Technology Center, sets out a rules relating to the registration process, that takes place electronically on the electronic registration site. so that, priority is given to those who first registered "precedence in registration attaching documents of the type of sub domain to be registered commercially, educationally or in a personal domain, and the chosen domain name should reflect the name of the registered entity, its main name, abbreviation, or a translation of the name, in each case (e.g. .com.jo or .sch.jo). Selected domain name should reflect the name of the registered entity, its main name, abbreviation, or a translation of the name. Public names may only be registered if the chosen domain name is an abbreviation of the registered domain name of the domain. It shall also not be permissible to register domain names that are contrary to Jordanian laws that affect the security and stability of the Kingdom and violate the Jordanian customs. It also does not register according to the policy followed immoral terms and does not register the names of Jordanian families as domain names, and if selected domains conflict with one of the registered global trademarks. The registration of the selected domain name that is not associated with the name of the domain registrar or one of its registered trademarks is rejected or is not commensurate with the nature of the business of the registered entity.<sup>25</sup>

Registration policy for Jordanian domain names (jo), predominates in the technical nature of the procedural without getting into the legal concept of these ranges. Moreover, did not

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23The number of registered Jordanian domains under the .jo family under all branches and divisions was 4796 according to the table published at the National Information Technology Center available at: <[www.dns.jo/statistics-g.aspx](http://www.dns.jo/statistics-g.aspx)> accessed on 1<sup>st</sup> July, 2017.

24 The number of Jordanian domains registered under the Jordanian public domain (Jordan). As of 30/March/2017 (346), most of them are official domains such as the domain of the office of His Majesty King Abdullah II and Prime Ministry, Jordan and Jordan News Agency Petra.

, available at: <[www.nitc.gov.jo/ArabicDomains.aspx](http://www.nitc.gov.jo/ArabicDomains.aspx)>. Accessed on 1 July 2017.

25The registration policy of the Jordanian domain names (jo) and the list of the financial fees required to register and renew the registration can be found on the website of the National Information Technology Center, available at: <[www.dns.jo/registration](http://www.dns.jo/registration)> accessed on 15<sup>th</sup> July, 2017.

address the rights of registered domain name in its registered domain and can be disposed of or granting licenses to others to use it and the scope of legal protection prescribed for these ranges. With reference to registration rules to the Center's non-intervention in any disputes or disputes that may arise around a specific domain referring to the judiciary all arising from the registration of domain names from disputes.<sup>26</sup>

### **The Legal Nature of Jordanian Domain Names (.jo)**

The clarification of the legal nature of the Jordanian Internet domain names (jo) contributes to the legal system of these domains, and therefore determines the legal means of protection for these domains. The beginning of the nature of the right in the registered domain name should be defined a "proprietary" right and in the legal sense of this right contained in Article 1018 of the Jordanian Civil Code "The authority of the owner to act in his own property in the most absolute manner in kind, benefit and exploitation"<sup>27</sup>. The extent to which it is considered a right to be included in the division of personal, in-kind and moral rights contained in the Jordanian Civil Code.<sup>28</sup>

In accordance to the policy of registration of Internet domain names (jo). It clearly indicates that the registrar's right is considered to be a property right, although some rules refer to the registrar as domain owner.<sup>29</sup> In particular, the issue of linking the powers of the registrar on a scale to pay the annual fees payable on this domain and thus write off the domain name that did not register the payment of renewal fees, which brings out the concept of ownership of these domains on the concept of real estate distinguished in its legal (property), which can't be the title of domain is not across its concept. The ownership of real estate does not diminish the right simply by non-payment of fees or taxes. This brings the nature of the right in these domains closer to the category of moral rights that are given to something intangible and of a special nature such as the right to the trademark, Shall be protected and protected by a legally defined period of time, which shall be deleted by the trademark without requesting renewal.<sup>30</sup>

However, the question of the domain name registrar as a moral right in relation to intellectual property rights collides with the absence of a legal regulation, that regulates conducting legal acts on these domains, contrasting intellectual property, such as trademarks whose law permits to be disposed of by sale and waiver,<sup>31</sup> if the disposition is perceived in the gTLD as domain names registered under the .com domain. This can't be applied to national domain names (jo), which are subject to a competent national authority whose current registration rules do not allow such conduct to be sold, subject to reservation, unlike some Arab registries

26See the Legal Disputes section of the Domain Name Registration Policy available at: <[www.dns.jo/registration](http://www.dns.jo/registration)>. Accessed on 15 July 2017.

27Article 1018 of the Jordanian Civil Code No. 43 of 1976 and published on P. 2 of the Official Gazette No. 2645 of 1/8/1976.

28 Article 71 of the Jordanian Civil Code No. 43 of 1976 defines moral rights as "1. Is the response to something immaterial? 2. The rights of the author, inventor, artist, trademark and other moral rights shall be governed by the provisions of the special laws. "

29See the rules relating to the updating of domains and financial matters, the policy of registration of Jordanian domain names (jo) published on the website of the National Information Technology Center, available at: <[www.dns.jo](http://www.dns.jo)>. Accessed on 15 July 2017.

30Article 20 of the Jordanian Trademarks Law and its amendments No. 33 of 1952, which specifies the period of ownership of the rights of the trademark ten years from the date of registration, may be renewed for similar periods and Article 21 of the same law: "If the owner of the trademark does not request its renewal, it shall be deemed to be a write-off from the Register at the end of one year upon expiry of the period of registration."

31Article 3 / A / B of the Trademark Law No. 33 of 1952 and its amendments.

such as the United Arab Emirates Telecommunications Regulatory Authority (TRA) Rules to conduct such acts.<sup>32</sup>

The absence of a legal regulation clarifying the nature of the right to the Jordanian domain name (.jo) does not deny the status of the moral right as the right closest to its non-material nature, although it has a special nature in terms of the duration of the right to the domain and rights conferred on the Registrar. The issue of assignment, foreclosure and seizure is related to the determination of the financial value of this domain, which is currently conceivable in terms of estimating the value of the domain name according to its attractiveness, number of users and classification.

Due to the absence of legislative texts that govern national domain names in Jordan in terms of determining their legal nature and the legal regime governing these domains, the question arises about the proper legal adaptation of this new and developed concept, which is consistent with its nature in accordance with the prevailing legal concepts within the Jordanian legislative organization, Jurisprudence on the independent legal nature of the domain name or its attribution to a prevailing legal concept as intellectual property elements that are more closely related to the nature and purpose of domain names than other traditional concepts.

Moreover, can the applicable legal rules for the protection of intellectual property elements be applied to national domain names, including the rule of precedence in the use of trademark protection? Does the Jordanian domain name registrar have the same rights as the trademark registrar, Intellectual property such as trade names, trade titles and geographical indications. Is the idea of linking the domain name to the commercial store and its legally protected elements leading to valid legal consequences in accordance with existing Jordanian commercial legislation? We try to access the legal nature of the national domain names (.jo) by reviewing and analyzing opinions on the legal adaptation of the domain name in general, which is the domain name as an element of intellectual property in the first section and the connection of the domain name to the elements of the business in the second section to the views that advocated As the domain name holds a separate legal concept in the third requirement of this part.

### **Jordanian Domain Names (.jo) as an Element of Intellectual Property**

The property rights in general include all the ideas produced by the human mind, which are translated into concrete objects, within which all the rights resulting from the intellectual activity of man in the artistic, literary, scientific, industrial and commercial fields come within its scope. This concept goes to include industrial rights such as patents, industrial designs and commercial property such as trademarks, trade names and literary rights such as copyright and related rights.<sup>33</sup>

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<sup>32</sup>See the UAE Domain Name Registration Rules (.ae) and the Registrar Change Policy published on the TRA, available at: < [www.tra.gov.ae/aeda/ar/aeda-policies.aspx](http://www.tra.gov.ae/aeda/ar/aeda-policies.aspx)>. accessed on 15<sup>th</sup> July, 2017.

<sup>33</sup>There is no standard legislative, intellectual or judicial classification and division of intellectual property elements between industrial, commercial or literary property, and considering them as proprietary rights in the traditional sense of these rights, or moral property rights of a special nature not combined by a single link; The other is the merchant, such as the commercial address, and some of the products and the way they are manufactured, such as patents, industrial designs, and rights related to literary and artistic activities such as copyright. In Jordan, It is called intellectual

The proximity of the domain name to the intellectual property vocabulary is far from the concept of invention and industrial designs of the nature, scope, protected right and conditions required by law, and copyright and related rights refer to the content of the website represented by the domain name. Of the website as a means of publication without addressing, the domain name and therefore the most relevant intellectual property elements of the domain name concept are trademarks, trade names and geographical indications.

Article 2 of the Jordanian Trademark Law defines the trademark as "any manifest indication used or intended to be used by any person to distinguish its goods, products or services from goods, products or services of others"<sup>34</sup> The trade name is defined in Article 2 of the Jordanian Commercial Names Law as "the name chosen by the person to distinguish his commercial place from other stores which consists of an innovative label or the name of the person or his title or all of them, and with any addition related to the type of trade or activity"<sup>35</sup> The legislator of the legal profession also prescribed specific procedures and conditions for the registration of both the name and the mark to be taken by the registrars of names and trademarks within their functional competence.<sup>36</sup>

Depending on the definition of the brand and trade name, we notice many similarities between them and the domain name. In terms of composition, the trademark includes names, letters, numbers, shapes, colors or any other group, Or the name or title of the person or all of them, which is similar to the domain name with the previous two concepts to be composed of letters or names or numbers or a mixture between them and therefore the trademark and trade name are registered verbatim as a national domain name to expand the legal protection of shops names or signs of the goods or service, which allows registration of domain names by the technical system.

Domain name is similar to trademark and trade name in terms of functionality. Both are used to distinguish business projects for distinguishing products and services, as well as differentiating organizations. Function performed by domain name in its virtual domain on the Internet to distinguishing it from companies' names plus products and services included across organizations. in addition to, domain name with trademark and the name of the trade multiple images that do not come under a certain inventory, as long as their components of names and numbers , characters or mixture between them in accordance to the discriminatory function. The means of linking between client and a specific project to distinguish this project from others in the Internet and to distinguish what offer to goods or services.

Domain name concept is closer to the trademark and brand name in terms of the nature of legal protection that is temporary for certain period of time, to exercise the rights of use, exploitation and disposal. Before the right holder loses rights after the expiry of the specified legal period without applying for extension of protection period<sup>37</sup>. Furthermore, the extent

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property. See Zine El-Din, Salah, *Introduction to Intellectual Property: Its origin, concept, scope, importance, adaptation, organization and protection*, (Dar Al-Thaqafa, Amman 2nd edition, 2015) Pp. 24-30.

<sup>34</sup>Article 2 of the Trademark Law and its amendments No. 33 of 1952, published in the Official Gazette No. 1115, page 243 dated 6/1/1952.

<sup>35</sup> Article 2 of the Trademark Law and its amendments No. 9 of 2006, published in the Official Gazette No. 4751, page 717 dated 16/3/2006.

<sup>36</sup> Articles 6 to 17 of the Jordanian Trademarks Law No. 33 of 1952 as well as Articles 3-9 of the Commercial Names Law No. 9 of 2006 concerning the registration procedures of the trade name.

<sup>37</sup>Article 20 of the Jordanian Trademark Law No. 33 of 1953, which specifies the period of ownership of the trademark by 10 years from the date of its registration and may be renewed for a similar period in an application submitted to the Registrar, as well as Article 11 of the Trade Names Law No. 9 of 2006.



of national protection in the Kingdom without extending it beyond the borders of the Kingdom, although this similarity leads to national ranges only (.jo) without the gTLDs.

However, despite the intersection and the similarity between the domain name and the trademark name and trade name, the points of difference are clear, namely the fact that the right is established in each of them. If the registration for the national domain name (.jo) is that earns the right owner. Technical nature connected to the Internet. Consequently, there is no actual or legal presence excluding by registering it with the competent registration authority so that cannot be assumed it can be used before being registered. It differs from trademark registration and to trade name, since the registration is considered a decision right and not the originator. Regarding ownership of trademark but a presumption that can be proven to be reversed when the third party proves that it was the first to use the trademark and thus proved its right to object to the registration or to request the removal of the mark because of unfair competition.

Trademarks are also registered to reflect specific types of goods or services in accordance with the pre-classification and approved classification system for registration purposes, which allows the registration of trademarks of different classes based on the non-competition rule among them, except for the provisions of the famous trademark. The trademark to be registered does not match or is similar in a way that misleads the consumer with another trademark previously registered on the same class of goods or services<sup>38</sup> Which is not applicable to the domain name registration system, although this system identifies business activities with .com.jo.<sup>39</sup>

However, it does not search the subcategories of these works and verify that there is only a previous and identical registration of this domain in the .com category without assigning and without regard to the similarity with other domain names registered, which means that the right of the Jordanian national registrar. jo) is an absolute right on a scale, and thus prevents third parties to register the domain registered again by any other project even if the business and products and services between them, while the right to a trademark is restricted to the category for which the mark is registered and thus others can register the same Label on different products or services without The owner of the mark must object to this registration.

Trademarks and brand names are associated with registration by the distinctive form<sup>40</sup>. Whether letters or colors, which is related to the role played by each name and mark in the distinction of companies and products. However, this requirement is not found to be applied in domain name registration process, which lacks the distinction or distinction due to its nature and abstract character. Moreover, figures of a general nature does not occur at the registration of domain name the amount of its excellence, but subject to the fact that the priority of registration is not only.<sup>41</sup>

<sup>38</sup> See Articles 7, 8/10 and 9 of the Jordanian Trademarks Law No. 33 of 1952 and its amendments and in the Classification of Goods, Revision No. 5 of the Trademark System No. 1 of 1952 and its amendments.

<sup>39</sup> See the list of Jordanian national domain names available at < [www.Dns.jo/jo..family.aspx](http://www.Dns.jo/jo..family.aspx) > accessed on 15<sup>th</sup> July, 2017.

<sup>40</sup> Article 7 of the Trademark Law No. 33 of 1952 and its amendments.

<sup>41</sup> According to the rules of choosing the domain name to be registered under the Jordanian domain .jo must contain the Latin characters (2-9) and / or the numbers from 0-9 and / or the police sign (-) only and the minimum of the chosen name (mixture of characters Numbers and police mark) shall not be less than 2 nor more than 63, available at: <[www.dns.jo/registration-policy-0.aspx](http://www.dns.jo/registration-policy-0.aspx)>. accessed on 15<sup>th</sup> July, 2017.

Domestic and international legal regulation of trademarks and trade names are defined in commercial industrial property legislation; trademark law, trade names, regulations and instructions. International conventions related to intellectual property signed by Jordan, such as Paris Convention, Madrid Convention, the TRIPS Agreement etc. World Intellectual Property Organization (WIPO), one of the specialized international organizations of the United Nations, are not yet fully enforced. There is no legislative provision in Jordanian law governs international conventions dedicated to such domains. International organization regulating domain names worldwide, which grants jurisdiction to national registrars in each country. ICANN cannot be considered international organization. In accordance to existing international regulation, and regulations do not enjoy the same legal force as the rules contained in international conventions.

The right to trademark and trade name has the right to waive it to third parties and to grant a license to use. Legal actions such as seizure and foreclosure are the result of the adaptation of these rights as property rights. This is confirmed by the provisions of the Commercial Names and Trademarks Law, Specific and renewable.<sup>42</sup> However, this is different for the national domains (.jo) and the registration policy adopted by the National Information Technology Center, so that there are no provisions regulating the process of assigning these domains to third parties nor the rights enjoyed by the national registrar. The right to use may be deduced as a result of registration if it meets its requirements required only without addressing the rights of the registrar of this domain, which raises the question of the registrar's right to assign it to third parties. There is a possibility for establishing such manner in national domain name registry; whether being subjected to arrest and supervision the procedures, GTLDs registered under the public domain .com which is subject to waiver or license to use. Although the assignment of such domains follow different method of being written off by the competent registrar and then re-registered by the assignee. Leading us to say that right in the registered Jordanian national domain, gives registrar the right to use domain during a certain period by contract between applicant and approved registration destination. In addition to registration service provided by entity. National information technology to manage these rights and to fix the legal actions that appear on Jordanian domain names ending with .jo.<sup>43</sup>

Geographical domain of Jordan (.jo) may be considered as a geographical indicator in Jordanian Geographical Indications Law, which defines the geographical indicator in Article 2 as "any indicator that specifies the origin of a product in a particular country, region or location of its territory if the quality of the product Or its characteristics or characteristics are primarily due to that origin". The geographical indication is therefore linked to products associated with regions, cities, territories or countries in which such products are located to determine their source, which is of particular importance to the consumer and is associated with a particular quality associated with that geographical area The geographical indicator is generally drawn up with its registration procedures and extended to the Trademark Law. The Trademark Registrar at the Ministry of Industry and Trade is responsible for recording and managing the registry related to these indicators.<sup>44</sup>

In comparison to the concept of the Jordanian national domain name, we find that the geographical indicator and the domain name are similar in terms of function, namely, the

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<sup>42</sup>Article 3 and Article 19 of the Trademark Law No. 33 of 1952 and Article 8 of the Trade Names Act No. 9 of 2006.

<sup>43</sup> Ghannam, note 10 above, P. 44.

<sup>44</sup>Article 2-6 of the Geographical Indications Law No. 8 of 2000, published in the Official Gazette No. 4423, page 1255 dated 4/2/2000.

geographical area that has been associated with the products and gained their popularity. However, it is different in determining the geographical area. The Jordanian domains within the .jo family do not necessarily represent the source of the products and services. It cannot be said that all Jordanian domain names belong to individuals, businesses and activities in the Kingdom. The domain name (.jo) can be registered for foreign companies that produce their goods outside Jordan and its products need to be represented electronically in the Kingdom and therefore to a national domain name that covers its activities within the territory of the State. The same applies to persons who are not Jordanian nationals who can register domains under their own domain name. Domains of Jordanian nationality does not necessarily reflect the source of the products and services and its linkage to the Jordanian territory. as the case for the legal basis on which the geographical indicator is based on national domain name .jo that does not reflect the nationality of registrants, and legal protection of geographical indication in trademark law and geographical indications cannot be a clear gap in registration and management bodies for each. The multiplicity of indicators for the number of cities or areas producing such goods, which cannot be determined in proactively, unlike the pre-classification of the family of Jordanian domains (.jo) Registration is allowed only.

### **Jordanian Domain Names (.jo) as an Element of Business Shop**

Domain names are the interface through which the content of the website for all business activities can be accessed on the Internet. The commercial site in its modern form is the website through which the merchant presents the products and services he provides. Of course, we will not be able to access commercial domain without registering domain name; which often reflects the merchant's trade name, trade name or trademark. Thus, this domain registered as a Jordanian among .jo family, which is used as the website of the merchant, raises the question about component of this business and specifically its moral elements, and is subject to the legal system governing the elements of business. Under the absence of legal framework governing Jordanian domain names and websites in general.

Jordanian legislator did not specify in the Trade Law a specific definition of the commercial place, and only enumerated some elements, for example, but not limited to.<sup>45</sup> Therefore, the modern perceive of this company represented by website, domain name is the most significant element, which lacks to legal basis to explain this concept not via traditional or modern form. The legislator here only regarding the rights of the company owner on the elements of the company by reference to the laws of each element and General principles of rights.<sup>46</sup> Accordingly, we return to the legal provisions of each element such as trademark law with respect to the trademark of the business, the law of trade names, the patent law, the law of owners and tenants in respect of the right to rent, as well as industrial designs. The website of the commercial site is one of its components in the absence of legal texts referred to in the subject of the rights of the Jordanian domain name registrar on its scope and location. How can the owners' rights and actions related to business be enforced by domain name of the website? It should be noted that this domain might be the most important element owned by the business. as its activity may be in the operations of electronic commerce and electronic marketing and its activity is mainly based on e-presence as a site providing

<sup>45</sup>Article 38 of the Jordanian Trade Law No. 12 of 1966 stipulates: 1. the store is legally made up of the merchant's shop and the related rights. 2. The store includes a set of material and non-material elements that vary according to the circumstances, namely customers, name, logo, right of rent, marks, patents, licenses, designs, industrial tools, commercial furniture and goods.

<sup>46</sup>Article 39 of the Jordanian Trade Law No. 12 of 1966, which states: "The rights of the investor in respect of the various elements set forth in the preceding article under their respective laws or the general principles of rights".

mediation services and the offer of goods and services or websites search engines sites, on the web.<sup>47</sup>

Under the importance of the national domain name, which reflects the website of the commercial site, can it be rounded up from one of the elements mentioned by the Jordanian legislator of the commercial store, or is it an independent element that stands alongside these elements. To answer this question we point out that we have clarified the wide points of difference between domain names, brand names, trademarks and geographical indications. We have not seen the applicability of the legal concept of patents, industrial designs or even copyright to these domains. Between the domain names in their national terms and between the commercial address and the name of the company.

The Jordanian legislator handled commercial and corporate law provisions of the commercial title in Articles (40-50).<sup>48</sup> company name is used by companies with financial consideration; such as public shareholding company and limited liability company, so that business addresses the individual trader, which consists of merchant's name and real title, which is written in the merchant registration certificate, and shall be placed in a prominent place in the company. provided that the address to be different from the previously registered addresses, and may add to trade address as they wish. On condition that this addendum does not incur a misconception regarding his identity or the importance of his trade, reputation or status Material, company, or type<sup>49</sup>The right to a commercial address is also relatively limited in terms of location. The law restricts it to the status of the commercial register in which the registration was registered. Therefore, it is possible to register the same address by another trader, who has the same name and title, even on the same type of trade.<sup>50</sup>As for the companies, the commercial address goes to the companies of personal nature as the company of solidarity and the simple recommendation company, which consists of title, names of all partners in or between title, or nicknames of each of them or of one or more names, or title, to be added in this case To his or her name and their name and partners, and the title of the company shall always be consistent with its existing body <sup>51</sup>, which is different in companies with a predominantly financial character as a company with a specific responsibility. The public shareholding company must take a name for it (the name of the company) deriving from its objectives and adding to it the type of this company.<sup>52</sup>

Based on the above, the business owner and their address registered traders, either as individual trader in the register of individual institutions, or the company's name or registering of companies control department can register the domain name representing this address or name under the family of national domains (.jo ) In his or her personal name or

47 For example open souq, available at: < [www.opensouq.com](http://www.opensouq.com) >. accessed on 15<sup>th</sup> July, 2017.

48 Whose main activity is on goods and products to buyers depending on the spread of this site and the gap between consumers and users and subsequently benefit from the extent of this spread in the achievement of advertising revenues by the advertisers on the pages of the site, [www.google.com](http://www.google.com) Which is based primarily on searching the pages of websites and sorting the search results according to pre-defined words and this activity is a stand-alone online without tangible physical presence.

49 The commercial address is considered one of the most important elements of the commercial shop. This is confirmed by the Jordanian legislator's keenness to regulate its provisions in detail in the Jordanian Trade Law and a tie in the commercial shop so that it cannot be relinquished independently of the register, unlike other physical or moral elements, The tests contained in article 38, paragraph 2, of the Trade Act, as these elements are cited, for example, see Sami, Explanation of Commercial Law, Part I, p.150.

50 Article 41 of the Jordanian Trade Law No. 12 of 1966.

51 Article 43 of the Jordanian Trade Law No. 12 of 1966.

52 Articles 10 and 42 of the Companies Act No. 22 of 1997 and its amendments.

53 Articles 55 and 90 of the Companies Act No. 22 of 1997 and its amendments.

name and the names of his partners, or the name derived from the company's goals under the domain .com.jo, for example, to ensure representation of his registered address on the Internet through his website showing his products and business, which is supported by Jordanian domain name registration rules Domain name The name of the registered entity, the name of the registered entity, its abbreviation, or a translation of the name, and after the presentation of the supporting documents of the center confirming the right to register the commercial address or the company name, and there are those who say that the domain name in this case is the synonym for the address and the name in the internet environment the name of the domain replaces the address in its traditional form and is the upgraded version of the titles and names the customer contact component is one of the most important elements of the business.<sup>53</sup>

The scrutiny of the provisions of commercial address contained commercial and corporate law, there is no place for enforcing legislative concept to domain name in existing form, if the trader registered his trade address registered in the trade register or in the company register in a similar manner as an electronic domain name within the Jordanian domain family. However, the differences are obvious between both of them, since the images of trade names registration and company names are legally defined either in domain of the name and title or within company's objectives, which is not been applied to domain names as well as not defined as a public asset except within technical composition domain. While commercial address Registration by owner is not really suiting this title e-form, which is the domain has already been registered, since the rule used in registration of domains is the priority in the registration that fulfills its conditions in terms of novelty and legality, that is, The geographical scope of registration of Jordanian domain names (.jo) is centralized and can be extended to all the Kingdom's territories. There are no multiple domains with multiple directorates of registration by governorate, as in the case of the registration of commercial addresses, and the rights of disposal which are given to the commercial address are linked to the commercial store. It is not permissible to dispose of it separately from the commercial premises because it is related to the merchant. However, the domain name can be considered separate from the commercial store that remains in the owner's possession.

Although the importance of domain name for the commercial companies, especially the modern image of the websites of companies, which led to the emergence of the concept of the e-business, and considering the domain name in this case the most important element of this shop, especially for technical companies, Invest in opportunities and features offered by the Internet, such as Google, which is domain name [www.google.com](http://www.google.com) is the most important element of its research work over the Internet, and therefore the national domain name (.jo) for its registered traders is considered a component of the moral component of this shop, which is consistent with the enumeration of these elements in examples of non-exclusive examples contained in the Jordanian Trade Law, We do not see the possibility of appending the concept of domain name to the concept of commercial address and company name in accordance with existing legislation.

### **The legal Nature of Jordanian Domain Names (.jo)**

A part of the jurisprudence points out that domain names do not match any existing legal idea, but are independent from other concepts such as trademarks, trade names, and the

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<sup>53</sup> Hattab, Rasha, and Khasawneh, Maha," Application of the Legal System of the Commercial Store on the Commercial Website", *Journal of Shari'a and Law*, UAE, Volume 25, No. 46, 2011, pp.370.



provisions of the commercial address.<sup>54</sup> Therefore, the domain name has a legal system of its own and the right to register is legally registered and legally protected, so that the domain name registrar is protected against any illegal use of its registered domain by third parties in accordance with the unlawful competition claim. Thus, the gTLDs, National ccTLDs cannot be considered as an element of intellectual property, but are identifiers and addresses of websites on the Internet.<sup>55</sup>

In spite of the convergence in terms of the function with some elements of intellectual property in the indication of projects, services and products and give a distinctive characteristic. However, the differences between them are broader, in terms of the nature of domain names purely technical and cannot be imagined only on the Internet is a network distinguished by its characteristics and possibilities and way of dealing, It can be said that domain name is considered to be the intellectual property right, and the idea of domain name finds its sources in the registration contracts of these domains to indicate the rights and obligations of registration, as well as the regulations issued in international and local competent registration, which added the distinctive character and nature of these independent.<sup>56</sup>

We agree partly with the authors of this view, or at least the future view of the domain names and the characteristic properties that characterize them from other prevailing legal concepts, namely the elements of intellectual property. The similarity of function, which is indicative of projects, products and services on the Internet, A legal basis for a domain name to be considered as a trademark image or trademark name or address in an electronic form. The obvious differences are the different legal sources on which the domain name registration, management and protection system is based, Is currently a master image of the regulations issued by the specialized international bodies based on the Internet Domain Name System, which authorizes the internal authorities of each country to register national domains according to their technical rules, which do not take the internationally recognized legal form of international conventions. In an international but highly technical manner.<sup>57</sup> Therefore, organizationally in the national domain names of each country to put legislation governing such domains within their geographical scope. under the inability of existing legislation to internalize the concept of a modern domain name and overlap with other concepts, particularly intellectual property rights, The rights of the domain name must be taken into consideration, and it should be considered as an independent legal concept with characteristics and advantages, which establishes the individual's own legislative organization that emphasizes this independent status.

The domain names are not related to industrial, commercial or service activity, but reflect all aspects of human activity. Individuals can register personal domain names that represent their personal names, as well as government websites, non-governmental organizations, associations and all legal persons. Their businesses are not associated with commercial or

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54 See Ghannam, note10 above. P. 40 and Hattab, *ibid.* P. 370.

55Malika, Hanan, "Legal Protection of the Title of the Electronic Store", *Journal of Law*, Kuwait University, vol. 38 Issue 1, 2014, pp. 531-571.

56 Marinkovic, A., "On Domain Names and Trade Marks", *Journal of Internet Law*, June 2012, Pp. (29-36).

57 ICANN system administers the domain name registration system. As for intellectual property rights, the International Organization for Intellectual Property (WIPO) administers these rights at the international level through international conventions which are held and supervised by the Member States of the Organization. Is an element of intellectual property that will lead to the competence of this organization in those domains, which is currently unthinkable and outside its purview. In addition, domestic legislation in compliance with international conventions relating to intellectual property in each country does not regulate domain names as a form of War intellectual property rights.

industrial activities, and therefore domain names represent a broad category within society, unlike industrial and commercial property elements that express specific activities.

The methods of resolving disputes arising from the registration of domain names of all types follow a special model that is different from traditional dispute resolution methods relating to intellectual property rights. The globally accepted method is the Uniform Rules for the Settlement of Domain Name Disputes,<sup>58</sup> They are related and tailored to these bands, so that they match their nature, which in many cases can not be subject to the legal means available in existing national legislation either because there is no internal legislative organization or to insufficient internal registration contracts under which national domain names are registered and their inability to resolve problems Who is responsible for such registration.

However, while recognizing the independent nature of the domain names, specifically the national ones such as the national domain (.jo) and the need for an independent legal organization that highlights its legal nature and independence from other prevailing legal concepts. In the absence of such organization and the need for it, It is now possible to consider the domain name as an independent element added to the elements of industrial and commercial property, where the right is considered to be a financial right that can be disposed of. The economic, commercial and legal importance of the domain name cannot be excluded for commercial enterprises The Internet is therefore a significant component of the commercial business. It derives from its legal organization from the registration contract of this domain with the national registration authority and the general rules of the law, such as Article 54 of the Jordanian Civil Code, which stipulates that "everything can be acquired materially or morally, Which is lawful and does not deviate from dealing by its nature or by virtue of law, may be the subject of financial rights." The concept of moral right applied to something immaterial is applicable in accordance with article 71 of the same law. Domain name can then benefit from the existing legal regulation of elements royalist Intellectual with the closest relevant trademark and business name and address as contained in this regulation of legislative texts and court rulings.

## CONCLUSION

In this study, we reviewed the most prominent provisions related to the concept of Internet domain names, specifically the Jordanian Internet domain names ending with the .jo code. They try to define the main characteristics, function and types in terms of subdivisions adopted within this public domain. In addition, have been legally adapted to comply with Jordanian legislation. This study concluded with a set of conclusions and recommendations as follows:

### Outcomes

1. Domain names play an important role in e-commerce transactions and electronic transactions in general and are of commercial and economic value and a technical means to facilitate access to websites of all kinds, as the development of its role from the tool to

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<sup>58</sup>Uniform Domain Name Dispute Resolution policy (UDRP) is a set of rules issued by ICANN in 2000 to resolve disputes arising from the registration of domain names and in particular those related to donations of domains with trademarks. The arbitration centers approved by ICANN, see Schiavetta, S., "ICANN'S Role in controlling Information on the Internet", *International Review of Law computers*, 2003, Vol. 17, No: 267-284, Pp.268-274.

access the content of the sites to a tool to distinguish these sites and identify the source of goods and services linked mainly to the network which has led to confusion in the concept of these domains and the difference in their definition between technical definitions, functional and composition without focusing on the legal side played by this domain and the nature of the right.

2. The national ccTLDs, which include the Jordanian national domain (.jo), are of a distinct nature from the gTLD because they are subject to the legal system of the country that ends with its code. It is reserved for nationals of natural and legal persons and for commercial, governmental, social and other activities carried out within the State , Taking into account the fact that the technical rules governing the registration of such bands originate from international bodies based on the Internet Domain Name System of all types, such as the ICANN organization and its affiliated organizations, whose mandates are delegated to the national Internal registration in each state.
3. The National Information Technology Center (NITC) is responsible for the registration and management of Jordanian domain names within the .jo family according to the registration policy of these domains, which defines the subcategories of this domain, which are insufficient to cover many specialized activities, and carries an interplay between commercial, social and personal activities. It does not keep abreast of the technical developments and developments in the registration and management of these domains at the international level, which tended to abandon the traditional classification of sub domains and the trend towards specialized domains that reflect the name of the company or its brand or the name of the organization or entity wishing to register a specialized domain name that expresses its name and work exactly.
4. The Jordanian legislator did not address the domain names by definition, neither in the electronic transactions law nor in other laws related to electronic commerce. Moreover, there is no legal regulation of these domains in the Jordanian legislations that establishes the legal nature and location of these domains among the prevailing legal concepts. Is limited to clarifying the concept and legal nature and is limited to registration procedures for these domains.
5. It is not generally possible to say that domain names are a form of trademarks, names and trade names because of the difference in concept and the nature of the rights and effects of each. The domain name registrar's rights differ from those of registrars, names, addresses and other elements of intellectual property. Which follows a legal system domestically and internationally that differs from the legal or technical system in which these domains are followed. In view of the fact that these rules have not been codified, neither at the international level nor at the internal level is the DNS As opposed to the elements of intellectual property governed by stable domestic legislation based on specialized international conventions. In the DNS, however, there are only rules and bases for registration issued by international technical bodies, which are circulated to accredited domain name registrars and listed as items in most of which does not specify accurately the rights and obligations of the domain name registrar nor the scope of legal protection to which is assigned.
6. Due to the significance of domain names in general and the domains of (.jo) in particular for the owners of projects and the transfer of the business and its development to the concept of the electronic business (website), the national domain names are considered

as a way to distinguish the business from others, and the means of discrimination products and services displayed on these sites Which is consistent with the position of the Jordanian legislator in the Trade Law when he cited examples of the elements that make up the business without limiting them, while recognizing the impossibility of causing the behavior These websites are subject to the lack of legal provisions to allow such actions to take place. Until such an organization is regulated, there is no room for saying that the domain name can be disposed of or subject to seizure.

7. Recognizing the independence of the concept of domain name from other prevailing legal concepts and the need for an independent legal organization to clarify its definition, its legal nature, the rights and obligations of its registration and the scope of its legal protection. However, until such a regulation is adopted, the existing intellectual property elements benefit from the legal regulation of these elements and the relevant judicial provisions. For example, the rights of trademark owners to domain names that include their trademarks registered within the Jordanian domain (.jo) appliance trade names, addresses and the names of business companies.

## RECOMMENDATIONS

1. We call on the legislator to speed up the development of specialized legislation governing the legal system of Jordanian domain names (.jo). We prefer that this legislation be issued in the form of a system or instructions (the Jordanian DNS), based on the Jordanian Electronic Transactions Law and regulations in line with the laws, so that these regulations or instructions accompany the rapid and successive developments in the world of domain names at the international level and the technical and regulatory rules issued by various international bodies based on the Internet DNS.
2. This specialized legislation should address all aspects related to Jordanian domain names (.jo) in terms of identifying them in a way that distinguishes them from other concepts and the development of registration rules consistent with the latest international practices, and is therefore reflected in the conditions laid down in registration contracts for this domain, Functional "domain name registrar" at the National Information Technology Center is entrusted with the organization and administration of the "domain registry" and specifically defines its functional competencies.
3. In line with the proper legalization of domain names as a financial right with financial value to which legal acts are based, we recommend that the legal status of the national registrar (.jo) should be provided and the effects of the right to determine its rights and obligations and the need to provide for the sale, The registered domains and the installation of such actions in the Jordanian domain name registry to protect the domain name registrar's right on its domain.
4. Amend the Jordanian Electronic Transactions Act by adding a definition of national domain names (.jo) to the list of definitions in Article II, and adding a provision allowing such bands to be organized under specialized legislation to provide the legal basis for the promulgation of such legislation.

5. Amend the provisions of the laws related to national domains such as the Jordanian Trade Law by adding the domain names to the constituents of the commercial shop contained in Article 38, emphasizing the importance of the domain names and the distinctive functional role of the business.
6. Amend registration policy of the national domain names (.jo), followed by the National Information Technology Center in terms of the types of secondary domains registered within the .jo family and updating them, and eliminating the overlap between them and the trend towards specialized domains and consistent with the latest global developments in this regard and the expansion of registration Domain names in Arabic that express and identify national identity, as long as the new domain registration system allows for the registration of domains such as: (Amman) & (Petra) etc...

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- National Information Technology Center [www.idn.jo](http://www.idn.jo)
- Registration Jordanian domain names (.jo) [www.dns.jo](http://www.dns.jo)