

DOI: 10.5281/zenodo. 18760579

THE CONSTITUTIONAL AND CIVIL-LEGAL ASPECTS OF TRADEMARKS IN KOSOVO AND IN THE COUNTRIES OF THE REGION

Burim Haliti^{1*}, Flamur Hyseni²

¹University for Business and Technology, Prishtina, Kosova, burim.haliti1@ubt-uni.net
<https://orcid.org/0000-0001-9116-0525>

²University of Prishtina, Prishtina, Kosova, flamur.hyseni@uni-pr.edu,
<https://orcid.org/0009-0006-8546-717X>

Received: 17/08/2025
Accepted: 15/11/2025

Corresponding Author: Burim Haliti
(burim.haliti1@ubt-uni.net)

ABSTRACT

This article examines the constitutional and civil-legal aspects of trademarks in Kosovo and in the countries of the region, analyzing the legal framework governing the protection and registration of these rights. The paper explores the fundamental principles of industrial property law, the relationship of these rights with the Constitution and civil legislation, as well as relevant judicial practices in Kosovo, Albania, North Macedonia, and Serbia. It also assesses the challenges faced by the respective institutions in implementing the legislation and ensuring the effective protection of trademarks. Through a comparative approach, the paper aims to identify opportunities for harmonization and improvement of the legal framework in line with international standards. This article uniquely demonstrates the intersection of constitutional and civil-legal perspectives on trademark protection in Kosovo and its regional neighbors, an area largely overlooked in comparative IP literature.

KEYWORDS: Trademarks, Civil Law, Constitutional Law, Industrial Property, Legal Protection, Regional Harmonization, Kosovo Legislation, Judicial Practice.

1. INTRODUCTION

Trademarks play a crucial role in the modern market, serving as tools for identifying and differentiating products and services among consumers. In Kosovo, as in many other countries, the protection of trademarks is regulated by a specific legal framework designed to guarantee ownership and the exclusive rights of legitimate users. However, while the legislation governing trademarks clearly defines the procedures for their registration and protection, significant challenges remain in the practical enforcement of this law.

On the other hand, the Constitution of Kosovo provides broad protection for intellectual property rights, including trademarks, but it remains unclear to what extent the implementation of these rights aligns with international standards and the challenges of the domestic market. For this reason, this study aims to examine the relationship between the constitutional framework and the protection of trademarks in Kosovo, focusing on both the legal and practical aspects of this protection.

In this context, the article offers a detailed analysis of trademark law in Kosovo, comparing it with international standards, and examining relevant court cases and administrative practices in this field. Finally, it addresses the challenges and opportunities for necessary reforms to strengthen trademark protection in the country.

National legal acts derive from international legal instruments, or they incorporate rules and principles of international law in all countries that seek to adhere through their signatures. According to these legal instruments, member or signatory states are obliged to adopt national legal acts, whether laws or sub-legal acts, that incorporate the principles and international standards related to trademarks in general. The protection of trademark rights at the national level implies all principles and rules that must be respected and enforced by the responsible authorities against any violators of the laws and sub-legal acts in the Republic of Kosovo. This also symbolizes the legal certainty that a country must ensure for anyone wishing to own a trademark, and at the same time implies that there must be penalties and sanctioning measures against anyone who violates industrial property rights in general, and trademark rights in particular.

Based on the legislation of the Republic of Kosovo

on trademarks and the legislation of regional countries (the Republic of North Macedonia and the Republic of Albania), it is evident that there is legal protection in terms of legal regulation and that such protection for trademarks exists in three main forms: administrative legal protection, civil legal protection, and criminal legal protection.

It should be emphasized that a trademark must first be protected legally through administrative means, enabling the rights holder to benefit from a clear legal procedure regarding the registration, functioning, and proper enforcement of the trademark. Subsequently, if this procedure is not respected or is abused, based on an initial assessment, a civil-legal dispute may be initiated to seek compensation for the damage caused, obliging the other party to rectify the factual situation through legal means. In cases of misuse or counterfeiting of trademark rights, criminal proceedings may follow to establish criminal liability for the infringers and to guarantee the rights holder's interests by protecting the trademark under the final provisions of the law.

2. TRADEMARKS WITHIN THE CONSTITUTIONAL FRAMEWORK OF KOSOVO

In constitutional law, intellectual property rights including trademarks are regarded as part of fundamental human rights, protected specifically through legal guarantees.¹ In the Constitution of the Republic of Kosovo, Article 46 on property, in combination with the provisions on the direct application of international human rights conventions (Article 22), establishes an integrated framework for the protection of industrial property rights.

In its constitutional jurisprudence, the Constitutional Court of Kosovo has consistently read Article 46 [Protection of Property] in conjunction with Article 1 of Protocol No. 1 to the European Convention on Human Rights (ECHR), clarifying that intellectual property interests fall within the ambit of constitutionally protected 'property'².

This constitutional framing is directly relevant for trademarks: while the right is not absolute, interferences must pursue a legitimate public interest and satisfy proportionality. Courts should, therefore, subject restrictions on registration or use (e.g., refusals on grounds of public morality or misleading

¹ Christoph Beat Graber and Mira Burri-Nenova, *Intellectual Property and Traditional Cultural Expressions in a Digital Environment* (Cheltenham: Edward Elgar, 2008), 66–68.

² See, e.g., Judgment KI 159/20 (5 December 2022), which engages Article 46 in light of the ECHR standard; cf. *Anheuser-Busch Inc. v. Portugal*, ECtHR, App. no. 73049/01 (2007).

commercial practices) to reasoned proportionality review that is compatible with the ECHR property doctrine and Kosovo's constitutional standards.

This is consistent with the principles developed in the case law of the European Court of Human Rights, which has interpreted Article 1 of Protocol No. 1 of the Convention as encompassing intellectual property, insofar as it constitutes a "legitimate economic interest."³ In this regard, the inclusion of trademark rights as part of constitutionally protected property strengthens legal certainty and reinforces the confidence of economic actors in the country's legal order.

However, the protection of these rights is not absolute. It must be balanced against the legitimate interests of the public, respecting the principle of proportionality and the limitations prescribed by law, in accordance with the standards established in modern constitutional doctrine.⁴ This makes the interpretation of the right to a trademark not merely a technical-legal matter but also a challenge of balancing individual rights with the public interest.

3. CONSTITUTIONAL LIMITATIONS ON TRADEMARKS

Although the protection of trademarks is guaranteed, the Constitution provides for limitations in cases where the right to property may conflict with the public interest or other constitutional rights. According to Article 55 of the Constitution, any restriction on fundamental rights must be prescribed by law, be proportionate, and pursue the aim of protecting a legitimate public interest.⁵

3.1. Limitations for Reasons of Public Interest

Trademarks may be limited in order to prevent

- The misuse of a trademark for promoting illegal practices, such as disinformation or misleading advertising that puts consumers at risk.
- The creation of harmful monopolies that undermine fair market competition.
- The violation of other rights, for example, in cases where a trademark conflicts with ethics or public morality.⁶

A concrete example is when authorities may refuse to register a trademark that contains offensive language or symbols that violate public order.⁷

3.2. Conflicts with Fundamental Rights and Freedoms

Balancing the protection of a trademark with other rights, such as freedom of expression, is a significant challenge. For example, the satirical or critical use of a trademark may, in certain cases, be protected as part of the right to freedom of expression.⁸ Courts must ensure that any restrictions on trademarks are proportionate and based on the necessity to safeguard other rights.

4. INTERNATIONAL PRACTICES AND IMPLEMENTATION IN KOSOVO

In international practice, one of the most well-known examples of balancing competing interests is the case of *L'Oréal SA v Bellure NV*, in which the European Court of Justice held that the imitation of branded products infringes trademark rights and undermines fair competition.⁹

In Kosovo, the main challenges relate to

- Limited institutional capacity for law enforcement.
- Lack of awareness among businesses about the importance of trademark registration.
- Court delays in handling cases of trademark infringement.

5. IMPROVING THE TRADEMARK FRAMEWORK IN KOSOVO

5.1. Strengthening Institutions

Enhancing the capacity of the Industrial Property Office and ensuring faster handling of court cases involving trademark infringements are essential for improving law enforcement.

5.2. Education and Awareness-Raising

Organizing awareness campaigns for businesses regarding the importance of trademarks and the procedures for their registration would help enhance both legal and economic security.

5.3. Harmonization with EU Practices

³ European Court of Human Rights, *Anheuser-Busch Inc. v. Portugal*, Application no. 73049/01, Judgment of 11 January 2007, § 72.

⁴ Vicki Jackson and Mark Tushnet, *Proportionality: New Frontiers, New Challenges* (Cambridge: Cambridge University Press, 2017), 43–45.

⁵ Constitution of the Republic of Kosovo, Article 55.

⁶ WIPO Intellectual Property Manual

⁷ Case Study: Refusal of Offensive Trademarks under European Law

⁸ Case Law on Freedom of Expression and Critical Use of Trademarks.

⁹ *L'Oréal SA v Bellure NV*, European Court of Justice, Case C-487/07.

Adopting best European standards, as well as establishing the foundations for international cooperation in cases of cross-border infringement, would contribute to the improvement of the national intellectual property system.

6. ADMINISTRATIVE AND LEGAL PROTECTION

Administrative protection of trademark rights is a primary and preventive mechanism aimed at preventing conflicts and strengthening legal certainty without escalating the matter to the judicial system.¹⁰ According to international practice, this protection includes: proper registration and publication of the trademark, procedures for opposition and cancellation, as well as the intervention of state authorities in cases of unlawful use of a trademark.¹¹

Kosovo specific implementation data underline this preventive role. According to the Annual Report 2024 of the Industrial Property Agency (API), there were 2,171 trademark applications (a 17.66% annual increase, with domestic filings up 13.61%), 2,188 registration decisions, 1,844 publications post examination, and a 46.31% reduction in time to first registration compared to 2023; API also registered Kosovo's first multimedia trademark and increased the rate of opposition decisions by 30.89%. In total, 7,394 documents were recorded at intake across industrial property objects. These operational gains correlate with shorter registration cycles and more predictable administrative outcomes (API, Annual Report 2024).

At the enforcement interface, Kosovo Customs reported the initiation of 805 IP infringement verification cases in 2024 and the confiscation of over 272,000 counterfeit items valued at approximately €12.5 million, as presented on World Intellectual Property Day by the Ministry of Industry, Entrepreneurship and Trade in April 2025. These figures demonstrate the complementarity between administrative registration, border measures, and market surveillance.

The administrative system is particularly important in jurisdictions with limited judicial resources, where the intervention of specialized authorities such as inspectorates, customs, or competition authorities can ensure more effective and timely protection for rights holders.¹² In line with WIPO recommendations and EU practices, administrative interventions should be characterized by: (i) clear and expedited procedures; (ii) a proactive approach by market inspectorates and customs authorities; and (iii) inter-institutional cooperation.¹³

In countries of the region, including Kosovo, Albania, and North Macedonia, the provisions providing for administrative protection include mechanisms such as administrative fines, the seizure of goods, and the prohibition of the distribution of counterfeit products.¹⁴ For example, in the Albanian and North Macedonian systems, the competence for immediate intervention is vested in the Market Inspectorate, based on a request by the rights holder and supported by the relevant legal and evidentiary documentation.¹⁵

Although Kosovo's new Trademark Law (Law No. 08/L-075) includes references to administrative measures and fines, the lack of specific procedural guidance for the competent authorities represents a gap that should be addressed through sub-legal acts or administrative guidelines issued by the Industrial Property Office.

The Law on Trademarks No. 08/L-075, dated 13 July 2022 of the Republic of Kosovo, does not provide specific provisions regulating legal-administrative protection in detail. However, Article 86, paragraph 1, stipulates that during administrative proceedings, the trademark owner has the right to submit an appeal as a legal remedy to initiate administrative proceedings before the market inspectorate against any party infringing the trademark right.

This law also prescribes penalty measures for any natural or legal persons who, without authorization, use a trademark in violation of the law; fines range from €200 to €15,000. Similar punitive provisions for trademark infringement are also found in Law No. 06/L-015 on Customs Measures for the Protection of

¹⁰ World Intellectual Property Organization (WIPO), *Enforcement of Intellectual Property Rights: Administrative and Border Measures*, (Geneva: WIPO, 2015), 6–8.

¹¹ European Union Intellectual Property Office (EUIPO), *Administrative Procedures for Trade Mark Protection in the European Union*, accessed June 2025, <https://euiipo.europa.eu>.

¹² Christophe Geiger, "Effective Enforcement of Intellectual Property Rights: Balancing Measures in Administrative Procedures," in *Research Handbook on Intellectual Property Enforcement*, ed. Paul Torremans (Cheltenham: Edward Elgar, 2015), 123–126.

¹³ WIPO, *WIPO Guide on Custom Procedures for IPR Enforcement*, 2nd ed. (Geneva: WIPO, 2021), 17–20.

¹⁴ Ministry of Finance of North Macedonia, *Report on the Implementation of the Industrial Property Law* (Skopje: Government of the Republic of North Macedonia, 2020), pp. 11–14.

¹⁵ State Office for Industrial Property, *Guidelines for the Administrative Protection of Trademarks in Albania and North Macedonia*, Tirana – Skopje, 2022.

Intellectual Property Rights, specifically in Article 32, paragraphs 1–4, which stipulate that the minimum fine for natural persons is €250, while for legal persons it is €500; the maximum fine is €2,500 for natural persons and up to €10,000 for legal persons.

The Law on Industrial Property No. 21, dated 17 February 2009, in the Republic of North Macedonia, specifically Article 19, regulates the issue of administrative procedures, explicitly specifying that the Office is the central body which, through a legal act such as a decision, governs the acquisition, exercise, maintenance, and protection of rights deriving from industrial property. According to this law, there are specific provisions concerning the supervision of the implementation of the law, which falls under the responsibility of the Ministry of Finance of the Republic of North Macedonia. This Ministry authorizes the State Market Inspectorate, acting *ex officio* and upon the request of the rights holder, to supervise the provisions of this law and to provide legal certainty to the rights holder in administrative proceedings.

In cases where the Inspectorate determines that administrative rules for the protection of trademarks have been violated, it issues a decision through which it may withdraw products from circulation or impose appropriate measures to prevent further infringement of the trademark. The Inspectorate may also request that products be withdrawn from circulation in situations where: a protected invention is used without authorization; a protected industrial design is used or imitated without authorization; a protected trademark is used or imitated without authorization; the ® symbol is used for a trademark that is not registered; a well-known trademark is used or imitated without authorization; or a protected geographical indication is used or imitated without authorization.¹⁶ This law also provides for punitive provisions for anyone who, during administrative proceedings, infringes the rights of trademark holders and holds them liable for administrative offences. In addition, under this law, the trademark rights holder has the right to request that the inspectorate take action in cases where trademark rights are infringed. However, the rights holder must attach the following documents to the request for trademark protection: proof that the relevant industrial property right is protected; a declaration accepting full responsibility for any

persons involved in the procedure due to the actions or omissions of the rights holder, or when it is established that the goods in question do not infringe industrial property rights; a precise and detailed technical description of the goods; the value of the original goods in the Republic of North Macedonia; the location of the goods; information about the importer of the goods; and the place or places of production.

In addition to providing for administrative sanctions against anyone who infringes a trademark, this law also foresees other penalties, such as: a prohibition on carrying out business activities for a period of one to three years; a ban on practicing a profession, activity, or duty for a period of one to five years, or a permanent prohibition on conducting the activity; fines; and the confiscation of goods. For legal persons, the value of fines for administrative offences ranges from €4,000 to €8,000, while for natural persons, the fines range from €700 to €1,200.

The Law on Industrial Property No. 9947, dated 7 July 2008, as amended and supplemented by Law No. 96/2021, dated 7 July 2021, of the Republic of Albania, regulates trademark protection in the administrative-legal context. Article 199, which addresses administrative offences (as amended by Law No. 10/2013, dated 14 February 2013), paragraphs 1, 2, 3, and 4, clearly stipulates that when an unlawful act does not constitute a criminal offence, it is treated as an administrative offence. According to this law, the party must be charged with an administrative offence and fined by the inspectorate responsible for market surveillance. The law also specifies the minimum and maximum amounts to be applied and provides that in cases of repeated offences by the same person, the penalty or amount of the fine must be doubled, with the Tax Police being obligated to enforce the fine.

7. CIVIL LEGAL PROTECTION

Civil protection of trademark rights aims not only to stop infringements but also to ensure full compensation for the damage caused to the rights holder.¹⁷ In comparative law, immediate measures are recognized, such as orders to cease the use of the trademark, confiscation and destruction of products containing the infringing mark, as well as compensation for both material and non-material damage caused.¹⁸

¹⁶ Law on Industrial Property of the Republic of North Macedonia, Article 318, paragraph 1, subparagraphs 1–6, published in the Official Gazette of the Republic of North Macedonia, No. 21, dated 17 February 2009, Skopje, 2009, p. 78.

¹⁷ Dinwoodie, Graeme B., and Mark D. Janis. *Trade Dress and Design Law*. 2nd ed. (St. Paul: West Academic Publishing, 2017), 89–91.

¹⁸ World Intellectual Property Organization (WIPO), *WIPO Intellectual Property Handbook: Policy, Law and Use*, 2nd ed. (Geneva: WIPO, 2008), 187–189.

Particularly important in this context is the doctrine of the “triple test of civil remedies,” **which stipulates that a civil measure must be necessary** to prevent further harm, proportionate to the damage suffered, and effective in securing the right.¹⁹ This standard has been applied in the case law of the Court of Justice of the European Union and serves as an example for interpretation in the domestic context, especially for systems aiming to align with the *acquis communautaire*.

Local judicial practice is converging with these standards. In a 7 November 2018 ruling, the Court of Appeals in Prishtina confirmed that trademark holders may prevent unauthorised imports and sales irrespective of the goods’ authenticity (‘national exhaustion’), a position later upheld by the Supreme Court on 9 December 2015. In recent commentary on enforcement, commercial chambers have also debated the distinct roles of compensatory damages and statutory damages under Articles 75–76 of Law No. 08/L-075, underscoring the preventive and deterrent function of judicial remedies. In parallel, the 2022 Law introduced the possibility of administrative enforcement via the Market Inspectorate, to be operationalised through by laws.

In addition to material protection, civil law also recognizes the right to moral compensation in cases where a trademark has been used in a defamatory manner or has harmed the reputation of the rights holder.²⁰ This practice has been accepted in several European jurisdictions, such as France, Germany, and the Netherlands, and has begun to be reflected in the laws of Western Balkan countries, including Kosovo.

Civil-legal protection is particularly important in systems where criminal or administrative liability cannot guarantee direct compensation for the damages suffered. Therefore, developing consistent case law in the civil sphere is essential for the further advancement of trademark law in Kosovo and the region.

It can also be stated that actions taken as measures within civil-legal proceedings for the protection of trademarks play a crucial role in compensating the rights holder for pecuniary or non-pecuniary damages. As it is often emphasized: “Civil measures compensate the rights holder for the economic damage suffered as a result of the infringement,

usually in the form of monetary damages, and create effective safeguards against future violations.”²¹

A point that deserves particular attention is distinguishing when a specific case should be treated as an administrative offence or as the initiation of a civil procedure for compensation. The decisive moment is when the party who believes their trademark right has been infringed seeks an administrative penalty against the infringer which constitutes an administrative offence or seeks compensation for damages, which can only be pursued through a lawsuit in civil courts. Regarding this issue, it is rightly stated that: “When compensation is sought, a civil lawsuit is the only option.”²² According to this concept, it follows that a claim for damages can never be pursued through any other procedure but only through a civil lawsuit filed with the competent courts.

Civil-legal protection of trademarks under the national legislation of regional countries, such as the Republic of Kosovo, the Republic of North Macedonia, and the Republic of Albania, is largely similar, with only minor procedural differences. There is also a notable degree of harmonization of these laws with the legal acts of the European Union.

The Law on Trademarks No. 08/L-075, dated 13 July 2022, of the Republic of Kosovo, regulates the civil-legal protection of trademarks through specific provisions, particularly in Chapter XII (*Civil Legal Protection*). Article 74 clearly defines the persons entitled to seek protection of rights in civil proceedings: the trademark owner, the person authorized to protect the trademark, and a licensee. Furthermore, Article 75 specifies that the trademark rights holder or trademark owner is permitted to file a lawsuit against anyone who unlawfully infringes a trademark right acquired under Articles 9, 10, or 12 of this law. The law also authorizes the rights holder to seek compensation for any infringement resulting in material or non-material damage through a civil claim.

In determining whether a trademark right has been infringed in the civil-legal sense, the court may issue two types of measures: provisional measures and preventive measures.

The Law on Industrial Property No. 21, dated 17 February 2009, in the Republic of North Macedonia, specifically in Part Ten (*Judicial Protection – Infringement of Rights*), regulates the enforcement of

¹⁹ Lionel Bently and Brad Sherman, *Intellectual Property Law*, 5th ed. (Oxford: Oxford University Press, 2018), 906–908.

²⁰ Rochelle C. Dreyfuss and Jane C. Ginsburg, “The Role of Moral Rights in the Modern Economy,” *Columbia Journal of Law & the Arts* 26, no. 1 (2002): 1–27.

²¹ World Intellectual Property Organization, *Understanding Copyright and Related Rights*, WIPO, 2020, p. 17.

²² Key, IP, Trademark Protection in China, IP Key is co-financed by the European Union and the Office for Harmonization in the Internal Market (OHIM), Beijing, 2015, f. 14.

rights. Article 291 grants the right to any person whose trademark right is infringed to file a lawsuit before the court competent to resolve disputes relating to industrial property rights. This law also outlines situations constituting trademark infringement, such as any unauthorized use, disposal, definition, imitation, association, disturbance of rights, or similar acts contrary to the provisions of the law. The law expressly stipulates the elements that must be included in a claim filed to protect a right in civil proceedings, specifically in Article 294: verification of the existence of an infringement; prohibition of the acts mentioned in the claim that infringe the right; compensation for damage caused intentionally or negligently; seizure and destruction of goods produced or placed on the market in violation of the right and the means used to produce them; an obligation for the defendant to provide information about third parties involved in the production and distribution of the infringing goods or services and the channels of distribution; submission of documentation and data by the infringer; civil penalties; publication of the judgment at the defendant's expense; and other related claims.²³

The law also precisely regulates the time limit within which a civil-legal trademark protection claim may be filed generally three years, but no more than five years. The law further sets out situations in which provisional measures may be taken when the plaintiff has provided evidence and proof that the claim is well-founded, such as: prohibiting all acts of infringement and their continuation; seizing, withdrawing from circulation, and preserving samples, means, equipment, and documents related to them; and approving other similar measures.

The Law on Industrial Property No. 9947, dated 7 July 2008, as amended and supplemented by No. 96/2021 dated 7 July 2021, of the Republic of Albania, in Article 184/a (*Right to Take Action Against Infringement of Rights*), grants standing to all holders of trademark rights to bring a lawsuit in cases of trademark infringement. This right is recognized for the owner of a registered trademark, the authorized user of a collective trademark, the holder of an

exclusive trademark license, and the owner of a well-known trademark in the Republic of Albania, within the meaning of Article 6 bis of the Paris Convention.

Regarding the three-year time limit for filing a claim from the moment the rights holder becomes aware of the infringement, this is identical to the provisions in Kosovo and North Macedonia. Similarly, the Albanian law provides for preventive measures comparable to those in the two countries mentioned above.

8. CONCLUSION AND RECOMMENDATION

The right to the protection of trademarks represents one of the main pillars of legal certainty in a free market economy. As highlighted in this paper, although Kosovo has made significant progress in harmonizing its legislation with international standards including the TRIPS Agreement and European Union practices the enforcement of these rights remains challenging from both an institutional and practical perspective.²⁴

In this regard, strengthening the role of the Industrial Property Office, as well as enhancing cooperation between supervisory institutions and the judiciary, is essential for preventing and sanctioning infringements.²⁵ Additionally, the need for legal and economic education for market participants particularly small and medium-sized enterprises would directly contribute to increasing trademark registrations and reducing disputes.²⁶

Furthermore, improving judicial practice through continuous training of judges and prosecutors in the field of industrial property law would help establish consistent and predictable jurisprudence.²⁷ This is particularly important when courts are faced with complex cases that affect the balance between property rights and fundamental freedoms, such as freedom of expression.²⁸

Finally, regional cooperation through the exchange of best practices and experiences among Western Balkan countries can serve as a catalyst for standardizing approaches to trademark protection and for creating a stable and attractive environment for foreign investors.

²³ Law on Industrial Property of the Republic of North Macedonia, Article 294, paragraphs 1–9, published in the Official Gazette of the Republic of North Macedonia, No. 21, dated 17 February 2009, Skopje, 2009, p. 72.

²⁴ Peter K. Yu, *Intellectual Property and Information Wealth: Issues and Practices in the Digital Age*, Vol. 1 (Westport: Praeger Publishers, 2007), 145.

²⁵ World Intellectual Property Organization (WIPO), *Guide to the International Registration of Marks under the Madrid Agreement and the Madrid Protocol* (Geneva: WIPO, 2022), 34–36.

²⁶ Martin Senffleben, "The Trademark Law of the European Union: Harmonization, Modernization, and Beyond," in *Research Handbook on European Union Law and Intellectual Property*, ed. Estelle Derclaye (Cheltenham: Edward Elgar Publishing, 2020), 253–55.

²⁷ European Union Intellectual Property Office (EUIPO), *Judicial Training Tools on Intellectual Property for National Judges*, accessed June 2025, <https://euiipo.europa.eu>.

²⁸ Thomas Dreier and Christophe Geiger, *Balancing Intellectual Property Rights and Freedom of Expression in the Digital Era* (Strasbourg: CEIPI, 2018), 42.

Future research should track how EU accession dynamics reshape trademark law and practice in the Western Balkans, including the alignment of remedies and procedures with the *acquis communautaire*, the professionalisation of IP adjudication, and cross border cooperation. The

European Commission's Kosovo Report 2024 notes continued progress on IP alignment an opportunity to study empirically how these reforms translate into swifter proceedings, stronger deterrence, and more consistent jurisprudence.

REFERENCES

- AIPPI, "New Trademark Law Enters into Force in Kosovo," August 2022 (Law No. 08/L-075: administrative enforcement via Market Inspectorate), https://aippi.org/content/uploads/2022/08/August-Newsletter_Law-Case-Notes_Kosovo_2.pdf
- Agjencia për Pronësi Industriale (API), Raporti Vjetor 2024 (Prishtinë: MINT/API, 2025), <https://kipa.rks-gov.net/desk/inc/media/502BC2B7-2764-4BF9-A923-E23236263F96.pdf>
- Case Law on Freedom of Expression and Critical Use of Trademarks
- Case Study: Refusal of Offensive Trademarks under European Law
- Christoph Beat Graber and Mira Burri-Nenova, *Intellectual Property and Traditional Cultural Expressions in a Digital Environment* (Cheltenham: Edward Elgar, 2008)
- Christophe Geiger, "Effective Enforcement of Intellectual Property Rights: Balancing Measures in Administrative Procedures," in *Research Handbook on Intellectual Property Enforcement*, ed. Paul Torremans (Cheltenham: Edward Elgar, 2015)
- Constitutional Court of Kosovo, Judgment KI 159/20 (5 December 2022) (Article 46 in conjunction with Article 1 of Protocol No. 1 ECHR), https://gjk-ks.org/wp-content/uploads/2022/12/ki_159_20_agj_ang.pdf
- Constitution of the Republic of Kosovo
- Court of Appeals (Prishtina), Ruling on national exhaustion of rights (7 November 2018), discussed in PETOŠEVIĆ, "Kosovo Appellate Court Confirms National Exhaustion of Rights Is Applicable," 5 February 2019, <https://www.petosevic.com/resources/news/2019/02/4014>
- Dinwoodie, Graeme B., and Mark D. Janis. *Trade Dress and Design Law*. 2nd ed. (St. Paul: West Academic Publishing, 2017)
- Dreier, Thomas and Christophe Geiger, *Balancing Intellectual Property Rights and Freedom of Expression in the Digital Era* (Strasbourg: CEIPI, 2018)
- Dreyfuss, Rochelle C. and Jane C. Ginsburg, "The Role of Moral Rights in the Modern Economy," *Columbia Journal of Law & the Arts* 26, no. 1 (2002)
- European Commission, Kosovo 2024 Report (Brussels, 30 October 2024), chapter on intellectual property, https://enlargement.ec.europa.eu/document/download/c790738e-4cf6-4a43-a8a9-43c1b6f01e10_en?filename=Kosovo+Report+2024.pdf
- European Court of Human Rights, *Anheuser-Busch Inc. v. Portugal*, Application no. 73049/01, Judgment of 11 January 2007
- European Union Intellectual Property Office (EUIPO), *Administrative Procedures for Trade Mark Protection in the European Union*, accessed June 2025, <https://euipo.europa.eu>
- European Union Intellectual Property Office (EUIPO), *Judicial Training Tools on Intellectual Property for National Judges*, accessed June 2025, <https://euipo.europa.eu>
- Key, IP, *Trademark Protection in China*, IP Key is co-financed by the European Union and the Office for Harmonization in the Internal Market (OHIM), Beijing, 2015
- Kosovo Customs data presented on World IP Day 2025 (MINT/API event), reported in *Telegrafi* (English edition), "This is how many counterfeit goods Kosovo Customs confiscated during 2024," 28 April 2025, <https://telegrafi.com/en/kaq-mallra-te-falsifikuara-ka-konfiskuar-dogana-e-kosoves-gjate-vitit-2024/>
- Law on Industrial Property of the Republic of North Macedonia, Article 294, paragraphs 1–9, published in the Official Gazette of the Republic of North Macedonia, No. 21, dated 17 February 2009, Skopje, 2009
- Law on Industrial Property of the Republic of North Macedonia, Article 318, paragraph 1, subparagraphs 1–6, published in the Official Gazette of the Republic of North Macedonia, No. 21, dated 17 February 2009, Skopje, 2009
- L'Oréal SA v Bellure NV*, European Court of Justice, Case C-487/07
- Lionel Bently and Brad Sherman, *Intellectual Property Law*, 5th ed. (Oxford: Oxford University Press, 2018)

- Martin Senftleben, "The Trademark Law of the European Union: Harmonization, Modernization, and Beyond," in *Research Handbook on European Union Law and Intellectual Property*, ed. Estelle Derclaye (Cheltenham: Edward Elgar Publishing, 2020)
- Ministria e Industrisë, Ndërmarrësisë dhe Tregtisë (MINT), "The Industrial Property Agency registers the first multimedia brand in Kosovo," <https://mint.rks-gov.net/Page.aspx?id=2,3,1636>
- Ministry of Finance of North Macedonia, *Report on the Implementation of the Industrial Property Law* (Skopje: Government of the Republic of North Macedonia, 2020)
- Peter K. Yu, *Intellectual Property and Information Wealth: Issues and Practices in the Digital Age*, Vol. 1 (Westport: Praeger Publishers, 2007)
- Rochelle C. Dreyfuss and Jane C. Ginsburg, "The Role of Moral Rights in the Modern Economy," *Columbia Journal of Law & the Arts* 26, no. 1 (2002)
- State Office for Industrial Property, *Guidelines for the Administrative Protection of Trademarks in Albania and North Macedonia*, Tirana - Skopje, 2022
- Supreme Court of Kosovo, decision of 9 December 2015 on parallel imports (affirming infringement), summarised in SDP Kosove, "Parallel Imports in Kosovo: Slight Improvement in Enforcement," 30 May 2019, <https://www.sdpkosove.com/news/2019/05/parallel-imports-kosovo-slight-improvement-enforcement>
- Vicki Jackson and Mark Tushnet, *Proportionality: New Frontiers, New Challenges* (Cambridge: Cambridge University Press, 2017)
- WIPO, *WIPO Guide on Custom Procedures for IPR Enforcement*, 2nd ed. (Geneva: WIPO, 2021)
- WIPO Intellectual Property Manual
- World Intellectual Property Organization (WIPO), *Enforcement of Intellectual Property Rights: Administrative and Border Measures*, (Geneva: WIPO, 2015)
- World Intellectual Property Organization (WIPO), *Guide to the International Registration of Marks under the Madrid Agreement and the Madrid Protocol* (Geneva: WIPO, 2022)
- World Intellectual Property Organization (WIPO), *WIPO Intellectual Property Handbook: Policy, Law and Use*, 2nd ed. (Geneva: WIPO, 2008)
- World Intellectual Property Organization, *Understanding Copyright and Related Rights*, WIPO, 2020