



# TAG-Legal Newsletter

TALAL Abu-Ghazaleh Legal

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## Lebanese President Receives Abu-Ghazaleh in Beirut



**B**EIRUT - His Excellency General Michel Suleiman, President of Lebanon, received on August 29, 2008 Mr. Talal Abu-Ghazaleh, chairman & CEO of the Talal Abu-Ghazaleh Organization (TAG-Org), at the Baabda Presidential Palace in Beirut.

Abu-Ghazaleh congratulated Gen. Suleiman for his election by the Lebanese people as their consensus president.

According to the Lebanese National News Agency, Abu-Ghazaleh stated that President Suleiman expressed his approval on a number of projects being executed by TAG-Org in Lebanon since they serve the country's national interests.

Mr. Abu-Ghazaleh revealed that these projects include:

- The creation of a center to refurbish used computers for eventual redistribution among schools, in accordance with the program of the UN Secretary General Ban Ki-moon. This is entirely a charitable project.
- The creation of a Lebanese-Arab company for collective administration of copyrights and related rights, in addition to supporting Arab innovators.
- A third venture relates to electronically connecting the Ministry of Foreign Affairs with embassies and consulates worldwide, so that the Ministry can electronically monitor all these entities.

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"In addition to all these enterprises, we will embark on the creation of a 'Knowledge Village' and a 'Media and Arts Village' in Lebanon. This will ensure that the country plays its role as an artistic and media hub, by attracting major international organizations to utilize these villages as their regional headquarters," Mr. Abu-Ghazaleh added.

### Google Privacy Move Welcomed By EU Privacy Chief

September 12, 2008 (BNA) -The EU's top justice official welcomed a recent move by Google to cut the time it keeps users' search details. Jacques Barrot, the EU's justice and home affairs commissioner said Google's announcement was "a good step in the right direction." However, he also said that Google's move to cut its retention of data logs from 18 months to nine should be trimmed further to six months.



## Jordan National Library & Talal Abu-Ghazaleh Legal Sign MoU

**A**MMAN- The Department of National Library, affiliate of Jordan Ministry of Culture, and Talal Abu-Ghazaleh Legal (TAG-LEGAL), member of Talal Abu-Ghazaleh Organization (TAG-Org), signed a Memorandum of Understanding (MoU) on September 1, 2008, at the National Library new Headquarters.



According to the Memorandum, the two parties will cooperate in enhancing and applying regulations related to the protection of copyrights as well as fighting all forms of counterfeiting in Jordan.

The MoU was signed by Mr. Mamoun Al Talhouni, director general of the Library, and Mr. Mutasem Dmour on behalf of Talal Abu-Ghazaleh Legal, in the presence of HE Minister of Culture Ms. Nancy Bakeer and Mr. Talal Abu-Ghazaleh, TAG-Org chairman & CEO.

“We truly appreciate this partnership which represents a model to others to follow and we also value the role played by the National Library in protecting Intellectual Property Rights,” Abu-Ghazaleh said.

Meanwhile, Minister Bakeer expressed her optimism for this partnership.

“We really do appreciate the role played by Talal Abu-Ghazaleh in this field in Jordan and other countries and we consider this agreement to be a good start for further cooperation with Talal Abu-Ghazaleh Organization in the near future,” she said.

The terms of the MoU also stipulate for more coordination to be conducted between the Library and Talal Abu-Ghazaleh Legal, relating to the enforcement of copyrights in the Kingdom.

The National Library will accordingly accept requests from Talal Abu-Ghazaleh Legal, on behalf of its clients to take legal actions stipulated within the Jordanian Copyright Law, including the inspection of storage places for counterfeit products; confiscating such items and referring the case and infringers to the concerned authorities in accordance with the Law.

Jordan Department of National Library is a governmental

authority legally authorized to take procedures and measures necessary to protect Intellectual Property Rights duly applicable in the Hashemite Kingdom of Jordan against any infringements on literary, scientific and technical works protected under the Copyright Law.

Talal Abu-Ghazaleh Legal (TAG-LEGAL) provides services related to Intellectual Property Rights in terms of filing, registration and protection, as well as services related to copyright protection and related rights in Jordan in particular, and in the other Arab countries as a whole.

### Hollywood Preps New Copyright Bills

**September 12, 2008 (Zawya):** Hollywood is gearing up for another copyright expansion attack. Two major bills this time:

No. 1 is the Enforcement of Intellectual Property Rights Act, sponsored by Leahy and Specter, the ranking members of the Senate Judiciary Committee. It would allow the Justice Department to file civil lawsuits against anyone committing a copyright violation. So, rather than the studios and labels having to pay lawyers to file all these lawsuits, the taxpayers can foot the bill. The American Library Association and Public Knowledge says:

“Movie and television producers, software publishers, music publishers, and print publishers all have their own enforcement programs. There is absolutely no reason for the federal government to assume this private enforcement role,”

No. 2 is a little more reasonable; sponsored by Democrat Max Baucus of Montana and Republican Orrin Hatch, the International Intellectual Property Protection and Enforcement Act forces the president to enact an enforcement plan including restrictions on government procurement involving nations that do not.



## ICC Chairman Fung Discusses Global Business in the 21st Century at TAG Business Forum

**A**MMAN - Dr. Victor Fung, chairman of the International Chamber of Commerce (ICC) and chairman of the Li & Fung Group of companies, discussed on September 14, 2008, "Global Business in the 21st Century: Asia-Pacific Perspective" at the Talal Abu-Ghazaleh Business Forum/ Talal Abu-Ghazaleh College of Business.

Dr. Fung's visit to Jordan is the first of its kind to the Arab region, based upon the invitation of Mr. Talal Abu-Ghazaleh, CEO & chairman of Talal Abu-Ghazaleh Organization (TAG-Org). In his lecture, Dr. Fung explored and assessed the historical, current and future perspectives of the Asia-Pacific region in respect of globalization; in addition to drawing special attention to the Asia-Pacific experience that has a universal application which may be relevant to the Arab region.

Dr. Fung stressed the importance of the Small and Medium Sized Enterprises (SMEs) in the growth of national economies: "China, India and Japan will be among the world's biggest national economies in the 21st century. The actors in this arena will be both state entities - such as sovereign wealth funds - and a growingly confident private sector that consists of SMEs." Another point discussed in his lecture was means of making globalization more attractive by promoting its benefits for global economy.

"Asian economies are globalizing in several ways. Their markets are generally open to foreign trade and investment, while increasingly Asian economies and businesses are movers and shakers in trade and investment in all the world's markets," Dr. Fung said. Moreover, he emphasized the fact that economic reform and globalization do not erode a nation's cultural identity. "Japan is still very "Japanese" and the opening ceremony of the recent Beijing Olympics was a remarkable display of Confucianist renaissance," he explained

"It is not true that the price for economic reform and thereby success is the dilution of cultural identity," Dr. Fung stressed. One of the greatest strengths of any big commercial power, according to Fung, is the quality of its learning, "this was true of the Arabs in the 8th to the 15th century as it became true of the US in the 20th and is becoming the case in the Asia-Pacific."



"I know that currently vast sums are being invested in the Arab world in education and learning. This is vital," he stated. Nevertheless, Dr. Fung highlighted that education per se is not sufficient.

"Graduates must also be given the right opportunities to use their talents. This is one of the key success factors of the Asia-Pacific region," he said. Dr. Fung referred to the fact that the Arab region and Asia-Pacific shared a glorious commercial past; however, it diminished as the West became the center of the global commercial universe.

"This is changing dramatically. Today new axes of wealth are being created especially between what used to be spokes, i.e. the developing regions of the world. I think these are the opportunities of the future," he concluded.

At the end of the lecture, Abu-Ghazaleh stated that Africa will also contribute to the future global economic growth, and invited Dr. Fung to attend the "Towards an Afro-Asian Knowledge-Based Society" international conference jointly organized by the Afro-Asian Peoples' Solidarity Organization (AAPSO) and the Arab Knowledge and Management Society (AKMS) and supported by TAG-Org in January 2009.

In addition, Abu-Ghazaleh emphasized that Dr. Fung's lecture will significantly contribute to a book he is writing.

Dr. Fung toured the various sections of the Talal Abu-Ghazaleh College of Business and was impressed with the College's facilities.



## J.K. Rowling Wins “Harry Potter” Copyright Claim

**N**EW YORK - A judge ruled on September 8, 2008 in favor of “Harry Potter” author J.K. Rowling in her copyright infringement lawsuit against a fan and Website operator who was set to publish a Potter encyclopedia.

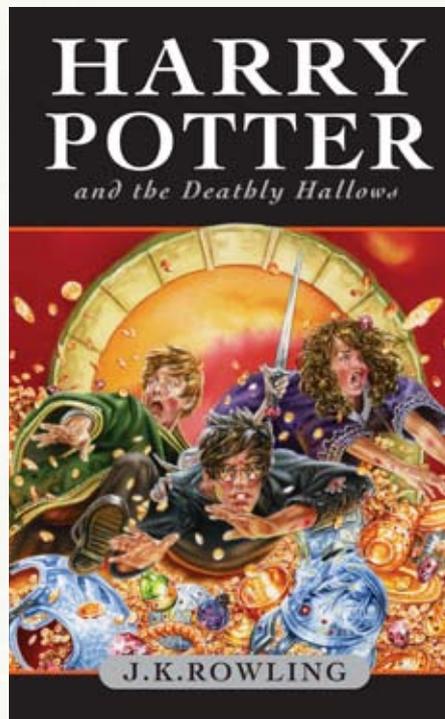
US District Judge Robert P. Patterson said Rowling had proven that Steven Vander Ark’s “Harry Potter Lexicon” would cause her irreparable harm as a writer. He permanently blocked publication of the reference guide and awarded Rowling and Warner Bros. Entertainment Inc. \$6,750 in statutory damages.

“I took no pleasure at all in bringing legal action and am delighted that this issue has been resolved favorably,” Rowling said in a statement. “I went to court to uphold the right of authors everywhere to protect their own original work. The court has upheld that right.”

“The proposed book took an enormous amount of my work and added virtually no original commentary of its own. ... Many books have been published which offer original insights into the world of Harry Potter. The Lexicon just is not one of them.”

Rowling and Warner Bros., maker of the Harry Potter films and owner of Intellectual Property Rights (IPRs) to the Potter books and movies, sued Michigan-based RDR Books last year to stop publication of material from the Harry Potter Lexicon website. Vander Ark, a former school librarian, runs

the site, which is a guide to the seven Potter books and includes detailed descriptions of characters, creatures, spells and potions.



The small publisher agreed that nearly everything in the lexicon came from Rowling but argued that it was a fair use allowable by law for reference books. In his ruling, Patterson noted that reference materials are generally useful to the public but that in this case, Vander Ark went too far.

“While the lexicon, in its current state, is not a fair use of the Harry Potter works, reference works that share the lexicon’s purpose of aiding readers of literature generally should be encouraged rather than stifled,” he said.

Patterson added that he ruled in

Rowling’s favor because the “Lexicon appropriates too much of Rowling’s creative work for its purposes as a reference guide.”

Anthony Falzone, who argued the case for RDR Books, said he had not yet seen the ruling and could not immediately comment. RDR publisher Roger Rapoport did not immediately return a telephone message for comment. Though Rowling had once praised the website, she testified earlier this year that the lexicon was nothing more than a rearrangement of her material.

She said she was so distressed at the prospect that it would be published that she had stopped work on a new novel. “It’s really decimated my creative work over the last month,” she said during the trial in April.

If the lexicon is published, she went on, “I firmly believe that carte blanche will be given to anyone who wants to make a quick bit of money, to divert some Harry Potter profits into their own pockets.”

Vander Ark, a devoted fan of Rowling, began work on his website in 1999 and launched it in 2000.

The seven Potter books, which ended last year with the final book in the series “Harry Potter and the Deathly Hallows,” have been published in 64 languages, sold more than 400 million copies and produced a film franchise that has pulled in \$4.5 billion at the worldwide box office. (*lht.com*)

## P&G Sues RNA for IP Infringement

**O**HIO - Procter & Gamble Co (P&G) announced on August 21, 2008, that it has filed a lawsuit against RNA Corp. for the infringement of its Herbal Essences Intellectual Property (IP), including trademark, trade dress and design patents.

The company alleged that private label manufacturer, RNA, is distributing shampoo and conditioner products under the name Hydrating Herbal Shampoo and Hydrating Herbal Conditioner, which in fringe the Herbal Essences Intellectual Property Rights.

The suit, filed in the United States Federal District Court for the Southern District of Ohio in Cincinnati, involves the company's Herbal Essences logo and the unique design of



the Herbal Essences bottles for shampoos and conditioners. P&G believes that RNA is selling products in packages that copy the well-known Herbal Essences packaging to capitalize on the brand's success and consumer loyalty. The company

also fears that the unauthorized use of its trade dress may confuse the people and could jeopardize the goodwill for Herbal Essences.

The company seeks the court to stop RNA from distributing the infringing products, requests the recall of existing inventory from store shelves, and destroy the bottle molds. (RTTnews)

## Rockville Sues Nintendo

**N**EW YORK- A Rockville technology company took on Japanese gaming giant Nintendo saying it filed patent infringement complaints on August 21, 2008, with two federal agencies asking that US importation of the popular Wii video game system be halted.

**Wii**  Hillcrest Labs, which licenses a technology to manufacturers that use it to make motion controls for digital media, said it filed a lawsuit in a Maryland US District Court alleging that components of Nintendo's Wii game systems infringe upon four of its Intellectual Property patents. The company filed a separate complaint with the US International Trade Commission.

"While we have a great deal of respect for Nintendo and the Wii, they believe that Nintendo is in clear violation of its patents and taken this action to protect its Intellectual Property Rights," stated Hillcrest Labs spokesperson.

The case required that Nintendo be forced to stop using its technology, to stop importing products that use the technology and for compensation "in an amount no less than a reasonable royalty," according to a copy of the court filing. Nintendo of America spokesman Charlie Scibetta said in a statement that "we have not been served with any lawsuit or other action by Hillcrest and therefore have no comment."

remote controls in 2006. In August, Nintendo announced that the game system had become the best-selling console in the country.

Hillcrest Technology is licensed by companies including Universal Electronics Inc. and Logitech, which uses it to make a \$150 wireless mouse that can control online video from across the room, like a laser pointer. (The Baltimore Sun)

Justice always needs time...





## Applying the provisions of the Jordanian Civil Law on exploiting joint authored works ©

By Ms. Diana A. Adel

Copyright is a relatively new concept in the Arab world; therefore, applying the provisions of an old traditional law such as the Civil Law on this subject might sound odd. However, the Jordanian Civil Law is the most important general law which governs rights. If the private law, and in this case the Copyright Law, does not provide all the answers to a certain issue, those answers could be found in the general law.

What is a joint authored work? To answer this question we need to know first what copyright is. Copyright is a set of exclusive rights regulating the right to retain ownership and the use of a particular expression of an idea or information.<sup>1</sup> The owner of the copyright is usually the author himself, and as any property, this ownership can be transferred to a second party temporary or permanently, partially or as a whole, noting that the financial rights of the copyrighted work are the subject of such transfer, without the moral rights.

As the work can be created by one person individually, it can also be jointly authored. "A joint work is a work prepared by two or more individuals, with the intention that their separate contributions be merged into a single work. A joint author can also be an organization or a corporation under the work made for hire doctrine."

According to the Jordanian Copyright Law, exploiting the jointly authored work must be done with the consent of all authors collectively, unless agreed otherwise. Moreover, if the contribution of each author can be distinguished, each author can use his/her distinctive part without the consent of the other author/authors.

But what if the contribution of each author cannot be distinguished and one of the said authors wanted to use, publish, license or otherwise exploit the copyrighted work while the other author refuses? Is there any legitimate procedure by which the first author can enforce such action (exploitation) without the other author's consent? Can the first author claim compensation based on this refusal?

The Copyright Law, the Berne Convention, and the Trade-Related Aspects of Intellectual Property Rights (TRIPs) agreement do not answer those questions, but the Civil Law does.

How is the Civil Law applicable? Since copyright is a



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By Ms. Diana A. Adel

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property right, a joint authored work is a joint property as specified in article 1030 of the Jordanian Civil Law.

Even if applying the provisions of the Civil Law could lead to limiting the rights of an author, such limitation is acceptable according to Article 13 of the TRIPS agreement<sup>5</sup> as long as it does not prejudice the said author's rights unreasonably. Giving an author the right to exploit the work he contributed in when the other author's refusal is not justified, in my opinion, establishes a legitimate reason for limitation.

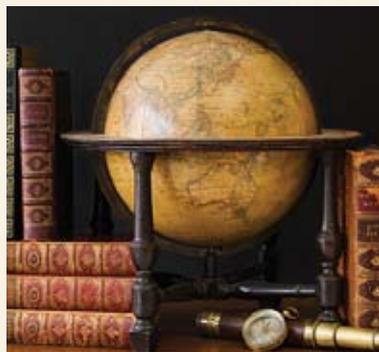
The Civil Law gives each owner the right to exploit the jointly owned work under the condition of not prejudicing the rights of the other owners<sup>6</sup>. It also gives each owner the right to sell his/her part without the consent of the other owner/owners unless the owned thing cannot be separated.

The right of managing the work is granted to the owners jointly<sup>8</sup>, and if one of the owners managed the jointly owned work and none of the other owners objected, the managing owner shall be considered an agent for all the owners, which means that the consent of the owners can be either expressed or implied, especially since the Copyright Law does not require the consent granted by authors to each other to be written, unlike the case when such consent is granted to others.

The majority of the owners shall determine how to manage the jointly owned work, and the majority shall be calculated

according to the shares and not to the number of owners. If the owners do not agree on how to manage the work, they may choose a manager and set the rules governing managing and exploiting the work. Furthermore, any owner may ask the court to take the required procedures to maintain the work and to name a manager.

Owners who obtain at least 3/4 of the jointly owned work may change or amend the said work, including amending the purpose to which the said work was made, to improve it and increase the benefit resulting from the exploitation of it, in addition to any other decisions which exceed the normal managing of the work. Such decisions must be reported to all the other owners in an official notice and each owner can object to these decisions before the competent court within two months from the date of the notice. 11



The court has the right to approve or reject those decisions. In case of approval, the court may enforce any procedures it deems appropriate, mainly granting the objecting owner a warranty to compensate any damages occurring from applying those decisions.

When applying the rules mentioned above, the moral rights must be taken into consideration. Those rights are: the right of attribution, the right to decide publication, the right to affect any alteration, the right to challenge any infringement, and the right to withdraw the work from circulation.12

Some of those rights do not normally establish any limitation to the options we previously discussed, such as the right of attribution, since any exploitation must be made acknowledging the authors of the work.

However, the same cannot be said about the right to decide publication. For example, if author (X) is interested in publishing the jointly authored work, and author (Y) refuses such exploitation based on the fact that (Y) did not intend to publish the subject work, with the absence of any proof to the contrary (proving (Y)'s intention to

publish the work), such exploitation should be restricted. On the other hand, if (Y) intended to publish the work, but objected to the price, publisher or any other conditions or circumstances, such exploitation could be legitimate. In some cases more than one moral right is related. When 3/4 of the owners decide to amend the work as previously mentioned, both have the right to affect any alteration and the right of attribution, by either restricting the amendment or not mentioning the name of the objecting author on the new version of the work.

When the exploitation cannot be enforced, the injured party may still have the right to retain compensation, especially if the other owner's use of his/her right was abusive; with the intention to trespass, to achieve an unlawful interest, to derive a benefit that is disproportionate with the damage it causes, or exceeds custom and normal usage.

### **A 65 Year-Old Man On Bail After North Piracy Operation**

August 29, 2008 (ibls): A pensioner arrested in the North as part of an international operation against online piracy was released on police bail. The 65-year-old man was arrested in Belfast by the PSNI's, Ireland's Intellectual Property Crime Unit working in partnership with the Federation Against Copyright Theft. The operation formed part of a global operation against those suspected to be involved in selling the latest films, music, computer games and computer software online illegally. The man was arrested in the east of the city. A substantial amount of equipment seized continues to be examined by police forensic experts. A sum of cash was also seized in raid, and the PSNI said the investigation was ongoing.

## Yazan Quandour



Mr. Yazan Quandour is one of our distinguished editors at the Quality Control Department. His continuous effort in the department has pushed the quality of our services forward, thanks to his precise revisions and constructive critiques.

In 2003, Mr. Quandour graduated from college holding a BA in English-Arabic translation with honor. Later that year, he enhanced his career through translating Jordanian Labor Law and its Amendments for that same year, from Arabic to English language. Then Mr. Quandour joined the Jordanian International Police Training Center (JIPTC) where he worked a year as a Language Assistant (LA) providing on-site interpretation in both languages.

Between the years 2005 until the end of 2007, Mr.

Quandour worked as a Linguist in an American Combined Media Processing Center, translated various documents of all types (Literal, legal, military, political, police-work, scientific, etc...) for different companies as a freelancer, in addition to working on translating a novel into English gaining outstanding linguistic experience, which later made him our expert in Linguistics at TAG-LEGAL.

His astounding performance along with his experience as a linguist/translator makes Mr. Quandour another icon that TAG-LEGAL takes pride in.

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