

*In this Issue:*

**KSA**

*GCC Trademark Law Published*

**Bahrain**

*New Requirements for Patent Applications*

**Qatar**

*Legalization Dropped, Certification Suffices*

**Yemen**

*Accession to the World Trade Organization*

**Ethiopia**

*Deadline Extended to Dec. 23, 2014*

**Middle East**

*Expanding Medical Devices Patent Protection  
to the Growing Middle East Market*

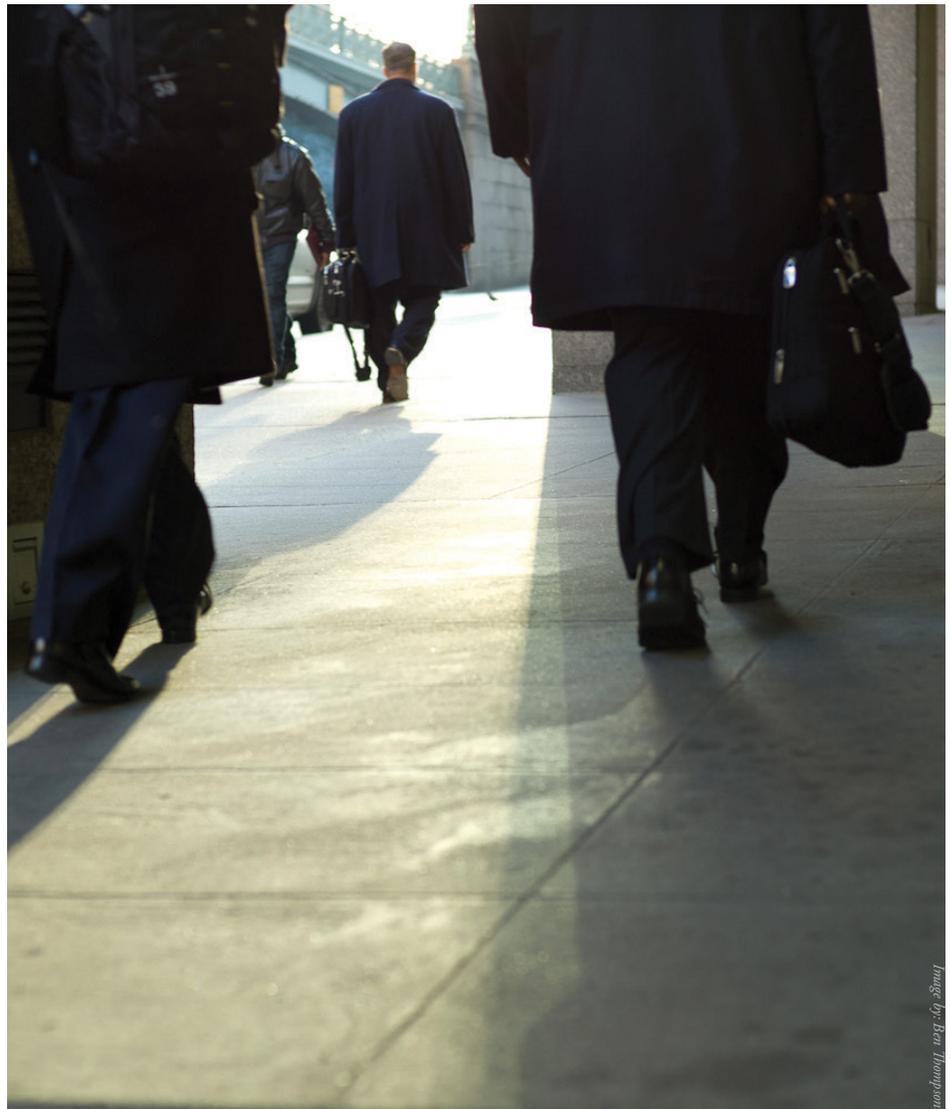


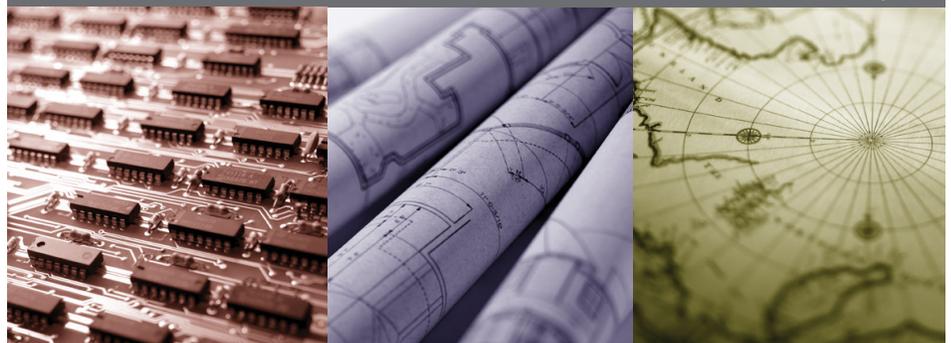
Image by Ben Thompson

# SABA IP

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

# BULLETIN

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## KSA: GCC Trademark Law Published



The revised GCC trademark law was recently approved for publication in the Kingdom of Saudi Arabia. The GCC trademark law was initially ratified in 2006 and was approved by the Saudi government in 2007. The governments of Oman and Bahrain, however, could not approve the draft at that time due to their US Free Trade Agreement obligations.

The GCC Trade Cooperation Committee had to convene more frequently to address concerns raised by Bahrain and Oman. The draft

GCC trademark law was then further revised following the assemblies that had taken place.

The aim of the GCC Trademark Law is to replace the local trademark laws of the member states – which are: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates. The result is a unified implementation of the trademark regulations.

Unlike the GCC Patent Law, the GCC Trademark Law is not expected to offer a unified filing system. Trademark applications would still be filed

separately in each GCC member state for protection.

The GCC Law will be exacted once implementating regulations are issued, which is not in the foreseeable future.

The fifty-article GCC Trademark Law outlines the general directives and rulings governing trademark registration, renewal, assignment, and cancellation procedures in the GCC countries.

The main features of the law, as approved by the GCC Supreme Council, are as follows:

- ❑ The definition of a trademark has been broadened to include sound and smell marks
- ❑ A trademark may be individual or collective
- ❑ A separate application is required for each class
- ❑ Claim of priority, based on an earlier-filed foreign application, is possible
- ❑ Trademark applications accepted by the Registrar will be published for opposition purposes. Oppositions must be filed within 60 days from publication date
- ❑ Trademark registrations are valid for 10 years from filing date and are renewable for like periods. There is a grace period of six months for late renewals
- ❑ A trademark is vulnerable to cancellation by any interested party if there has been no effective use of the mark for a period of five consecutive years after registration
- ❑ The Law shall recognize famous trademarks that are well-known in the GCC member states and shall ensure protection thereof even if the marks are not registered
- ❑ The Law gives the right to trademark owners to initiate civil and criminal actions against any infringing party. Penalties include a maximum of five year imprisonment and payment of fines of up to US \$ 270,000

## Bahrain: *New Requirements for Patent Applications*

The Bahraini Patent Office introduced new requirements for supporting patent filings, including national and PCT entries that were implemented on May 1, 2014. The additional requirements are retroactive to pending applications; with the BPO issuing notices and setting a deadline for completing the requirements for the pending cases.

Applicants are required to submit the Arabic translation of the complete specifications as well as a legalized/Apostilled Power of Attorney for PCT national stage entries. A copy of the international publication and the complete specifications in English are also required. The documents must be submitted during a non-extendable three month period from the filing date in Bahrain. A simple copy of the POA is required at the time of filing until the legalized original is filed.

In accordance with the new requirements, the BPO began requesting a signed inventor assignment form, in addition to a simple copy of the priority document that does not have to be certified, a copy of the PCT specifications, both having to be in English and Arabic (if different than the priority and/or the specifications being filed), and in addition a copy of the International Search Report.

The same deadline of three months applies for the submission of these supporting documents, whereas four months for the Arabic translation of the specifications. The requirements also apply to all pending patent applications in Bahrain.

The table offers a summary of these requirements, including national applications. This may signify the BPO's way of indicating that it is gearing towards beginning the examination and granting process of patent applications; however there have not been any concrete or official declarations regarding this.

	National Filing	PCT Filing
Complete Specifications in English	At time of filing	At time of filing
Complete Specifications in Arabic	Within 4 months from filing	Within 4 months from filing
Abstract in Arabic	At time of filing	At time of filing
Copy of International Application	N/A	At time of filing
Copy of International Publication	N/A	At time of filing
Copy of the ISR	N/A	At time of filing
CD-ROM containing specifications	At time of filing	N/A
Copy of Priority Document	Legalized/Apostille , within 3 months from filing	N/A
Priority Document in Arabic (including drawings)	Within 3 months from filing	Within 3 months from filing
Power of Attorney	Legalized/Apostille , within 3 months from filing	Legalized/Apostille , within 3 months from filing
Assignment from Inventors	Simple, within 3 months from filing	Simple, within 3 months from filing
Certificate of Incorporation	Simple, within 3 months from filing	N/A

## **Qatar:** *Legalization Dropped, Certification Suffices*

The Qatari Trademark Office announced that a certified copy of the priority document will suffice to support a convention priority claim. This update comes after the cancellation of the legalization requirement, which was introduced a few months ago. Filing requirements for a new trademark application are as follows: **1.** A Power of attorney legalized up to Qatari Consulate. A general power may be used for subsequent filings **2.** A simple copy of the certificate of incorporation/extract from the commercial register/any document attesting to the legal entity, name and address of the applicant; no authentication is required. However, if the applicant is an individual, then a document evidencing that said person is practicing trade must be submitted instead **3.** A copy of the priority document, if priority is claimed, certified by the issuing authority **4.** Five prints of the mark for the application; electronic submissions are accepted. Documents 1 and 2 are to be submitted at the time of filing; an exception to this is when a priority deadline is imminent. Should this be the case, the application can be filed only a few days before the deadline, while the documents in 1, 2 and 3 can be filed within six months from the filing date.

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## **Yemen:** *Accession to the World Trade Organization*

Yemen became the 160th member of the World Trade Organization on June 26, 2014. The country now observes the TRIPS Agreement. Other WTO members in the region are Bahrain, Djibouti, Egypt, Jordan, Kuwait, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, and Tunisia. Countries with observer status are Algeria, Iraq, Lebanon, Libya, Sudan, and Syria.

Yemen is also affiliated with the World Intellectual Property Organization, Paris Convention, and Berne Convention.

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WORLD TRADE  
ORGANIZATION



## **Ethiopia:** *Deadline Extended to Dec. 23, 2014*

The Ethiopian Trademark Office announced that the submission deadline will be extended to **December 23, 2014** for the applications of re-registration of trademarks filed in the country before July 7, 2006. The extension also applies to the renewal applications of trademarks filed between July 07, 2006 and June 22, 2007, which were due for renewal in 2014.

# IP HIGHLIGHTS

## **Middle East:** *Expanding Medical Devices Patent Protection to the Growing Middle East Market*

Pharmaceutical companies have become aware of the importance of extending their patent portfolios to the rapidly growing Middle Eastern market. The region witnessed a remarkable development of the generic pharmaceutical industry in several countries, including Jordan, Saudi Arabia and Egypt in the past decade. Generic players from outside the region began to exhibit increased interest as they investigated gaps in patent protection. They include major generic pharmaceutical companies from India, as well as generic businesses or subsidiaries of innovator pharmaceutical companies.

In many cases, the New Chemical Entity or Active Pharmaceutical Ingredient patents had not been filed in the region. Only follow-on applications, such as method of treatment, formulations, including others have been filed. Such patents are not as easily upheld in court against infringement as NCE or API patents. Local and regional legal experience remains unequipped to accurately predict how an infringement case will play out.

This is not a major area of concern regarding newer products, as innovator pharmaceutical companies shifted to filing NCE type patent applications. The rise of the medical tourism industry in the UAE, Egypt, and Jordan necessitates a need to evaluate the risks associated with the lack of an adequate IP protection in these countries as well as the region.

“The Saudi Arabian medical devices market is estimated at around US\$ 1.1 billion in 2013 and is expected to surpass US\$ 1.6 billion by 2018, by registering a growth of 9% CAGR,” states the Kurik research report. This favorable growth is spearheaded by public spending, in which nearly a third can be attributed to the Ministry of Health.

An increase in the budget allocation and expansion of healthcare facilities like hospitals and clinics, coupled with an increase in the number of new health projects in the public sector is attributed as the causal factor of this growth. Similar patterns are taking place in the UAE and Qatar.

The public spending has led to the creation of several collaborations with both local and foreign leaders in the health industry. These include but are not limited to the Weill Cornell Medical College and the Mayo Clinic. The collaborations aim to create hubs of medical excellence in both managed healthcare and biomedical research.

Medical devices incur immense investments on the long run and might not be readily imitated. The local or regional industry might not pose a threat for those requiring larger investments but could constitute as such for the more accessible, smaller investment ones. Unlike NCE patents, device patents cannot be further protected by follow-on inventions such as formulations or second medical use. Extending the patent term of an invention is more limited when it comes to medical devices, hence the need to consider a timely entry prior to any deadlines.

Emerging markets may constitute a real threat in the Middle East for innovator medical device manufacturers. Growth and expansion into new lucrative markets would be their natural next step of action. The BRIC (Brazil, Russia, India and China) countries, as an example, have developed and advanced industries which would seek new markets and become threats in growing markets such as the UAE, Saudi Arabia, and Egypt.

The Arab Health Exhibition and Congress has been attracting an increased number of exhibitors and speakers in recent years. Innovators and imitators head to Dubai to market their products in the booming health care sector in the Emirates, as well as in neighboring countries in the region. In 2014, the Exhibition attracted over 500 Chinese companies and about 120 Indian companies out of a total of over 3,700 exhibitors.

The threat to innovator products and inventions in the region remains to be assessed. The patent laws in the region are partly based on internationally accepted laws; however the application of these laws remains uncertain due to the lack of precedence. Despite the presence of the laws, the lack of a patent means that a case cannot be made against an alleged infringer.

## **Regional News in Brief: A Summary on Patents**

### **Saudi Arabia**

The Kingdom of Saudi Arabia acceded to the PCT on May 3, 2013 and applications with international filing date of August 3, 2013 and beyond automatically designates KSA for national phase entry with a 30 month deadline. The Saudi Patent Office has not issued the implementation of regulations relating to PCT filings, and has not begun accepting PCT national phase entries or acting as a receiving office

### **Iran**

Iran acceded to the PCT on July 4, 2013 and applications with international filing date of October 4, 2013 and later automatically designates Iran for national phase entry with a 30 month deadline. As of the date of this publication, the Iranian Intellectual Property Office has not issued the implementing regulations relating to PCT filings, and has not begun accepting PCT national phase entries or acting as a receiving office. In addition to that, the Iranian Patent Office has begun substantive examination for all pending and new applications

### **Bahrain**

The Bahraini Patent Office has recently requested additional documentation for the filing of a patent application. The requirements now include: Apostilled power of attorney, simply signed inventor assignment form, and Arabic translation of the priority document (if claimed)

### **Oman**

Oman, in addition to Bahrain, is now a signatory to the Hague Convention. Documents previously requiring legalization may now be Apostilled

### **Alegria**

The Algerian Patent Office has begun substantive examination for all pending and new applications

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