

**INTELLECTUAL PROPERTY AS AN OBJECT OF UNFAIR  
COMPETITION: THE INTERSECTION OF TRADEMARK  
PROTECTION, COMPETITION LAW, AND CONSUMER CONFUSION  
IN CONTEMPORARY MARKET RELATIONS**

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***Abstract:** The rapid globalization of markets, digitalization of commercial activity, and expansion of cross-border trade have significantly increased the economic value of intellectual property objects within modern market economies. Trademarks, service marks, geographical indications, trade names, domain names, and commercial reputations have become not merely instruments of product identification, but also strategic competitive assets capable of influencing consumer behaviour, market positioning, and commercial profitability. Consequently, unfair competition increasingly manifests through the unauthorized use, imitation, dilution, or exploitation of intellectual property objects belonging to competitors. At the same time, the relationship between competition law and intellectual property law remains theoretically and practically controversial because both branches of law pursue partially overlapping but conceptually distinct objectives. While intellectual property law seeks to protect exclusive rights and encourage innovation, competition law aims to preserve fair market conditions and prevent anti-competitive behaviour.*

*This article examines intellectual property as an object of unfair competition through a comparative analysis of competition law and trademark protection mechanisms in Uzbekistan, the European Union, and the United States. Particular attention is devoted to trademark infringement, likelihood of confusion, geographical indications, unfair commercial practices, misuse of trade reputation, SJIF: 5.051*

*and the growing role of intellectual property disputes within modern competition policy. The article further analyzes the legal reforms introduced under the new Law of the Republic of Uzbekistan “On Competition,” including the exclusion of several intellectual property-related violations from antimonopoly regulation and the preservation of commercial secrets as a subject of competition law protection. The article argues that although intellectual property and competition law are often viewed as conflicting regulatory systems, they are in reality functionally interconnected because both ultimately seek to preserve fair competition, consumer trust, and market integrity.*

*The study concludes that modern unfair competition increasingly operates through the misuse of intangible commercial assets rather than through traditional price-based competition. Accordingly, effective regulation requires coordinated interaction between intellectual property institutions, competition authorities, courts, and consumer protection bodies. It further argues that developing economies such as Uzbekistan must modernize institutional and legal mechanisms for addressing intellectual property-related unfair competition in order to strengthen consumer protection, investment attractiveness, and the stability of competitive markets.*

**Key words:** *Intellectual Property; Unfair Competition; Trademark Infringement; Competition Law; Intellectual Property Law; Consumer Protection; Likelihood of Confusion; Trademarks; Service Marks; Geographical Indications; Commercial Reputation; Trade Dress; Commercial Secrets; Trade Names; Domain Names; Market Competition; Consumer Confusion; Brand Protection; Counterfeit Goods.*

The transformation of the global economy into a knowledge-based and innovation-driven system has fundamentally altered the role of intellectual property within market relations. In contemporary economic conditions, the value of intangible commercial assets frequently exceeds the value of physical assets owned by undertakings. Trademarks, service marks, trade names, commercial reputations, industrial designs, geographical indications, domain names, and trade secrets have become central instruments through which undertakings differentiate themselves within highly competitive markets. Consequently, intellectual property has evolved beyond its traditional function of protecting creativity and innovation and has increasingly become a strategic competitive instrument directly influencing market power, consumer trust, and commercial success.<sup>1</sup>

The growing economic importance of intellectual property has simultaneously intensified the risks associated with unfair competition. Modern business entities frequently attempt to exploit the commercial reputation, consumer recognition, and market goodwill created by competitors through unauthorized imitation or misleading commercial practices. Such conduct may involve the unlawful use of trademarks, misleading packaging, imitation of trade dress, unauthorized use of geographical indications, cybersquatting, misappropriation of trade secrets, or dissemination of misleading information capable of confusing consumers regarding the origin or quality of goods and services. These practices not only damage competitors but also undermine consumer trust and distort the functioning of competitive markets.<sup>2</sup>

<sup>1</sup> Robert G Bone, 'Rights and Remedies in Trademark Law: The Curious Distinction Between Trademark Infringement and Unfair Competition' (2020) 98 *Texas Law Review* 1187.

<sup>2</sup> S Hamroev, 'Forms of Unfair Competition in the Field of Intellectual Property' (2022) 2 *Scientific Journal Impact Factor Advanced Sciences Index Factor*.

One of the central theoretical and practical difficulties within this field concerns the relationship between intellectual property law and competition law. Although both legal branches regulate market behaviour, they pursue different regulatory objectives and frequently operate through distinct legal mechanisms. Intellectual property law primarily seeks to provide exclusive rights to creators and innovators in order to encourage creativity, technological progress, and investment. Competition law, by contrast, aims to preserve fair market conditions and prevent anti-competitive conduct capable of restricting market access or harming consumers. Because intellectual property rights inherently grant exclusive control over certain commercial assets, tensions frequently arise regarding the extent to which the exercise of such rights should remain protected or be subjected to competition law scrutiny.

Certain national legal systems attempt to regulate intellectual property-related unfair competition simultaneously through both competition law and intellectual property legislation. However, this overlap frequently creates institutional and procedural uncertainty concerning which regulatory authority possesses competence over specific disputes. Scholars increasingly argue that competition law should not duplicate intellectual property protections already comprehensively regulated through specialized legislation. Instead, intellectual property law should retain priority where disputes directly concern exclusive rights over trademarks, service marks, geographical indications, or commercial identifiers.<sup>3</sup> Nevertheless, competition law remains highly relevant in circumstances where the misuse of intellectual property objects produces broader anti-competitive effects or threatens consumer welfare.

<sup>3</sup> Robert G Bone, 'Rights and Remedies in Trademark Law: The Curious Distinction Between Trademark Infringement and Unfair Competition' (2020) 98 *Texas Law Review* 1187 61–66..  
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The evolution of Uzbekistan’s competition legislation reflects this growing differentiation between intellectual property regulation and antimonopoly enforcement. Unlike the 2012 Law “On Competition,” the new competition legislation excludes several forms of intellectual property-related conduct from direct antimonopoly regulation, including disputes involving exclusive rights to trademarks and other means of individualization. However, commercial secrets and confidential business information remain protected within the framework of competition law. Article 21 of the Law “On Competition” prohibits the acquisition, use, or disclosure of commercial secrets and other legally protected confidential information without the consent of the rights holder.<sup>4</sup> This legislative development demonstrates an attempt to establish clearer boundaries between intellectual property law and competition law while preserving protection against economically harmful unfair commercial practices.

At the same time, the digitalization of commerce and the expansion of online marketplaces have significantly complicated the protection of intellectual property against unfair competition. Digital platforms facilitate the rapid dissemination of counterfeit goods, misleading advertisements, imitative packaging, and unauthorized trademark use across multiple jurisdictions. Social media marketing, influencer advertising, and electronic commerce further increase the risk that consumers may be misled regarding the origin, sponsorship, or authenticity of products and services. Consequently, modern unfair competition increasingly concerns not merely physical imitation but also the manipulation of digital commercial identities and reputational assets.

<sup>4</sup> Law of the Republic of Uzbekistan “On Competition”.  
SJIF: 5.051

This article therefore argues that intellectual property has become one of the central objects of modern unfair competition and that contemporary legal systems must adopt coordinated and technologically responsive approaches to regulating intellectual property-related market misconduct. Particular emphasis is placed upon trademark infringement, likelihood of confusion, geographical indications, and the misuse of commercial reputation within comparative and Uzbek legal practice.

The relationship between intellectual property law and unfair competition law has historically been characterized by both complementarity and tension. On the one hand, both branches of law seek to preserve honesty, transparency, and fairness within market relations. On the other hand, intellectual property law grants exclusive rights that may themselves restrict competition by limiting the ability of other market participants to use certain commercial symbols, inventions, or creative expressions. Consequently, legal scholars have long debated whether intellectual property rights should be viewed primarily as exceptions to free competition or as necessary instruments for promoting innovation and economic efficiency.

Classical competition law theory traditionally emphasized the prevention of monopolistic behaviour and market concentration. Intellectual property law, by contrast, was designed to encourage innovation by granting temporary exclusivity over creative and commercial assets. However, modern market economies increasingly demonstrate that intellectual property itself constitutes a powerful competitive instrument capable of determining consumer preferences and market positioning. Well-known trademarks, service marks, and geographical indications frequently possess enormous commercial value because consumers associate them

with particular standards of quality, reliability, and reputation.<sup>5</sup> Consequently, unauthorized use or imitation of such identifiers may produce substantial economic harm not only for rights holders but also for consumers who become misled regarding the origin or quality of products.

Many competition law systems therefore recognize that unfair competition may arise through the misuse of intellectual property objects. Such conduct includes trademark infringement, misleading advertising, imitation of packaging or trade dress, unauthorized use of geographical indications, misuse of domain names, and unlawful acquisition of commercial secrets. Nevertheless, certain jurisdictions attempt to regulate these issues simultaneously through both competition law and intellectual property legislation, thereby creating overlapping enforcement mechanisms and institutional ambiguity.

Experts increasingly argue that competition law should not directly regulate conduct already comprehensively addressed through intellectual property legislation. Instead, intellectual property law should maintain priority where disputes concern the unauthorized use of trademarks, service marks, or other protected identifiers. This approach reflects the principle of legal specialization and helps avoid contradictory regulatory decisions between competition authorities and intellectual property institutions. However, competition law remains relevant where the misuse of intellectual property objects generates broader anti-competitive effects or significantly harms consumer welfare.

The legal reforms adopted in Uzbekistan illustrate this evolving distinction. Unlike the previous 2012 Law “On Competition,” the new competition legislation excludes several intellectual property-related disputes from direct antimonopoly

<sup>5</sup> Shweta Goyal, ‘Trademark Infringement’ (2021) 1 *Journal of Applicable Law & Jurisprudence* 22–28.  
SJIF: 5.051

regulation, particularly issues concerning exclusive rights to means of individualization and trademark registration. Nevertheless, commercial secrets remain protected under competition law because their unlawful disclosure or misuse may directly distort market competition. Article 21 of the Law “On Competition” prohibits the unauthorized acquisition, use, or disclosure of commercial secrets, scientific information, technical data, and other confidential commercial materials belonging to competitors.

This legislative differentiation demonstrates that modern legal systems increasingly seek to establish clearer institutional boundaries between competition law and intellectual property law while simultaneously preserving coordinated protection against economically harmful unfair practices. However, practical difficulties remain because intellectual property violations frequently produce direct competitive consequences capable of distorting market behaviour and misleading consumers. Accordingly, effective regulation requires close interaction between intellectual property authorities, competition regulators, consumer protection bodies, and judicial institutions.

Trademark infringement represents one of the most widespread and economically significant forms of unfair competition within modern commercial relations. A trademark functions not merely as a visual symbol or commercial identifier, but also as a representation of reputation, quality assurance, consumer trust, and market goodwill accumulated through substantial investment and long-term business activity. Consumers encountering a familiar trademark frequently associate it with previous purchasing experiences, advertising exposure, or expectations regarding product quality. Consequently, unauthorized imitation or

misuse of trademarks may distort consumer decision-making and unfairly exploit the commercial reputation developed by competitors.

The protection of trademarks within unfair competition law is therefore closely connected to the principle of preventing consumer confusion. Competition law and trademark law both seek to prohibit the use of signs, packaging, or commercial identifiers capable of misleading consumers regarding the origin, sponsorship, affiliation, or authenticity of goods and services. In the United States, trademark and unfair competition law prohibit the use of confusingly similar commercial identifiers where such use may create mistaken assumptions concerning product origin or endorsement. Although “unfair competition” constitutes a broader concept encompassing numerous forms of market misconduct, trademark infringement remains one of its most important manifestations because it directly undermines market transparency and fair commercial practices.

The principal legislative instrument regulating trademark relations in Uzbekistan is the Law of the Republic of Uzbekistan “On Trademarks, Service Marks and Appellations of Origin” adopted on 30 August 2001. According to Article 3 of this Law, trademarks and service marks constitute registered signs used to distinguish the goods and services of one legal or natural person from those of other persons. It is important to distinguish between trademarks and service marks because trademarks generally identify physical products, whereas service marks identify commercial services provided within the market. For example, “ADIDAS” functions primarily as a trademark for sportswear products, while “STARBUCKS” simultaneously operates as a service mark associated with retail coffee services and hospitality activities.

Modern unfair competition involving trademarks frequently occurs through imitation of visual design, packaging, commercial names, logos, domain names, or marketing strategies designed to exploit consumer recognition of well-known brands. Such practices may involve counterfeit products, misleading advertisements, look-alike packaging, or unauthorized digital marketing campaigns. The expansion of e-commerce and online marketplaces has significantly intensified these risks because counterfeit and imitative products may now be distributed globally within extremely short periods of time.

One of the most illustrative examples of trademark infringement as unfair competition concerns the dispute initiated by the luxury fashion company Louis Vuitton against the South Korean restaurant “Louis Vuitton Dak.” The restaurant not only adopted a commercial name highly similar to the globally recognized “Louis Vuitton” trademark but also used packaging visually resembling the famous fashion brand’s designs. The Seoul court concluded that the restaurant’s conduct created a likelihood of consumer confusion and unlawfully exploited the reputation of the Louis Vuitton brand.<sup>6</sup> The court therefore imposed financial penalties upon the restaurant owner. Significantly, when the owner later modified the restaurant name to “chaLouisvui tondak”, the court regarded this conduct as continued non-compliance with judicial orders and imposed additional sanctions. This case demonstrates that trademark infringement increasingly involves not only direct copying but also strategic attempts to remain sufficiently similar to benefit from established commercial reputations while attempting to avoid legal liability.

The concept of “likelihood of confusion” occupies a central position within both trademark law and unfair competition regulation because it directly concerns

<sup>6</sup> *Louis Vuitton Malletier v Louis Vuitton Dak* (Seoul Central District Court).  
SJIF: 5.051

consumer perception and market transparency. The doctrine reflects the principle that consumers should be capable of distinguishing between competing goods and services without being misled regarding their origin, sponsorship, or quality. Where consumers encountering a disputed sign are likely to believe that the goods or services originate from, are connected with, or are endorsed by another undertaking, the risk of consumer confusion becomes legally significant.

Likelihood of confusion is not limited solely to identical trademarks. Courts and regulatory authorities frequently examine visual similarity, phonetic similarity, conceptual association, colour combinations, packaging design, font styles, and overall commercial impression. Even where two signs are not completely identical, consumer confusion may still arise if the overall market presentation creates misleading associations with an established brand. Consequently, modern unfair competition increasingly concerns not merely direct copying but also sophisticated forms of commercial imitation designed to create subconscious associations with famous trademarks.

A particularly important illustration of this principle appears in the case of *Starbucks Corp. v EUIPO and Hasmik Nersesyan* (T-398/16). In this dispute, Hasmik Nersesyan sought to register a logo for beverage services within the European Union. Starbucks opposed the registration on the basis that the proposed logo resembled existing Starbucks trademarks and could therefore create confusion among consumers. Although the EUIPO initially rejected Starbucks' objection, the General Court of the European Union disagreed and identified multiple visual similarities between the competing signs.<sup>7</sup>

<sup>7</sup> *Starbucks Corp. v EUIPO and Hasmik Nersesyan* (T-398/16) [2018] ETMR 17. SJIF: 5.051

The Court emphasized that both logos shared similar circular structures, colour schemes, typography, and placement of textual elements. The presence of the common word “COFFEE” and the overall visual impression strengthened the similarity between the marks despite certain differences in specific design elements. The Court ultimately concluded that the similarities were sufficient to create a likelihood of confusion among consumers. This case illustrates that modern trademark protection extends beyond exact imitation and increasingly focuses upon the broader psychological and commercial impact of visual presentation upon consumer perception.

The doctrine of likelihood of confusion performs not merely a private commercial function but also a broader public interest role. Consumers rely upon trademarks and commercial identifiers as indicators of quality, authenticity, and reputation. Where confusingly similar identifiers enter the market, consumers may purchase goods or services under mistaken assumptions regarding their origin or reliability. Consequently, trademark infringement simultaneously harms rights holders, distorts competition, and undermines consumer trust within the marketplace.

Geographical indications and appellations of origin represent another significant area where intellectual property intersects with unfair competition law. Such identifiers communicate information regarding the geographical origin, quality, reputation, and cultural characteristics of products. Consumers frequently associate geographical indications with particular manufacturing traditions, production methods, or regional reputations. Consequently, the unauthorized use of geographical names may mislead consumers and unfairly exploit regional goodwill developed over generations.

The Paris Convention for the Protection of Industrial Property, particularly Article 10bis, prohibits acts capable of misleading the public regarding the nature, characteristics, manufacturing process, or geographical origin of goods.<sup>24</sup> Similarly, Uzbekistan's legislation on geographical indications prohibits the registration of trademarks containing geographical names where such signs may mislead consumers concerning the actual origin of products. The law further prohibits the use of terms such as "style," "type," or "model" where they falsely imply association with protected geographical products.

Misleading commercial references such as "Turkish style," "Samarkand bread," "Gijduvan kebab," or "Tashkent patir" may therefore constitute unfair competition where products do not genuinely originate from the indicated region or fail to possess the characteristics traditionally associated with such geographical names. Such practices exploit cultural and regional reputations while simultaneously deceiving consumers regarding product authenticity.

The economic importance of geographical indications has increased significantly within global trade because consumers increasingly value authenticity, regional identity, and cultural heritage within commercial products. Consequently, unfair competition involving false geographical indications not only harms producers but also undermines regional economic development and cultural identity. This issue becomes particularly important for developing economies seeking to promote local products within international markets.

The evolution of modern market economies has transformed intellectual property into one of the most significant objects of unfair competition. Trademarks, service marks, geographical indications, commercial reputations, domain names, and trade secrets no longer function merely as legal identifiers but

increasingly constitute strategic commercial assets capable of determining market success and consumer trust.

Contemporary unfair competition increasingly manifests through the unauthorized exploitation of such intangible assets. Trademark infringement, misleading packaging, imitation of commercial identifiers, misuse of geographical indications, and unlawful disclosure of commercial secrets directly distort competition and undermine consumer confidence within the marketplace.

Although intellectual property law and competition law pursue different regulatory objectives, they remain functionally interconnected because both ultimately seek to preserve fairness, transparency, and integrity within market relations. Intellectual property law protects exclusive commercial rights, while competition law prevents economically harmful market conduct. Effective regulation therefore requires coordinated interaction between these legal systems rather than artificial separation.

Uzbekistan's legal reforms demonstrate important progress toward clarifying the relationship between intellectual property and competition law. Nevertheless, digital commerce, globalization, and technological innovation continue to create new challenges requiring modernization of enforcement mechanisms, institutional coordination, and judicial practice.

Ultimately, intellectual property-related unfair competition should be understood not merely as a private dispute between competitors but as a broader threat to consumer welfare, market transparency, investment attractiveness, and economic development. Consequently, strengthening legal protection against such practices constitutes an essential component of contemporary market governance.

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