

Public Policy and Morality Principles as Grounds for Refusal of Trademarks: A Comparative Study of Islamic Shari'a and Common Law

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Abstract : This paper provides a comparative analysis of the Islamic and Western public policy and morality principles governing trademarks. The aim of this paper is to explore public policy and morality principles that affect trademark registration and protection under Shari'a by using Kuwaiti law as a case study. The findings provide a better understanding of trademark recognition from the perspective of Shari'a and the requirements demanded by Islamic Shari'a, especially of those who deal with strict Shari'a jurisdiction countries. In addition, this understanding is required for corporations or legislators that wish to take into consideration Muslim consumers. The conclusion suggests that trademarks in Western and Islamic systems are controlled by a number of public policy and morality rules that have a direct effect on the registration and protection of trademarks. Regardless of the fact that there are many commonalities between the two systems, there are still fundamental differences.

Keywords : trademark, public policy and morality, Islamic sharia, western legal systems

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