

Unfair Competition

Lebanon does not have a special unfair competition law. The only two articles that deal with unfair competition are articles 97 and 98 of Ordinance No. 2385 of 1924.

Article 97 of the Ordinance provides that the following shall constitute acts of unfair competition:

- o Any violation of the Ordinance which is missing one of the conditions required for the application of the penalties of chapter 6 of the Ordinance (paragraph 1 of Article 97), or
- o Any activity that the courts can freely evaluate and it appears to the courts that such activity constitutes an act of unfair competition (paragraph 2 of Article 97).

Article 98 of the Ordinance provides that the plaintiff in an unfair competition lawsuit can only request a court order to stop the act of unfair competition and claim compensation for the damages sustained.

In view of the generality of the second paragraph of Article 97 of the Ordinance, the courts have set the following three criteria for a finding of an act of unfair competition:

- i. The existence of a state of competition between two parties,
- ii. The commission of an act of unfair competition by one of the parties. The courts usually look for the existence of a fault on behalf of the defendant, and
- iii. Damages suffered by the injured party.

The act of unfair competition is defined by the courts as “professional mistakes made in search for unfair profits in violation of the legal and moral principles prevailing in commerce”.

The acts of unfair competition are summarized by Lebanese scholars as follows: (1) creating confusion in the consumer’s mind between two competitors, their businesses, or their products (i.e. counterfeiting a

commercial name, trademark, design or model, etc.), (2) creating disorder in the market (i.e. comparative publicity), and (3) defamation.

In addition, there is a relatively new application of the theory of unfair competition known as “parasitism”. An act of “parasitism” consists of the use by a competitor of his/her/its opponent’s efforts and acts sparing himself/herself/itself the required investments to accomplish said efforts and acts.