

Research calls for a new formula for trade mark protection

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Trade mark protection serves the needs of trade mark owners well -- but to the detriment of the consuming public and other traders and rivals, says a new study from the University of Leicester.

Doctoral research conducted at the University found that the expanding protection in favour of trade mark owners fails to recognize that trade marks are in essence social and legal entities, and that the misallocation of property rights might result in significant effects on the society.

The study by Mohammad Amin Naser provides evidence that current trade mark [legislation](#) in the USA and the UK has departed from the dual protection of owners and the public to the sole protection of trade mark owners.

Dr Naser presented the key findings of his Ph.D. research, calling for a new formula for trade mark protection at a Doctoral Inaugural Lecture this month..

Dr Naser said: “My research re-examines the functions of trade marks, and argues that the origin function should be the only primary function of trade marks; accordingly this function should be the only standard for [infringement](#).

“As a practical proposition, this function is able to provide extra protection for owners of well-known trade marks in cases which confuse the public as to the origin and source of the goods or services on which

the mark is affixed.

“This new formula should provide protection for trade mark owners, the consuming public, and other traders and rivals.”

As a result, Dr Naser said the suggested new formula ensures that monopoly shall not be a result from trade mark protection, and opens the door for non-confusing uses by other traders and rivals which promotes an environment of free and fair competition. As such, trade marks are factors contributing to the achievement of a just and attractive culture.

The significance of the research, according to Dr Naser, is its impact over the right of [free speech](#) as a fundamental human right. The suggested approach considers that one from amongst the rights of public, should be the right to use trade marks in cultural and expressive contexts, whereby the public are entitled to parodistic and satirical uses of marks, which they have contributed in their creation.

Source: University of Leicester ([news](#) : [web](#))

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