

In this Issue:

Oman

Substantive Examination of Patent Applications

Kuwait

Accession to the Paris Convention

Kuwait

Accession to the Berne Convention

Qatar

Cracking Down on Cybercrime

Libya

Patent Office Resumes Normal Operations

MENA

Stitching the Seams to Protect the Fashion Industry



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A Review of Intellectual Property-Related News and Developments in the Middle East and North Africa



Oman: *Substantive Examination of Patent Applications*

The Omani and the Egyptian Patent Offices signed a memorandum of understanding on September 10, 2014 in which the two offices will work together towards the development of capabilities at the Omani Patent Office.

The Egyptian Patent Office will also act as the examining office for all pending and new patent applications filed in Oman. The Egyptian Patent Office is the only Arab office that serves as an International Search Authority, as well as an International Preliminary Examination Authority.

The expected procedure in brief is as follows: upon passing examination as

to form, the examination fees will be due. Following examination and upon acceptance, the application will be published in the Official Gazette. There will be an opposition period of four months, after which, assuming no opposition is filed, the application will be granted and the granted patent will be re-published in the Official Gazette and the related registration certificate (Letters Patent) will be issued.

The official fees related to this new procedure will be officially published and the examination process further described as soon as additional steps have been completed.



Kuwait: *Accession to the Paris Convention*



Kuwait became the 176th country to accede to the Paris Convention on September 2, 2014. The Convention will enter into force on December 2, 2014.

With Kuwait's accession, all the Gulf Cooperation Council member countries have now acceded to the Convention. This paves the way for the GCC Patent Office to also deposit its instruments for accession. Although both the Kuwaiti and the GCC patent laws were aligned in some aspects with the Convention practices, such as claiming a 12-month priority on novelty, this move is an indication

of Kuwait's desire to further align itself with the international IP community in general, beyond its WTO membership and accompanying TRIPS agreement.

Until now, the Kuwaiti Patent Office has acted as a deposit system for patents. Patent applications filed with the Kuwaiti Patent Office were examined as to form until such time as the regulations are published and further prosecution through decision is implemented.

As for trademarks, the Kuwaiti Trademark Office has still not clearly defined the requirements for submission of the priority document. A certified copy will be the standard procedure but the time frame for filing the document has not been defined yet.

With this accession, all Arab countries are now members of the Convention, with the exception of Gaza and the West Bank.

Kuwait: *Accession to the Berne Convention*



Kuwait acceded to the Berne Convention for the Protection of Literary and Artistic Works on September 2, 2014. The Convention will enter into force on December 2, 2014.

Other states in the region that are part of the Convention are Algeria, Bahrain, Cyprus, Djibouti, Egypt, India, Jordan, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates, and Yemen.

Qatar: *Cracking Down on Cybercrime*



Qatar issued Law no. 14 of 2014 in an effort to combat cybercrime and set punishments for offences committed on the Internet. The penalties range from paying a fine of 500,000 Qatari riyals (US \$137,300) to imprisonment up to the max of three years.

The law also alludes to the protection of intellectual property. Chapter 2, Section 5, Article 13 provides provisions on IP infringement. This move comes as an addition to the already established Gulf Cooperation Council cybercrime law, which was issued last year.

Libya: *Patent Office Resumes Normal Operations*

The Libyan Patent Office has resumed operations as of September 15, 2014. There are indications that the Trademark Office may follow suit. We will be closely monitoring the situation and updating you accordingly.

MENA: *Stitching the Seams to Protect the Fashion Industry*



Innovation and creativity are penchants of the fashion industry; an industry that dictates style worldwide. A fashion item may even transcend its physical form and be hailed as a trend setter and an inspiration for decades. The process of production in the fashion

industry relies on a substantial investment of both inventiveness and capital. This feature offers trademark owners in the fashion industry relevant information on trademark protection in the Middle East and North Africa region.

CLASSIFICATION

There are no specific requirements when it comes to the registration of marks in classes that the fashion industry may be interested in, such as classes 3, 9, 14, 18 and 25. Concerning the specification of goods,

some Trademark Offices will accept an application claiming the whole class without specifying the particular goods. The use of class headings of a particular class constitutes a claim to all of the goods falling within this particular class and implicitly covers any goods directly related to the class headings - that is, covers more than the literal meaning of the class headings. Other TMOs, such as those of Jordan, Oman, and Sudan, request the applicant to specify the goods in the class wherein the actual language used in describing the goods will define the parameters of the scope of protection of a registration.

SEARCH AND EXAMINATION

Search among related classes, such as class 18 and classes 9, 14 and 25, is not performed on an *ex-officio* basis. When it comes to examination, a mark is not usually rejected on relative grounds based on the existence of a prior mark in a related class unless the mark is considered to be well-known in the country. Unlike common-law countries, MENA countries have no express anti-dilution provisions in their trademark laws. Nevertheless, many countries have introduced provisions to their trade-

Continued on page 5

MENA: *Stitching the Seams to Protect the Fashion Industry*

Continued from page 4

mark laws on the likelihood of confusion between conflicting marks as part of their implementation of the TRIPS Agreement.

ENFORCEMENT

Trademark owners should be willing and ready to adopt a trademark protection model that incorporates both the legal and regulatory approaches in order to formulate a well-established trademark protection strategy.

Legal Approach:

To claim infringement, the trademark owner must establish that perpetrators are using their registered mark in connection with the sale or advertising of goods without consent and that this use is likely to cause confusion. Infringement is usually proven if the marks are sufficiently similar that consumer confusion can be established.

Administrative Approach:

It is possible in some countries to apply administrative procedures in the fight against infringement. This is done by filing a complaint with the competent authorities such as the Commercial Anti-Fraud Department in Saudi Arabia, and the Dubai Economic Department in the UAE. All

these bodies usually consider complaints against counterfeits or look-alikes only, and raids are carried out if the findings are conclusive.

Border Measures

Customs recordal procedures are available in Algeria, Morocco, Sudan, Tunisia, and the UAE. This process allows customs officials to be on the lookout for counterfeit goods and take, *ex officio*, prompt and proactive action to confiscate them, thus avoiding judicial action delays.

SIGNBOARD REQUIREMENTS AND PROTECTION OF MARKS IN ARABIC

An important aspect to consider is the signboard requirements in countries of the region. Egypt, Jordan, Saudi Arabia, UAE, Oman, Qatar and Syria require that trademarks appear on signboards in Arabic - either by law or by common practice. This implies that the use of an Arabic mark will become necessary and registration is recommended. If a trademark has been registered, then it is much easier to demonstrate and to enforce rights through an infringement action.

The table below lists where registering an Arabic trademark is advisable, despite not being a requirement by law.

Country	Does the law require Arabic to be on the signboards?	Is registration in class 35 in Arabic advisable?
Lebanon	No	No
Bahrain	No - can be in Arabic, Latin, or a combination of both	No
Egypt	Arabic and Latin	Yes
Jordan	Yes - the mark in Latin can also be displayed along with the Arabic mark	Yes
UAE	Yes - the mark in Latin can also be displayed along with the Arabic mark	Yes
Oman	Yes - the mark in Latin can also be displayed along with the Arabic mark	Yes
Qatar	Yes - the mark in Latin can also be displayed along with the Arabic mark	Yes
Kuwait	No	No
Syria	Yes	Yes

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*All mail should be dispatched to the Head Office address in Lebanon for proper channeling.

The information contained in this publication intends to provide updates on Intellectual Property news and should not be relied upon as legal advice. Legal or other professional advice should be sought out from the firm's Head Office in Beirut, Lebanon.

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