

**Final Year Research Project for Degree of LL.B**

**RESOLVING THE CONFLICT OF JURISDICTION BETWEEN CIVIL  
COURT AND COMPETITION COMMISSION OF PAKISTAN FOR  
THE TRADEMARK INFRINGEMENT**



Research Project Supervisor

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Submitted by:

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Fall - 2017

**DEPARTMENT OF LAW**

**BAHRIA UNIVERSITY, ISLAMABAD**

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This Research Project is submitted in partial fulfilment of the requirements for the degree of LL.B.

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**Research Project for Degree of L.L.B.**

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8<sup>th</sup>December, 2017

**Department of Law**

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## **DECLARATION OF ETHICAL CONDUCT IN RESEARCH**

I, as a Students of Bahria University, hereby declare that firstly, I have abided by the research ethics while writing this research project.

Secondly, I have not committed any acts that may direct or damage the credibility of our research. These include, but are not limited to: falsification distortion of research findings or plagiarism.

Thirdly, I need to go through a plagiarism check before submitting this research project.

Dated: **8<sup>th</sup>December, 2017**

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## **DEDICATION**

We dedicated our work to our beloved parents who stood beside us in every walk of life and due to which we excelled in this research project. They are an inspiration and reason to live and excel in life. Our parents have made us a person that we are becoming hence they will always be remembered. Our parents supported us morally, financially in our life's which build up our morale and we attained success.

## LIST OF ABBREVIATIONS

<b>AIR</b>	All India Report
<b>CCP</b>	Competition Commission Pakistan
<b>CA</b>	Competition Act
<b>CLD</b>	Company Law Digest
<b>CPC</b>	Civil Procedure Code
<b>FIA</b>	Federal Investigation Agency
<b>IPO</b>	Intellectual Property Organization
<b>IPR</b>	Intellectual Property Right
<b>IPT</b>	Intellectual Property Tribunal
<b>PEMRA</b>	Pakistan Electronic Media Regulatory Authority
<b>PLD</b>	Pakistan Law Digest
<b>PTD</b>	Pakistan Tax Decisions
<b>SC</b>	Supreme Court
<b>SCMR</b>	Supreme Court Monthly Law Report

## LIST OF CASES

*Bangoo Farming Services Vs. Bank of Punjab* 2016 CLD 766

*Bilal Ahmed Vs. Justice of Peace A.S.J and 2 others* 2015 CLD 1104

*Bilal Ahmed VS Justice of Peace / ASJ and 2 others* [2015 CLD 1104]

*Commissioner Inland Revenue (Zone -1 ), RTO, Rawalpindi Vs. AL Mehdi international* 2013 PTD 2125

*Engroo Corporation Ltd Karachi Vs C.I.R , Zone -1 , LTU , Karachi* 2015 PTD 2375

*Indian Oil Corporation Ltd And ... Vs. Rama Ram Sonkar and others* 1990 AIR 406 SC

*Kuamon Motor Union Owners Ltd and ..... Vs. The State of Uttar Pradesh* 1966 AIR 785 SC

*Major (Retd) Pervaiz Iqbal Vs. Muhammad Akram Almas* [2017 PTD 884], [2017 SCMR 831]

*Muhammad Ramzan SHhahid Vs Additional District Judge SA.Mundri* 2017 CLC 1272

*Packages Limited through its General Manager & other VS Muhammad Maqbool and others* 1991 PLD 258 SC

*Saran Singh and others VS Kasserli All* 1977 AIR 265 SC

*Waris Ali Vs. State* 2017 SCMR 1572



## **ABSTRACT**

Enhancing performance with respect to trade mark sector and ensuring true protection of trade mark rights and prevention of its infringement. This will promote the economy of that Country and will bring foreign investment here. The proposed code will not resolve all matters with respect to trade mark but will enhance knowledge of the registered and unregistered person. This will protect rights of public at large and will ensure true justice is served in its legal essence. It will prevent criminals or other people from misusing the law provided in law. Proper check and balance will be maintained for proper functioning of governmental and non-governmental bodies.

This proposed code will not only grant protection to registered trade mark users but will set up a proper forum to deal with problems with respect to trade mark infringement. This environment will create a good level of trust between consumers, owners of Trade Mark and public at large. This will establish a fair market system and ensure maximum level protection which will enable fair economic system. This will boost the economy of country by foreign and local investors who will register their Trade Mark in that country and globally as well. Proper forum with its relevant jurisdiction will be availed and would relevantly be trailed and they would be respectively be remedied. This will also prevent misuse of legal lacuna by any person which is repealed in previous ordinance and Acts respectively. The conflict of jurisdiction between the Competition Commission of Pakistan and the Civil Court (as empowered through the Trademark Ordinance, 2001) has raised several questions in case of dispute of the Trademark, which forum to be availed. In this case res judicata and res sub judice may be applied respectively depending on facts and circumstances of case. If conflict arises with respect to general law and special law in that case special law will be preferred. This is done to fulfil the aims of that special law for which that law is made. In this intention of legislature must be seen by judges while interpreting law as it is attained or not.

General Law provisions cannot be applied on special law as it will create conflict with respect to that law. That why proposed ordinance clarifies the forums to be availed, how to keep check and balance between exercise of power of judiciary and other staff.

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