

The domain name and other intellectual property rights

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Abstract

This study aims to disentangle the overlap between the concept of domain names and other commercial intellectual property rights by distinguishing between them from several formal and legal aspects. This distinction is essential for protecting the rights of entrepreneurs, companies, and others from infringement. Additionally, the study seeks to identify the relationship between domain names and commercial intellectual property rights. A domain name serves as an access tool that facilitates users' ability to obtain information and services via the Internet, thereby significantly enhancing the importance of e-commerce. Consequently, the domain name is considered an influential element of electronic commercial identity as well as an emerging and independent component of commercial intellectual property rights.

INTRODUCTION

The widespread expansion of the Internet has made it a primary source for the exchange of information and knowledge, as well as for the trade of goods and services online. It also facilitates various transactions through the sending and receiving of data across communication screens. The global nature of the Internet necessitates that a smartphone, tablet, or computer be connected to the network through a number, code, or name composed of a set of characters to allow access and communication. This is somewhat analogous to the use of a specific number for telephone services and is known as a "Domain Name." Through this system, one can access any entity, company, or institution that is registered on the Internet. The primary purpose of designing a domain name is to enable users to easily reach their desired destination.

Over time, the role of the domain name has shifted from a purely technical function to a significant one in economic life in general, and in e-commerce in particular, due to its impact on commercial transactions and its association with the elements of intellectual property rights. Businesses have become keen to select domain names that carry their company or brand names in order to distinguish their domains from those of competing companies. As a result, a strong association has emerged between businesses and the domain names that represent them on the Internet. This has led to the domain name becoming a representative of commercial enterprises, institutions, and organizations both national and international on the Internet.

Consequently, this development has resulted in an overlap between the concepts of domain names and commercial intellectual property rights, necessitating a clear distinction between them from formal, economic, legal, and other perspectives.

Section One: The Nature of the Domain Name

The subject of domain names is a relatively recent topic that has drawn the attention of researchers and legal scholars. As a result, defining and understanding its nature has sparked jurisprudential debate, leading to varying definitions depending on the perspective adopted by legal theorists. Some have relied on the formal, technical, or functional criteria in formulating their definitions of domain names. However, the most appropriate and widely accepted approach is the functional criterion. Based on this, the current section will explore the definition of a domain name from both legislative and terminological perspectives in

Subsection One. Subsection Two will address the types and characteristics of domain names, as follows.

Subsection One: Definition of a Domain Name

The domain name is a modern concept from both legislative and jurisprudential perspectives. Therefore, it is necessary to shed light on its definition from various angles, which will be examined in the following paragraphs:

First: Legislative Definition of the Domain Name

International organizations have attempted to address the issue of domain names, but they have not succeeded in providing a unified or comprehensive definition. The Internet Corporation for Assigned Names and Numbers (ICANN) defined a domain name as follows:

"A domain name consists of two elements the chosen name, which represents the second-level domain (SLD), and the second element, which specifies the geographical location or scope and represents the top-level domain (TLD), which is later used to extend public systems."

Similarly, the World Intellectual Property Organization (WIPO) defined domain names as:

"An address commonly used by internet users, which is easy to identify or remember."

This definition focuses primarily on the function of the domain name and highlights its ease of memorization.

As for national legislation, there is also a lack of consensus on the definition of domain names. Neither Arab nor foreign legislations have agreed on a unified definition. For instance, the Iraqi legislator did not include any definition or even a closely related term for domain names in the texts of the Electronic Signature and Transactions Law No. 78 of 2012, nor in the Iraqi E-Commerce Regulation No. 4 of 2025.

However, the Iraqi Communications and Media Commission (CMC) has shown interest in the issue by issuing a regulation concerning the management, registration, and organization of all matters related to domain names. In this regulatory document, the domain name is defined under the term "distinctive domain name" as:

"Names with marketing and commercial value, easy to remember, and indicative of a commercial, touristic, educational activity, a trademark, geographic locations, first names of individuals, tribes, or numbers, and which are important in expanding electronic sites within the country code."

Western legislations, by contrast, recognized early on the importance of regulating domain names due to their significant economic value to the state and the necessity of facilitating electronic transactions in a secure and efficient manner. This awareness prompted the enactment of specific, standalone legislation to regulate domain names and provide them with legal protection against any potential infringements.

One such example is U.S. legislation, where the American legislator enacted a specific law to regulate trademarks and domain names, known as the Lanham Act. This law protects trademarks, personal and commercial names, and domain names from violations. It also outlines the procedures for registering a domain name and details the responsibilities of registrars and domain name holders. However, the law itself does not provide an explicit definition of a domain name.

Nevertheless, the Anticybersquatting Consumer Protection Act (ACPA) of 1999 did explicitly define a domain name as:

“Any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.”

Another important example from foreign legislation is French law, which also showed considerable interest in the issue of domain names. France introduced various laws and regulations to organize domain name registration and management. Strict rules were established for registering domain names in France, including requirements such as residence in France or the presence of a company branch in the country in order to obtain a French domain name.

One of the key legal instruments in this area is Law No. 926 of 2011, concerning the management of top-level domains in France. This law governs the management and registration of domain names, although it does not provide a direct definition of the term. Instead, the responsibility for defining domain names was delegated to the French Network Information Centre (AFNIC). According to AFNIC’s regulations, a domain name is defined as:

“A name composed of a string of characters (a proper name, trademark, or a set of key words) followed by a suffix indicating the name space.”

Second: Terminological Definition of the Domain Name

There is considerable divergence among scholars and researchers regarding the definition of a domain name. This variation stems from the differing perspectives through which domain names are viewed. Some approach it from a technical standpoint, arguing that the internet is essentially a global network connecting computers, where communication occurs through an IP address a numerical code entered by users to access a specific website.

For example, when a user enters the number 207.46.130.150, they are directed to the website of Microsoft Corporation. This number points to the location of the company’s servers on the internet. Accordingly, a domain name is defined in this context as:

“A sequence of numbers entered into the browser in order to reach a server associated with a remote IP address.”

Due to the difficulty of memorizing and using numerical sequences, internet companies decided to replace these numbers with easily remembered alphabetical strings. These character-based names are automatically translated into numbers upon reaching the server, which then directs the user to the intended website. Thus, by entering a string of characters usually derived from a company’s name or trademark a user can directly reach the company’s website. Based on this, the domain name has been defined as:

“A transformation of a numerical sequence into a character-based term that corresponds to the name of a business or organization.”

It is worth noting that the Internet Corporation for Assigned Names and Numbers (ICANN) has incorporated Arabic letters into the global domain name system. These are known as "internationalized domain names" or Arabic-script domains, with the goal of promoting linguistic diversity and international cooperation. The first countries to adopt this system included Saudi Arabia, the United Arab Emirates, Egypt, and Kuwait. More recently, Iraq has also been added to the Arabic domain name registry.

This development prompted some legal scholars to define a domain name as:

“A set of assigned symbols that enables an Internet user to access a particular website to obtain information through the global network.”

Other scholars focused on the structural aspect of domain names, defining them as:

“A unique and distinctive address composed of Latin alphabet characters or numerical digits that allows access to a specific site on the internet.”

Proponents of this view emphasize that a domain name is merely a tool that enables users to reach websites via the internet. In this sense, it is nothing more than an address representing entities such as organizations, institutions, companies, projects, or individuals. The registration of a domain name grants the entity the right to use the term recorded in the domain name registry.

Others have viewed the function of the domain name, which in turn varies depending on how the name is used. A domain name has been defined as “a sign that takes the form of a combination of both numeric and alphabetic sequences, serving to determine the location of a computer, website, or internet page. It consists of three segments, which can be divided into: the prefix, represented by (www), which is the fixed part located on the left side of the phrase and allows the consumer or user to access the desired website through the Internet; the radical, which is the central part of the three components and is considered one of the most important elements of the domain name, as it must be unique and is composed of distinctive, abbreviated characters representing the company, project, entity, or organization; and the final part called the suffix, which is located on the right side of the phrase and represents the nature of the activity, institution, or the geographical location to which the domain belongs (e.g., com, net, etc.).

Subsection Two: Characteristics and Types of Domain Names

A domain name possesses several characteristics that distinguish it from other intellectual property rights, especially commercial ones. These characteristics will be discussed in the first paragraph, while the second paragraph will address the various types of domain names, as follows:

First: Characteristics of Domain Names

A domain name has unique characteristics that set it apart, including the following:

1. Exclusivity or Uniqueness

A domain name must be unique and cannot be identical to another domain name. This results from the application of the first-come, first-served principle, which grants rights to the party that registers the domain name first. This exclusivity stems from the technical nature of the Internet and has caused several issues particularly when individuals register domain names that are identical or similar to well-known trademarks, intending to sell them at high prices. Therefore, each company must secure a domain name that is distinct from others, a function that closely resembles that of commercial intellectual property elements.

2. Geographical Identification

When an individual applies to register a domain name, the competent registration authority assigns a country code to the domain name, indicating the geographical affiliation of the project, company, or individual. Some individuals and traders have even reserved generic domain names using specific country codes due to their popularity and potential to attract large numbers of visitors. Often, the purpose is to sell these domain names, as those ending with a recognized country code may fetch high prices especially in public auctions. Nonetheless, certain domain names do not end with a country code but are still considered global domains that are indispensable, such as google.com.

3. Universality

Domain names possess a global character, meaning they are not confined to the borders of any specific country. Rather, they transcend geographical boundaries due to their connection to the Internet, which is inherently global. As such, domain names function as tools for the exchange of goods, services, information, and more, across the world without geographical limitations.

4. Advertising Tool

Domain names serve as effective advertising tools used by most companies to promote themselves by showcasing their goods, products, and services online. This has led many trademark owners to adopt their trademarks as domain names to make it easier for consumers and other users especially those already familiar with the brand to locate them online. Consequently, domain names facilitate the electronic buying and selling of goods and services via the Internet.

Second: Types of Domain Names

Scholars have generally agreed that domain names can be classified into various types, which will be discussed in the following paragraphs:

1. Domain Names by Level

Domain names are divided into generic or international domain names, also known as top-level domains (TLDs). These are defined as:

"Domain names that refer to general international activities and are not affiliated with any particular country but are primarily directed toward consumers across the world."

These domains consist of three or more letters, which often reflect the activity or nature of the organization or institution. TLDs can be further categorized into two types:

Restricted Generic Domains:

These domains are specialized and governed by specific conditions and rules, often outlined in a charter related to the domain. They are managed by a designated coordinator responsible for overseeing policies within the domain. This coordinator is usually part of a specific, narrow community directly affected by that type of domain.

Unrestricted Generic Domains:

These domains operate under broader policies established directly by the Internet community, typically under the authority of ICANN (Internet Corporation for Assigned Names and Numbers).

In addition to TLDs, there are country-code domain names, known as second-level domains (SLDs). These are defined as:

"Domain names that end with two letters indicating the country to which they belong, where each country is assigned a unique code in accordance with the ISO 3166 standard."

SLDs are not geographically limited in their function; every country connected to the Internet has its own domain name. For instance:

Iraq's domain names end with .iq

Egypt's with .eg

France's with .fr

The United States' with .us

Commercial enterprises often start by registering their domain name at the national level (second-level domain). If that domain proves profitable or beneficial, the company may then proceed to register the same domain name at the international level, typically under the .com TLD.

Statistics have shown a significant increase in the registration of international domain names. In 2024, there were approximately 14,471 registered second-level domains, and 1.467 million

generic top-level domain name registrations were recorded across all generic TLDs as of March 2024.

2. Domain Names by Content

Domain names can also be classified based on their content into several types:

Civil Domain Names:

These are domain names whose owners do not seek to achieve any commercial profit. Examples include government and educational domain names. These domains are typically used for public service or informational purposes without a profit motive.

Commercial Domain Names:

These refer to electronic domain names whose owners aim to generate commercial profit. The domain connects consumers to goods or services offered on the website, effectively functioning like an online store. In this case, the domain name becomes a business project, and its owner acquires the status of a trader, making their activity a commercial one. A notable example is shein.com.

Static Domain Names:

These are named for their unchanging content. They usually contain fixed images or texts that are not subject to modification, making the content consistent over time.

Dynamic Domain Names:

These are characterized by their flexibility and adaptability. They allow for continuous updates, including the ability to add, modify, or delete images, texts, and other content elements, making them more interactive and responsive to changes.

Section Two: Distinguishing the Domain Name from Similar Intellectual Property Rights

The domain name plays a distinguishing role by differentiating one website from another, one online store from another, or even distinguishing between goods on the Internet. This function has led to confusion between domain names and commercial intellectual property rights whether traditional or modern.

In this section, we will distinguish between domain names and traditional commercial intellectual property rights in Subsection One, while Subsection Two will be dedicated to distinguishing domain names from modern commercial intellectual property rights.

Subsection One: Distinguishing the Domain Name from Traditional Commercial Intellectual Property Rights

A group of jurists has argued that the domain name constitutes a part of intellectual property rights, particularly commercial ones, such as trademarks, trade names, commercial addresses, geographical indications, and commercial data. However, this view is not entirely accurate. Therefore, in this subsection, we will distinguish domain names from some of these rights, specifically in the following two paragraphs:

First: Distinguishing the Domain Name from the Geographical Indication

A geographical indication is defined as:

"A mark that indicates the geographical origin of a good or product, established as a result of specific geographical and environmental factors in a particular area of a state's territory, including natural and human factors or a combination of both, and which grants a certain reputation, quality, or specific characteristics to the good or product."

The Iraqi legislator, in the Law on Trademarks and Commercial Data, defined geographical indications in Paragraph 6 of Article 1, stating that:

“Geographical indications are signs that identify the origin of a good in the territory of a state, region, or locality within that territory, where the quality, reputation, or other characteristics of the good are essentially attributable to its geographical origin.”

In contrast, the U.S. legislator did not devote specific attention to geographical indications, instead considering them a part of either the trademark or trade name system.

Meanwhile, the French legislator, in Article L721-2 of the French Intellectual Property Code, defined a geographical indication as:

“The name of a geographical area or specific place used to identify a product whether agricultural, food-related, or marine that originates in a particular environment and possesses a defined quality, reputation, or other characteristics that can essentially be attributed to that geographical origin. The conditions for production or processing of this product, such as cutting, extraction, or manufacturing, must comply with the specifications established by the decision issued under Article L.4114.”

It is evident from the above that there is a degree of similarity between a domain name and a geographical indication. This similarity arises from their shared function in distinguishing one project or company from another, as well as their role in identifying a specific geographical location and their economic and financial significance. However, despite these similarities, there are several fundamental differences between them from various perspectives.

For instance, they differ in purpose: a geographical indication informs the consumer that the product originates from a location known for its quality and reputation, and that it possesses specific attributes linked to its place of origin. In contrast, a domain name serves multiple purposes, including the presentation of goods, products, or services on the Internet, and facilitating access to various companies, projects, and both formal and informal institutions. It is not necessarily concerned with the fame of the product or the domain name itself.

Additionally, they differ in terms of physical presence: geographical indications are physically affixed to the product or its packaging, whereas domain names exist virtually on the Internet.

They also differ in naming conventions: a geographical indication strictly uses the name of a region or locality to distinguish the product such as the term “Brazilian coffee” for one of the world’s most famous coffee types originating in Brazil. A domain name, on the other hand, can include a person’s name, a company name, or any distinctive combination of letters and/or numbers.

Finally, they differ in terms of ownership: geographical indications are always collectively owned by the producers involved in creating or contributing to the product. Even if only one producer registers the indication, it must represent the entire group, as geographical indications are not conceived as the result of individual efforts. In contrast, a domain name can be registered and owned by a single individual or by a group.

A further distinction between a domain name and a geographical indication lies in the scope of legal protection. The protection granted to a geographical indication is confined to the territory of the country or countries in which it is registered. A country that owns a geographical indication has the right to register it with the World Intellectual Property Organization (WIPO) in accordance with the Madrid Agreement. This limitation has led some countries to adopt the principle of reciprocal treatment, as is the case with Egypt, which refers to this principle in Article 104 of Law No. 82 of 2000 on the Protection of Intellectual Property Rights.

In contrast, a domain name is not subject to such conditions for protection. Its protection is not bound by geographical or reciprocal recognition rules, and it is governed by global Internet infrastructure policies rather than international treaties specific to geographical indicators.

Furthermore, the two differ in terms of registration procedures. The geographical indication is registered according to the provisions and legal timeframes set forth in the Iraqi Law on Trademarks and Commercial Data. It falls under the supervision of the Trademark Registrar at the Iraqi Ministry of Industry and Minerals.

On the other hand, the domain name registration process is governed by its own regulations and legal timeframes, as outlined in specific bylaws issued by the competent authority in Iraq namely, the Iraqi Communications and Media Commission.

Second: Distinguishing the Domain Name from Commercial Data

Commercial data is defined as:

"Any statement that directly or indirectly relates to products or goods for the purpose of indicating their number, quantity, weight, place of production, composition materials, or characteristics."

From a legislative perspective, the Iraqi legislator did not provide a specific definition for commercial data in the Law on Trademarks and Commercial Data but merely clarified what may or may not be considered as commercial data. As for the American and French legislators, neither define commercial data in their respective consumer protection laws or in various commercial laws. However, they have established specific provisions for commercial data aimed at protecting consumers from fraud and deception.

Accordingly, commercial data is similar to domain names in that both may carry a mandatory character and serve to describe the product or good in order to avoid deception or commercial fraud. Additionally, there is a divergence among legal scholars regarding the legal nature of both; some consider them forms of intellectual property, while others do not.

Nevertheless, despite this resemblance, there are fundamental differences between domain names and commercial data. For example, they differ in purpose: commercial data pertains directly to the product and its components, and thus is physically affixed to the goods or products themselves. This data may be written, engraved, or woven onto the goods. In contrast, a domain name is not directly related to the product or good itself. While it may promote the product and include a description of it, such a description cannot be classified as commercial data because commercial data must describe all aspects of the product its contents, method of use, place of manufacture, and so on.

A domain name also differs from commercial data in terms of physical presence: commercial data exists physically on the goods themselves, whereas a domain name exists virtually on the Internet.

They also differ in terms of truthfulness requirements. Various legislations require that commercial data must be completely truthful in all aspects, whether it appears on packaging, invoices, or the product itself. In contrast, no such obligation exists for domain names. However, it is possible for the commercial data of a specific good or product belonging to one trader to be similar to that of another trader's product, since commercial data merely provides a description of the good. Therefore, it is not uncommon for product descriptions to resemble each other, even if the traders or manufacturers differ.

Conversely, a domain name may not be identical to another, as such similarity would violate the domain name registration system, which is designed to ensure the uniqueness of each registered domain.

Subsection Two: Distinguishing the Domain Name from Modern Commercial Intellectual Property Rights

The emergence and growing importance of electronic commerce have led to the transformation of intellectual property rights particularly commercial ones into electronic or digital intellectual property rights. These are commonly referred to as modern commercial intellectual property

rights. Among these, we will focus in this subsection on three key elements: the electronic store, the electronic trademark, and the electronic platform, as they are the most closely related to domain names. Therefore, it is necessary to distinguish between these rights and domain names in the following paragraphs:

First: Distinguishing the Domain Name from the Electronic Store

An electronic store is defined as:

"A virtual space through which electronic communications are exchanged between the merchant and the customer with the aim of completing various commercial transactions beginning with the presentation of products or services along with their specifications and prices, continuing with mutual negotiations, and concluding with payment procedures."

From a legal standpoint, the Iraqi legislator defines an electronic store in Paragraph 6 of Article 1 of the Iraqi Electronic Commerce Regulation as:

"Any electronic means used by the e-merchant to display their products or services to customers, whether through electronic applications, websites, social media, or other modern technologies that connect the e-merchant to the customer electronically."

Accordingly, the electronic store resembles the domain name in that both exist virtually on the Internet. Both are used to facilitate access to products and goods available online and to promote these goods in order to attract customers and users. Moreover, neither is restricted by any specific geographical location they are accessible from anywhere and at any time.

Despite this similarity, a domain name differs from an electronic store in terms of purpose. The primary purpose of an electronic store is always commercial: displaying goods and attracting as many customers as possible through promotional activities. In contrast, the main purpose of a domain name is to provide ease of access to various institutions governmental, non-governmental, commercial, or humanitarian as well as to distinguish among different commercial enterprises or companies operating on the Internet.

They also differ in terms of purpose. The purpose of establishing an electronic store is always to achieve profit, which is accomplished through buying and selling transactions, as well as through payments made by customers, which are often electronic. Additionally, there are post-sale services that the customer receives after completing the purchase process. In contrast, a domain name does not involve any of the processes used in an electronic store and may have either non-commercial or commercial purposes depending on the entity that created it.

They also differ in terms of composition. An electronic store consists of tangible and intangible elements. The intangible elements include the trademark, which is the distinguishing feature of the goods and products available in the electronic store; the trade name, which exists electronically as a website; and customer attraction and communication, which are the cornerstone of the electronic store. The tangible elements of the electronic store include computers that input and store data, networks responsible for transmitting data and information in two directions, and software, which is the most important tool for assisting customers and facilitating electronic payment processes or service delivery. In contrast, a domain name does not contain any of these elements; it is used as a distinguishing tool between projects, companies, and others. A domain name consists of three parts: the fixed part, such as `http\www`; the second part, which must be distinctive and not similar to others; and the third part, called the classified server, such as (net, com, edu, etc.).

They also differ in terms of registration. The electronic store is registered with the competent authorities at the Iraqi Ministry of Communications, as understood from Paragraph Three of Article 8 of the Iraqi Electronic Commerce Regulation, which states: "Third – The electronic merchant wishing to conduct electronic commerce through applications and websites must

comply with the instructions and regulations issued by the Ministry of Communications and the Communications and Media Commission." Paragraph Four of the same article states: "Fourth – The ministry shall review the application and submitted documents to verify their authenticity." This indicates that the Iraqi Ministry of Communications is the authority responsible for reviewing electronic store registration applications. In contrast, domain names are registered with the Iraqi Communications and Media Commission by their owners, who may be natural or legal persons, with registration completed directly upon submitting the registration form to the domain registrar.

Secondly: Distinguishing the Domain Name from the Electronic Trademark and the Electronic Platform

In this section, we will distinguish the domain name from the electronic trademark as well as from the electronic platform, as follows:

1. Distinguishing the Domain Name from the Electronic Trademark. The term "electronic trademark" refers to a distinctive sign used by a merchant or provider of goods to identify their products or merchandise and differentiate them from similar goods offered by others. The owner of the trademark has the exclusive right to use it and to prevent others from imitating or infringing upon it. It is essentially a trademark, but it exists in a virtual or digital form; therefore, it is called an electronic trademark. The electronic trademark aims to promote e-commerce much like the traditional trademark, but it differs from the traditional trademark in that its presence is in a virtual reality via the internet. Accordingly, the electronic trademark is defined as the processes through which the owner of the traditional trademark seeks to communicate, interact, provide expertise, and build trust and loyalty in order to develop and increase the value of their traditional trademark.

Therefore, the electronic trademark is similar to the domain name in that both are used to distinguish companies or projects on the Internet, both exist on the intranet, and both facilitate ease of access and interaction with users and customers. Additionally, neither is protected unless registered with the competent registration authorities. Despite this similarity and the common confusion between the trademark and the domain name, there are differences between them. The electronic trademark is always associated with a business concept or commercial services, whereas the domain name is not necessarily linked to a commercial idea; rather, it serves as a means of access to various official and non-official institutions, profit and non-profit organizations, companies, and others. The existence of the electronic trademark is linked to the presence of a traditional trademark, as the electronic trademark does not exist independently of the traditional trademark, which is the practical reality in Iraq. In contrast, the domain name exists only virtually on the internet.

Furthermore, the electronic trademark is protected under the Iraqi Trademarks and Trade Data Law No. 21 of 1957 (as amended), as well as under the Nice Classification for goods and services. The domain name, however, is protected pursuant to the Iraqi Domain Name Regulation issued by the Iraqi Communications and Media Commission.

Electronic trademarks are registered as a classification under the Nice Classification for goods and services. The electronic trademark is considered one of the services or software programs offered by the traditional trademark. Classification 42 of the Nice Classification includes computer programs within the protected categories, stating: "(z) Services for the design and development of computer hardware and software." The process of registering an electronic trademark follows the same steps as registering a traditional trademark, but the registration is done by classification. A certificate of classification is issued according to the registered traditional trademark, and a special certificate for the classification (electronic trademark) may be issued if it is added at a later stage after registering the traditional trademark.

The owner of a trademark can create an electronic application for their business, and the trademark can also be an electronic application for smartphones. However, in such cases, the owner must possess documents and evidence proving the existence of their business or company in reality to ensure that the electronic application is covered by protection; in this

case, it will be treated like a traditional trademark regarding the registration process and legal protection granted.

In contrast, the domain name registration does not involve complex procedures, as the registration is direct. The domain name requested for registration undergoes examination to ensure it does not match another domain name, after which it is registered. The protection period for an electronic trademark is ten years, renewable like the traditional trademark, whereas the domain name protection period is no less than one year and no more than two years, renewable according to the Iraqi domain name registration policy.

2- Distinguishing the Domain Name from the Electronic Platform.

An electronic platform is defined as "an easy-to-use business model based on technology that facilitates the exchange of information, goods, and services between different parties and allows electronic communication among many individuals." These platforms vary in their activities and nature of work; for example, there are video-sharing platforms such as Vimeo and YouTube, social platforms like Instagram and Facebook, and music and video platforms such as Spotify and Netflix. According to a 2016 assessment, more than 135 companies had a market capitalization exceeding one billion US dollars.

From these definitions, it is noted that the electronic platform is similar to the domain name in that both facilitate easy interaction between customers or users and project owners or companies, and both exist virtually over the internet. Both are used to facilitate access to goods available online. Despite this similarity, there are differences between the domain name and the electronic platform. The platform allows interaction with the content displayed within it and may be public and open to everyone or limited to a specific group of users. In contrast, the domain name is merely a means of access to various projects, companies, institutions, organizations, and others.

The goal of an electronic platform is always profit-oriented, whereas a domain name may serve multiple purposes depending on the entity that established it. Additionally, the content within the platform is protected, usually under intellectual property laws, but the platform itself is not protected. Conversely, the domain name itself enjoys protection regardless of the content it hosts. It is also noted that there is no specialized authority for registering electronic platforms, as these platforms are relatively recent and do not yet have specific legal frameworks. They may be considered personal data, digital works, or intellectual property. In contrast, domain names have specialized registration authorities in various countries as well as ICANN, which manages and protects them internationally.

Conclusion

Through our research, we reached several conclusions and recommendations as follows:

First: Conclusions

1. The Iraqi legislator did not provide a definition for the domain name, nor did it refer to any synonymous or related term within the texts of the Electronic Signature Law No. 78 of 2012, nor within the Iraqi Electronic Commerce Regulation No. 4 of 2025. However, the Iraqi Communications and Media Commission showed interest in the domain name issue by issuing regulations concerning the management, registration, and organization of everything related to domain names, although it did not define it precisely either.
2. Legal scholars have differed in defining the domain name according to the perspective from which they approach it; some relied on the formal criterion, the technical criterion, or the functional criterion in their definitions. However, the most appropriate standard is the functional criterion.
3. The domain name differs from traditional commercial intellectual property rights, which we categorized as traditional commercial intellectual property rights, in several respects, including its virtual existence on the internet, unlike these rights that exist materially in reality. Additionally, they differ in registration procedures and competent registration authorities, among other distinctions. The domain name also differs from the second category of

commercial intellectual property rights, which we termed as emerging commercial intellectual property rights.

Second: Recommendations

1. We call upon the Iraqi legislator to pay more attention to the issue of domain names by regulating, clarifying the methods of protection, management, and registration of domain names.
2. We urge legal scholars and researchers in the field of commercial law in general, and electronic commerce and intellectual property laws in particular, to devote more attention to the domain name due to its significant economic importance across various fields, especially in electronic commerce.
3. We recommend that legal scholars and researchers in commercial law, electronic commerce, and intellectual property avoid conflating the domain name with these rights, as it constitutes a new and independent element of intellectual property.

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5. Trademarks and Trade Descriptions Law No. (21) of 1957, as amended by Coalition Provisional Authority Order No. 80 of 2004.
6. Regulatory Bylaw for Domain Names with Distinctive Indicators in Arabic and English, issued by the Iraqi Communications and Media Commission.
7. National Organization for Management of French Domain Names Regulation.
8. Code de la propriété intellectuelle – Last modified January 1, 2021.
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5. Personal Interviews

1. Personal interview conducted by the researcher with an employee from the Economic Department, Trademarks and Trade Descriptions Section, Iraqi Ministry of Industry and Minerals, on August 21, 2024.

6. Websites

1. Internet Corporation for Assigned Names and Numbers (ICANN):
<https://www.cann.org/resources/pages>
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