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Intellectual Property Rights in the Kingdom of Saudi Arabia In Light of Sharia and the TRIPS Agreement

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THE PENNSYLVANIA STATE UNIVERSITY
PENN STATE LAW

INTELLECTUAL PROPERTY RIGHTS IN THE KINGDOM OF SAUDI ARABIA
IN LIGHT OF SHARIA AND THE TRIPS AGREEMENT

BY
ABDULRAHMAN ALABDULKARIM

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ABSTRACT

This study aims to illustrate the current state of intellectual property rights (IPR) in Saudi Arabia in light of certain international agreements, specifically TRIPS, as well as Sharia law, that have informed the Saudi legislature in its creation and handling of intellectual property matters. Various matters of IP today may be debated among Saudi's Islamic jurists, which in turn may bring such issues into conflict with Sharia. Such conflicts over matters of IP cannot be dismissed lightly by the Saudi legislators. They must determine the proper enforcement and protection of IPR as stipulated by modern Saudi IP laws and/or by international agreements signed by the Saudi government. Potential deficiencies in the proper protection and enforcement of IPR may foster fear among IPR owners regarding access to legal protection for their IP. The main objective of this study is to prove the possibility of reducing IPR infringement in Saudi Arabia. This study also argues that it is possible for Saudi to provide strong enforcement and protection of IPR through the enforcement of religious law, and through other means and measures that are compatible with Sharia and the cultural environment of Saudi Arabia, which is in general strongly religious, traditional, and conservative. Such legal and religious measures may place Saudi's IPR laws on par with international IPR standards and the laws of other countries, and may assist in elaborating a more globalized vision about IPR systems in Saudi Arabia.

This study will analyze and evaluate current Saudi IPR legislation, including Trademarks, Copyrights, and Patents from the viewpoint of Islamic and Saudi laws. The methodology adopted in this study is reflective of traditions Saudi IPR laws and international IPR conventions, with reference to other jurisdictions when needed to compare the legislation and practices of diverse countries. Special attention is paid to countries such as Gulf Cooperation Council (GCC) that have a culture similar to Saudi Arabia's and comply with Sharia. This study will serve the important purpose of educating Saudi and international IP owners and lawyers, Saudi authorities who regulate IPR, Islamic countries, and scholars and practitioners in other legal fields seeking to understand the status of IPR in Saudi Arabia, especially as related to Sharia.

In addition to the above mentioned analysis, the author will employ other methods for certain matters, including the critiques and reforms of IP laws and practices. In addition, an attempt has been made to close-read the text of Saudi statutes in light of Sharia and its theories related to IPR.

The scope of this study is to examine the aspects of protection, enforcement, and infringement of IPR in the framework of Sharia, the TRIPS agreement, and the current Saudi IPR laws. This study is divided into three main parts and eight chapters, as follows. Part I comprises Chapters 2 and 3, and deals with the general background of intellectual property rights in TRIPS, Saudi statutes, Jurisprudence, and Sharia. Various theories related to IPR are discussed with respect to modern laws and Sharia. Part II comprises Chapters 4, 5 and 6, and discusses infringement and enforcement of IPR in Sharia, Saudi Arabia, and other countries. The underlying concepts and reasons for IPR infringement and enforcement, and the criminal and civil remedies regarding IPR, are elucidated with respect to Saudi and Sharia law. An examination of the enforcement of religious law by the religious police as related to Sharia and its modern practices is provided. Recommendations and improvements that might be made to current legal practices are illustrated. Part III comprises Chapters 7, 8 and 9, and examine matters of IPR that might raise issues related to the implementation of proper IPR protection and

enforcement. Such matters are related to trademarks, and concern the function, ownership, and protection of banned trademarks in Saudi Arabia with reference to Sharia and other legislation. Likewise, matters of copyrights concerning moral and financial rights, duration, and protection are deliberated. Regarding patents matters concerning monopolies, public interest, infringement, and remedies are discussed. Recommendations are provided as important results in the conclusion of this study.

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