

UNAUTHORIZED USE OF SOMEONE ELSE'S BUSINESS NAME AND OTHER DISTINCTIVE MARKS OF GOODS OR SERVICES

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ABSTRACT

The aim of this paper is to examine the elements of the criminal offense of unauthorized use of someone else's business name and other distinctive marks of goods or services, as a form of criminal offense against the economy, which in modern criminal law has particular significance and is subject to specific regulation. Using the analytical-synthetic method with the inductive–deductive approach, certain rules were determined. The basic form of this criminal offense has two alternative modes of commission, namely: the use of someone else's business name, geographical indication of origin, trademark, or distinctive mark of goods, as well as the introduction of certain features of someone else's business name, trademark, or distinctive mark into one's business name, brand, trademark or special designation. The consequence of committing the criminal offense of unauthorized use of someone else's business name and other distinctive marks of goods or services consists in harm done to the rightful owner of the business name, as well as to the owner of other distinctive marks of goods or services. The criminal offense of unauthorized use of someone else's business name and other distinctive marks of goods or services is prescribed by Article 238 of the Criminal Code of the Republic of Serbia, as a special type of unfair competition, which also affects the interests of customers or users of services. The result of the paper is a commentary of the Criminal Code in the domain of unauthorized use of someone else's business name and other distinctive marks of goods or services.

Keywords: unauthorized use, business name, geographical indication of origin, trademark, distinctive mark.

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INTRODUCTION

Unauthorized use of someone else's business name, geographical indication of origin, trademark, or distinctive mark of goods or services is a criminal offense committed by a person who, with the intention of deceiving customers or service users, uses such a name, indication of origin, trademark, or distinctive mark, or incorporates certain elements of them into their own business name, designation of origin, trademark, or other distinctive marks of goods or services.

Unauthorized use of someone else's business name and other distinctive marks of goods or services is known as trademark infringement. A trademark is a symbol, word, or phrase that identifies and distinguishes the source of goods or services in the marketplace. When someone uses a trademark that belongs to someone else without permission, it can cause confusion among consumers and damage the reputation of the trademark owner [1] [2].

The analytical-synthetic method was applied for the purposes of determining the legal issues related to the unauthorized use of someone else's business name and other distinctive marks of goods or services. Excerpts from the law, court practice and other legal sources were analyzed. The inductive–deductive method starts from general criminal activities with further narrowing and focusing on the unauthorized use of someone else's business name and other distinctive marks of goods or services. This creates a sound basis for developing a future model of protection against the unauthorized use of someone else's business name and other distinctive marks of goods or services.

The object of protection includes someone else's business name, geographical indication of origin, trademark, or other distinctive mark of goods. This incrimination protects the interests of the holders of rights to a business name, geographical indication of origin, trademark or other distinctive mark of goods. The basic form of the criminal offense of unauthorized use of someone else's business name and other distinctive marks of goods or services has two alternative forms, namely:

- use of someone else's business name, geographical indication of origin, trademark, or distinctive mark of goods and
- entering certain features of someone else's business name, trademark, or distinctive mark into one's own business name, trademark, or distinctive mark.

The perpetrator of this criminal offense can be any person, but from the nature of the act, it follows that the perpetrators are those who are engaged in the production or sale of goods or the provision of services. The criminal offense is completed by undertaking one of the above-mentioned activities, while the crime requires intent. In addition to intent, it is necessary that the perpetrator has the intention to deceive customers or users of services, although this intention does not have to be realized. This criminal offense is punishable by a fine or imprisonment of up to three years.

The more serious form of this criminal offense is provided for in Article 238, paragraph 2 of the Criminal Code [3], which exists when the perpetrator acquires, produces, puts into circulation, leases or stores the goods specified in paragraph 1 of this article for the purpose of selling goods in greater quantities or at a higher value, or engages in providing services without authorization using other people's marks. The prescribed punishment for this form of criminal offense is from six months to five years in prison.

The most serious form of this criminal offense involves two qualifying circumstances and is prescribed by Article 238, paragraph 3 of the Criminal Code [3]. The first circumstance is when the perpetrator, as described in paragraph 2 of this article, has organized a network of resellers or intermediaries. The second is when the financial benefit obtained exceeds one million and five hundred thousand dinars. The prescribed punishment for this form of the offense is imprisonment ranging from one to eight years.

The provision of Article 238, paragraph 4 prescribes the mandatory application of security measures, that is, confiscation of goods that are marked with other people's marks or one's marks in which features of other people's marks have been entered, as well as such marks themselves if they are not integrated into the goods [3].

THE OBJECT OF THE CRIMINAL OFFENSE

The object of protection of this criminal offense is someone else's business name, geographical indication of origin, trademark, or distinctive mark of goods. Given that this is a criminal offense whose disposition is of a blanket nature, we will point out the meaning of the terms that make up the object of protection, namely business name, geographical indication of origin, trademark, or other distinctive marks of goods or services in the sense of the Law on Business Companies [4], the Law on Indications of Geographical Origin [5], the Law on Trademarks [6] and the Law on Trade [7].

The business name of a company represents the primary element of its identification. According to the provisions of Article 22, paragraph 1 of the Law on Business Companies [4], a business name is defined as the name under which a business company operates and participates in legal transactions, and which, as such, is subject to registration in the register. However, the business name of a company does not serve solely to individualize a specific company; it also has administrative, technical, and competitive functions. The administrative-technical function relates to the public interest, aiming to prevent confusion about the identity of companies. In market-oriented economic relations, a company has a genuine interest in building its business image through its unique elements, which will distinguish it in the business world and make it recognizable to clients, i.e., users and consumers of its services. Accordingly, the elements of individualization carry multiple meanings, reflecting the protection of the company's interests, those of consumers and users of services, and the security of legal transactions [8].

The competitive function of a business name lies in the fact that, under modern conditions, it becomes a value in itself. Based on the business name, consumers and business partners assess the overall creditworthiness of a company [9]. The business name must be distinctive enough not to be confused with the name of another company or cause misunderstandings regarding the company or its activities [10]. In this way, the business name becomes the primary external indicator of a company's business reputation. The competitive function primarily protects the private interests of market competitors [11]. These functions clearly demonstrate the significance of a company's business name, a matter which is regulated in detail under Serbian law. The term "company name" is defined in Article 22, paragraph 3 of the Law on Business Companies as the distinctive part of the business name that differentiates a company from others [4]. It is important to note that the new Law on Business Companies distinguishes between the concepts of business name and company name, where the business name is a broader term that includes the company name as one of its mandatory elements. This distinction was introduced because the terms were often equated in the past, a confusion partly caused by the earlier definition from the 2004 Law on Business Companies, which defined the business name simply as the name under which a business company operates [12].

Therefore, the subject of protection should be the company name, not the business name in its entirety, as the name itself is a sufficiently characteristic, specific, and distinctive element to be subject to legal protection. This distinction is important due to the past conflation of the two terms, also reflected in the 2004 definition of business name [13]. Another mandatory element of the business name is the designation of the legal form, which refers to the organizational structure of the company. The business name may include either the full or abbreviated designation of the legal form, such as "Joint Stock Company" or "Ltd." A mandatory element of the business name is also the place of the company's headquarters. The headquarters is defined as the location within the territory of the Republic of Serbia from which the company is managed, and which is determined by the founding act or a decision of the general assembly (Article 19, paragraph 1 of the Law on Business Companies) [4]. The headquarters determine registry jurisdiction, court jurisdiction, tax obligations, and the applicable law governing contracts concluded by the company. Although the Law on Business Companies allows for a separate mailing address, business communication is most often conducted through the company's headquarters (Article 20, paragraph 2) [4]. For these reasons, it is necessary to inform third parties through the business name about the company's headquarters. The Law on Business Companies states that only the place of the company's headquarters is a mandatory element of the business name, not the complete address (i.e., street and number) [14].

The legislator also provides for an optional element of a business company: a description of the subject of business (Article 22, paragraph 7 of the Law on Business Companies) [4]. In legal theory, the subject of business is considered a broader concept than that of activity, as it encompasses all activities performed by a company [15]. Additionally, the legislator allows other optional elements to be included in the business name, such as drawings, sketches, the year of establishment, indicators that the company belongs

to a business group, and similar features [11]. On the other hand, Article 27, paragraph 1 of the Law on Business Companies prescribes certain prohibited elements in a company's business name. Specifically, the name must not offend public morals or cause confusion regarding the legal form or the predominant activity of the company [4]. If such prohibited elements do appear, the law provides an additional layer of protection: in cases where a business name offends public morals, the Republic's Public Ombudsman may initiate proceedings by filing a lawsuit with the competent court against the violating company, requesting that its name be changed (Article 27, paragraph 3 of the Law on Business Companies) [4]. The judgment ordering the name change must be submitted by the court to the business entities registry for registration. If the company does not comply with the judgment and change its name within 30 days from the date it becomes final, the business entities registry shall ex officio initiate compulsory liquidation proceedings against the company (Article 27, paragraph 6 of the Law on Business Companies) [4].

In the legal system of the Republic of Serbia, the protection of a company's name is primarily regulated by the Law on Business Companies [7]. This law provides two fundamental forms of protection: the first is exercised by the registrar ex officio, and the second is judicial protection through legal proceedings before a competent court. Article 27, paragraphs 1 and 2 of the Law on Business Companies stipulate that a company's name must not be identical to that of another company, and it must differ sufficiently from the name of any other legal entity so as not to cause confusion regarding their identity [4].

When a company applies for registration of a business name, the registrar is responsible for checking the database to determine whether the proposed name has already been registered by another entity. If the name is identical to one already in the register, the registrar will reject the registration. If two applications for the same name are submitted, the registrar will register the name that was submitted first, in accordance with the principle *prior tempore potior iure*. However, a question arises when the proposed name is not identical but only similar to an existing one. The law only requires that company names be distinguishable enough not to create confusion about their mutual identity. This grants the registrar broad discretionary power to assess whether the proposed and existing names are sufficiently different to coexist in legal transactions. Although not explicitly stated in the law, it is evident that the registrar will take into account whether the companies operate in the same or related fields of business when evaluating distinctiveness. If the companies are competitors, a higher level of distinctiveness should be required for the name to be approved [13]. In this context, Mićović notes that judicial practice holds there is no risk of confusion in the market between companies engaged in entirely different activities, as these differences clearly indicate that they are separate entities. In one case, for example, the court ruled that a catering company and a trading company dealing in alcoholic beverages could register similar names, since the serving of alcoholic beverages is considered a service, not a trading activity [16].

The Law on Business Companies also regulates the protection of a business company through a lawsuit [4]. Although in practice this form of protection is becoming less significant—since the business entities register is a unified, central public electronic database covering the entire territory of the Republic of Serbia, and the registrar can easily determine whether a reported name is identical or similar to an existing one—the legislator still allows for the possibility of protection by lawsuit. This form of protection assumes the potential failure of the registrar, who may inadvertently register two identical or similar names, despite the actual lack of distinction.

The protection of a business name is also regulated by the Trade Act [17] through the concept of unfair competition, defined as actions by a trader or service provider directed against a competitor that violate business ethics and good commercial practice, causing or potentially causing harm (Article 41, paragraph 1 of the Trade Act) [17]. The legislator lists actions deemed unfair competition, including the sale of goods bearing labels or information likely to mislead consumers about the origin, quality, or other features of the goods, as well as dissemination of damaging information about another trader or their goods or services. Unfair competition is explicitly prohibited by law, and a trader who suffers harm has the right to compensation (Article 41, paragraphs 2 and 3 of the Trade Act) [17]. This type of protection differs from others in that it is not based on registration, but on the use of a business name. Thus, the plaintiff need not have registered the name but must prove they were the first to use it in legal transactions [18]. The plaintiff must also prove that the defendant used their business name, thereby violating business ethics and custom, causing or potentially causing harm. The defendant need not be a business entity; it can be any economic operator (e.g., a shop owner). The violation need not involve confusion over company identity—it may involve any violation of legitimate competitive interests, such as reputational harm. Infringement is not limited to the use of similar or identical business names but extends to other names or marks used in commerce [9].

As previously stated, the object of protection under the criminal offense of unauthorized use of another's business name and other distinctive marks includes geographical indications, trademarks, and other distinctive designations of goods or services.

From a legal perspective, the field of geographical indications raises numerous issues. The legal protection and scope of these rights vary by jurisdiction, and international harmonization has yet to be achieved. Two main models exist: one relies on unfair competition laws to prevent fraudulent use of geographical indications, while the other involves special legislation dedicated to their protection [19]. The concept of geographical indications evolved from civil law rules on unfair competition and criminal law provisions on fraud. Market development and competitive dynamics created the need for more precise regulation of geographical indications within the framework of intellectual property law [20]. In Serbia, geographical indications are governed by the Law on the Designation of Geographical Origin, which regulates their acquisition and legal protection.

A designation of geographical origin includes both a name of origin and a geographical indication. Under the Law on Indications of Geographical Origin, a name of origin is "the geographical name of a country, region or locality that designates a product originating from that area, whose quality and specific characteristics are exclusively or essentially attributable to its geographical environment, including natural and human factors, and whose production, processing and preparation are entirely carried out in a defined area" (Article 3 of Law on Indications of Geographical Origin) [5]. A geographical indication, in turn, "identifies a product as originating from the territory of a specific country, region or locality, where a particular quality, reputation or other characteristic of the product is essentially attributable to its geographical origin, and whose production and/or processing and/or preparation occurs in a specific area" (Article 4 of Law on Indications of Geographical Origin) [5]. Additionally, a designation of geographical origin may be a non-geographical name that has become widely recognized as a traditional name for a certain area due to long-standing commercial use. It may also include a historical name of a region if the conditions set out in Articles 3 and 4 of the Law on Geographical Indications are met. Protection of so-called homonymous names is granted to all qualifying parties, ensuring fair market treatment and accurate consumer information. An exception exists when public confusion regarding the actual origin of a product may result. In Serbia, protection of geographical indications mostly applies to agricultural and food products. There are currently 57 domestic and 14 internationally protected designations of origin. These serve as a powerful tool for enhancing competitiveness in agriculture and rural development, as such designations involve collective ownership and can be considered a national resource [21].

A trademark represents an exclusive industrial property right. It is generally defined as a subjective right to a sign used to individualize goods and services in commercial transactions. A trademark grants its holder exclusivity in using a trademark or service mark to identify their products or services, and includes the authority to prohibit others from unauthorized use of the same or similar trademark or service mark on identical or similar goods or services. A trademark is a legally protected sign used to mark goods and services so that consumers can distinguish them from identical or similar goods and services offered by others on the market [22]. It protects a sign that serves to distinguish goods or services in circulation and can be graphically represented by words, numbers, pictures, drawings, specific layouts, three-dimensional shapes, or a combination thereof, as well as musically represented phrases capable of graphical depiction [23].

In this regard, Article 1 of the Law on Trademarks defines a trademark as a right protecting a sign that serves to distinguish goods in circulation, or services, of one natural or legal person from those of another natural or legal person [6]. Furthermore, under this law, a trademark also includes trademarks internationally registered for the territory of the Republic of Serbia under the Madrid Agreement on the International Registration of Trademarks (Article 1, paragraph 3 of the Law on Trademarks) [6].

The trademark holder has the exclusive right to use the sign protected by the trademark to mark the goods or services it covers (Article 49, paragraph 1 of the Law on Trademarks) [6]. According to Article 49, paragraph 2, the legislator provides that the trademark holder may prohibit others from unauthorized use of "a sign identical to the previously protected sign in relation to goods or services identical to those for which the trademark is registered" as well as "a sign identical or similar to the previously protected sign for similar goods or services, if such use is likely to cause confusion among the relevant public, including the likelihood of association with the trademark holder's protected sign" [6]. Under paragraph 2, the trademark holder may prohibit:

- placing the trademark on goods, their packaging, or means of marking goods, such as labels, closures, or stickers,
- offering goods, placing them on the market, storing them for such purposes, or offering or providing services under the trademark,
- import, export, transit, storage, or transshipment of trademarked goods, regardless of whether these goods are intended for the domestic market,
- use of the trademark in business documentation and advertising and
- use of the trademark in comparative advertising in a manner contrary to regulations.

Each trademark is protected only concerning the goods and services for which it is registered; these goods and services are classified into appropriate classes according to the classification system established by the Nice Agreement on the International Classification of Goods and Services for the Purpose of Registration of Trademarks (Article 15, paragraph 1 of the Law on Trademarks) [6]. It is also relevant to note that there is a specific form of this offense today — trademark infringement on the Internet [24]. Liability for trademark infringement on the Internet in Serbian law is regulated by the Law on Electronic Commerce [25], which, among other provisions, assigns hosting providers an active role, primarily in responding to illegal content, including trademark infringement.

Another special designation of goods or services is the so-called trade name of goods or services — names, signs, or symbols by which a manufacturer or service provider designates a particular type of product or service, as well as a brand or name, symbol, expression, shape, or combination thereof, intended to distinguish these products or services from those of competitors [22].

WORKING EXECUTIONS

The Criminal Code, in the provisions of Article 238, paragraphs 1, 2, and the qualified form in paragraph 3, prescribes two basic forms and one qualified form of the criminal offense of unauthorized use of someone else's business name and other distinctive marks of goods or services [3]. The basic form of this criminal offense includes two alternative modes of execution:

- use of someone else's business name, geographical indication of origin, trademark, or distinctive mark of goods and
- incorporating certain elements of someone else's business name, trademark, or distinctive mark into one's own business name, trademark, or distinctive mark.

Both acts of execution—particularly the first—by their nature imply that someone else's marks, or one's own marks containing elements of someone else's, have been applied to certain goods. In practice, this offense is commonly committed when a business entity affixes someone else's business name, geographical indication of origin, trademark, or other distinctive mark to its own products. It may also occur in the context of advertising or offering goods or services, where the producer, seller, or provider uses someone else's business name, geographical indication, trademark, or distinctive mark in such a way as to mislead consumers or service users. The criminal offense of unauthorized use of someone else's business name and other distinctive marks of goods or services exists when one of the two described acts is committed, with the additional condition—though not a necessary one—that the mentioned marks of someone else are applied to certain goods [26]. For the basic form of this offense to be established, it is required that these acts are undertaken with the intention of deceiving customers or users of services. However, it is not necessary for this intention to be realized; it is sufficient that the perpetrator used someone else's business name, geographical indication of origin, trademark, or other distinctive mark of goods or services without authorization and with such intent.

At this point, an important question arises regarding the deliberate partial alteration and application of such a business name, geographical indication of origin, trademark, or other distinctive mark to goods. In practice, the perpetrator may, instead of using the exact same business name or other protected sign, apply a slightly altered name or another specific designation. Although it may initially seem that the law refers only to the use of an identical name or mark, it should be interpreted that a criminal offense still exists even in the case of a modified designation—if the act was committed with the intent to mislead customers or users of services. Bearing this in mind, Stojanović argues that neither the extent nor the nature of the

change is relevant for establishing the offense, as it exists in any such case [27]. The same author further states that if the use of only certain features is criminalized—i.e., incorporating such features into one's own business name, trademark, or distinctive mark—then the reverse situation is also punishable: introducing elements of one's own into someone else's business name, trademark, or distinctive mark, with the intent of deceiving customers or users [28].

CONSEQUENCE

The consequence of committing the criminal offense of unauthorized use of someone else's business name and other distinctive marks of goods or services lies in the damage caused to the rightful owner of the business name, as well as to the owner of other distinctive marks of goods or services [29]. When companies are registered with a high degree of graphic and verbal similarity in their trademarks, and when the products or services to which those trademarks refer are also similar, there is a risk of confusion in commerce, potentially misleading consumers. The confusion that arises due to trademark similarity manifests in the consumer believing that a particular product originates from one business entity, when in fact it originates from someone else [30]. The consequence of this offense is reflected in the confusion of the average consumer—that is, a person who is reasonably well-informed and acts with average care in commercial transactions. The legal standards of average attention and average awareness will vary depending on the nature of the products or services associated with the trademarks. The level of sophistication of the average consumer is lower for everyday consumer goods, such as bread or milk, and higher for more specialized products, such as software or medical devices. Likewise, the level of attention with which consumers make purchasing decisions depends on the value of the product or service: the more valuable the product, the greater the consumer's attention, and vice versa. In addition, pharmaceutical products are typically purchased with increased caution, since a mistake in selection or consumption may have serious health consequences. Similarly, certain less expensive products, like cigarettes, may also be chosen with particular care due to strong consumer loyalty to a specific trademark. Misconceptions regarding the legal origin of a product or service can arise in any situation where the average consumer encounters a particular mark—during the sale of a product bearing the disputed mark, prior to its market entry, or even after its sale. This is because the average consumer is not limited to the end user, but includes every actor involved in the production and distribution chain of a given product [30].

In modern consumer conditions, the psychological function of trademarks and service marks has expanded—they increasingly function as cultural icons. Consumers often select certain products not solely for their quality or purpose, but because the branding represents a lifestyle or set of values. In this sense, possessing products marked with particular trademarks or service marks can serve as a status symbol, even for items used daily. Today, companies generate value not merely through their products, but through the power of their trademarks and service marks—they are not selling a product, but rather the idea of the product. Well-known trademarks and service marks can also serve as symbols of national, or even civilizational, identity depending on the origin of the provider [31].

When it comes to the use of trademarks on the Internet, they may be exploited through websites—particularly auction platforms—to attract consumers. Confusion often arises in commercial search results when a competitor selects a mark that is identical to that of a rival. This can redirect users to the competitor's website, and thereby to its products or services [24], resulting in harm to the rightful owner of the trademark or other distinctive mark of goods or services.

PERPETRATOR

The perpetrator of the criminal offense of unauthorized use of someone else's business name and other distinctive marks of goods or services can, in principle, be any person. However, by the nature of this offense, it most commonly involves individuals engaged in the production or sale of goods, or in the provision of services [26]. Typically, these are individuals who, in some capacity, come into contact with someone else's company—its business name, geographical indication of origin, trademark, or other distinctive mark of goods or services. This primarily includes responsible persons within legal entities, but also individuals involved in economic activity in other capacities [32].

Regarding the severity of the offense, it can be said that the first two subtypes within the basic form are equally serious, as reflected in the prescribed penalties. For committing the basic form of this criminal offense, a fine or imprisonment of up to three years is foreseen. This sentencing range demonstrates the seriousness attributed to such conduct.

The perpetrator of a more serious form of unauthorized use of someone else's business name and other distinctive marks can also be someone providing services, provided they use someone else's marks without authorization. A more serious form of the offense carries a sentence of six months to five years in prison, while the most serious form is punishable by imprisonment of one to eight years.

GUILT

In order to establish guilt for the offense of unauthorized use of someone else's business name and other distinctive marks of goods or services, intent must be present. This includes both intent in the legal sense and the subjective aspect of the offense—where the intent is directed toward deceiving customers or users of services. Whether the deception was actually realized is irrelevant; what matters is that the perpetrator acted with such intent [13]. For example, court practice records a case where the perpetrator, with the intention of deceiving customers, used someone else's trademark by illegally producing vinjak and pelinkovac, pouring them into used bottles bearing the label of "Rubin" vinjak and pelinkovac bottles labeled by SIS Company from Subotica. He sealed the bottles with original corks and sold them. In addition to being found guilty of illegal trade, the defendant was convicted of unauthorized use of someone else's business name, as he used the trademarks of Rubin (from Kruševac) and SIS Company (from Subotica) without authorization [33]. Intent is the most important, most common, and even fundamental form of guilt. If we understand a criminal offense as conduct that violates legal norms and causes certain consequences, such violations are typically committed deliberately [34]. Another illustrative example is the arrest of G.M. from Subotica on suspicion of committing the offenses of illegal production and unauthorized use of someone else's business name and other distinctive marks. She allegedly established an illegal perfume laboratory containing 330 liters of ready-made perfumes, 139 packaged perfumes with branded labels, and other raw materials and machines used in perfume production [35].

SANCTIONS

The application of security measures should achieve the general purpose of criminal sanctions, i.e., the suppression of socially dangerous activities that violate or endanger social values protected by criminal legislation. This means that the purpose of security measures is to eliminate the causes that directly influenced the commission of a criminal offense [36]. One of the prescribed security measures is the confiscation of objects, which also contains elements of a property penalty. When it comes to items that were used to commit a criminal offense, the confiscation of such items is carried out in order to prevent the perpetrator from continuing to commit criminal offenses. In this case, the confiscation of the object has the character of a security measure. On the other hand, when it comes to the confiscation of items that resulted from the commission of a criminal offense, these may be items that were not intended for the commission of criminal offenses, i.e., items that do not represent any dangerous means or tools. In such cases, the confiscation of the item is very similar to partial confiscation of property, as a form of pecuniary penalty. To order the confiscation of an object as a security measure, certain conditions must be met. First and foremost, there must be specific items—namely, those that were used in the commission of a criminal offense, those intended for the commission of such an offense, or those that resulted from its commission. The first case concerns preparatory acts, while the second pertains to completed offenses. What matters is that there is a causal connection between the items and the committed offense—or the intended one—meaning that the offense could not have been committed without those items, or that the items were produced as a result of its commission. The security measure of object confiscation is generally optional, although there are exceptions where it is mandatory [34]. Such exceptions are specifically provided by law. Thus, Article 238, paragraph 4 of the Criminal Code [3], prescribes the mandatory application of a security measure in the form of confiscating goods marked with someone else's marks, whether entirely or partially—i.e., goods marked with one's own marks into which someone else's marks have been incorporated, as well as such marks that are not incorporated into the goods [27].

CONCLUSION

Criminal acts against the economy are directed against the economy itself, that is, against the social relations that govern the process of production and distribution. In addition to the fact that the Criminal Code has undergone major reforms concerning criminal offenses against the economy, there is a tendency in our legal system toward the further expansion and deepening of incriminations related to economic crime, particularly within secondary or supplementary criminal legislation. In this context, the object of protection in the criminal offense of unauthorized use of someone else's business name and other distinctive marks of goods or services includes both the business name and other distinctive signs used in commercial activity. The legislator has prescribed three forms of commission of this criminal offense—basic, more serious, and most serious. By doing so, the legislator demonstrates an awareness of the seriousness of the offense, as well as of the harmful consequences it may cause: damage to the rightful owner of a business name or other mark, and confusion in the marketplace that can mislead consumers.

Using an analytical approach to the provisions of the Criminal Code and related legislation on the use of someone else's business name and other distinctive marks of goods or services—including court practice—we have drawn conclusions that suggest a coherence between different branches of legislation. By applying both inductive and deductive reasoning, the discussion moved from general legal concepts to specific issues of criminal law, thereby forming a solid foundation for the development of a new model for the protection of someone else's business name and other distinctive marks of goods or services.

A limitation of this work is the lack of comprehensive data necessary for the application of inferential statistical methods. Nonetheless, new directions have been opened for future researchers in the field of enhancing the legal protection of other people's business names and other distinctive marks of goods or services.

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