

SABA
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VAT RATES | SAUDI ARABIA, UAE, AND LEBANON



VAT RATES

Value added tax was introduced in Saudi Arabia as of January 1, 2018. This comes after the release of the VAT regulations in the country on August 29, 2017 and the publication of the VAT Law in July of the same year. The regulations, the Law and the finalized Gulf Cooperation Council Framework Agreement form the entire foundations for the introduction of VAT across all sectors.

Each member state of the GCC is now expected to establish their own separate national legislation concerning the VAT and the detailed compliance requirements and set of rules will be outlined in the respective legislation. Implementation of the VAT in the UAE has also been introduced but VAT is unlikely to be applied to non-residents. We expect the remaining GCC countries, namely Bahrain, Kuwait, Oman, and Qatar, to adopt the VAT by January 1, 2019 at the latest.

As for Lebanon, the VAT stands at 11 percent, starting January 1, 2018, up from a level of 10 percent.

QATAR | UPCOMING FORMATION OF IP COMMITTEE

QATAR

Given the country's unremitting commitment to the protection of intellectual property, Qatar ratified Ministerial Decision no. 45 of 2017 on Establishing the Committee for the Preparation of the National Strategy for Intellectual Property and Innovation. The Decision was published in the official gazette on December 31, 2017, and came into force on January 1, 2018.

According to Article 2 of the Decision, the Committee will be tasked with drafting a national strategy for intellectual property and innovation, in cooperation with the World Intellectual Property Organization, governmental and non-governmental agencies, and experts chosen by the Minister of Economy and Commerce.



KUWAIT | E-FILING WITH NEW SCALE FOR FILING AND REGISTRATION NUMBERS



KUWAIT

The Trademark Office in Kuwait announced that it will begin receiving and processing trademark applications in electronic form as of January 2, 2018.

New applications will be allotted an e-number by the TMO, which includes the year of filing (example 321/2018). Besides serving as the filing number, the e-number will also be the registration number, should the trademark application proceed to registration. Prior to e-filing, applications were allotted a six-digit number.

We expect this update to simplify and streamline the trademark filing process for applicants.

WEST BANK | ADOPTING THE TENTH EDITION OF THE NICE CLASSIFICATION



The 10th edition of the Nice Classification entered into force on January 1, 2018 in the West Bank, thus replacing the outgoing 8th edition.

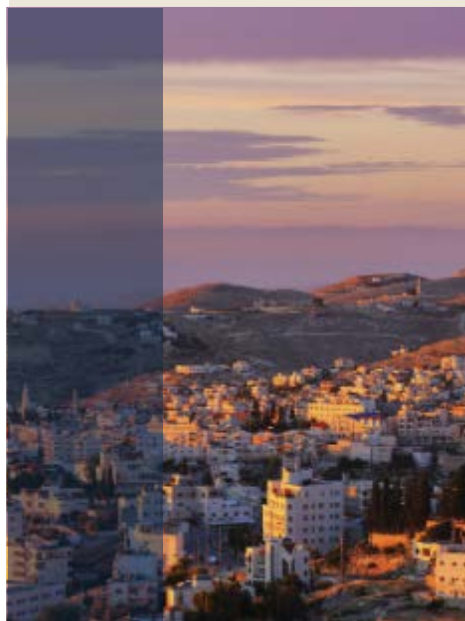
The adoption of the 10th edition will not affect trademarks already filed and registered in the West Bank. Upon next renewal, goods and classes should be reclassified by the Trademark Office.

The table below offers a general overview on the Nice Classification in the Middle East and North Africa.

COUNTRY	NICE EDITION ADOPTED	MEMBER OF THE NICE AGREEMENT?	IS IT POSSIBLE TO CLAIM CLASS HEADINGS?
AFGHANISTAN	8 th	No	Yes
ALGERIA	11 th	Yes (entry into force: July 5, 1972)	Yes, provided that the headings are specified. Using the phrase "all goods/services in the class" is not acceptable.
BAHRAIN	10 th	Yes (entry into force: December 15, 2005)	Yes, provided that the headings are specified. Using the phrase "all goods/services in the class" is not acceptable.
CYPRUS	11 th	No	No
DJIBOUTI	10 th	No	Yes
EGYPT	10 th	Yes (entry into force: June 18, 2005)	Yes
ETHIOPIA	8 th	No	Yes
GAZA	8 th ; Class 33 & alcoholic goods in class 32 cannot be registered	No	Yes, provided that the headings are specified. Using the phrase "all goods/services in the class" is not acceptable.
INDIA	9 th	No	Yes
IRAN	10 th ; Class 33 & alcoholic goods in class 32 cannot be registered	No	Yes
IRAQ	7 th with local sub-classification	No	Yes (an applicant can only claim sub-class headings)
JORDAN	11 th	Yes (entry into force: November 14, 2008)	No
KUWAIT	8 th ; Class 33, alcoholic goods in class 32, & pork meat in class 29 cannot be registered	No	Yes
LEBANON	11 th	Yes (entry into force: April 18, 1961)	Yes

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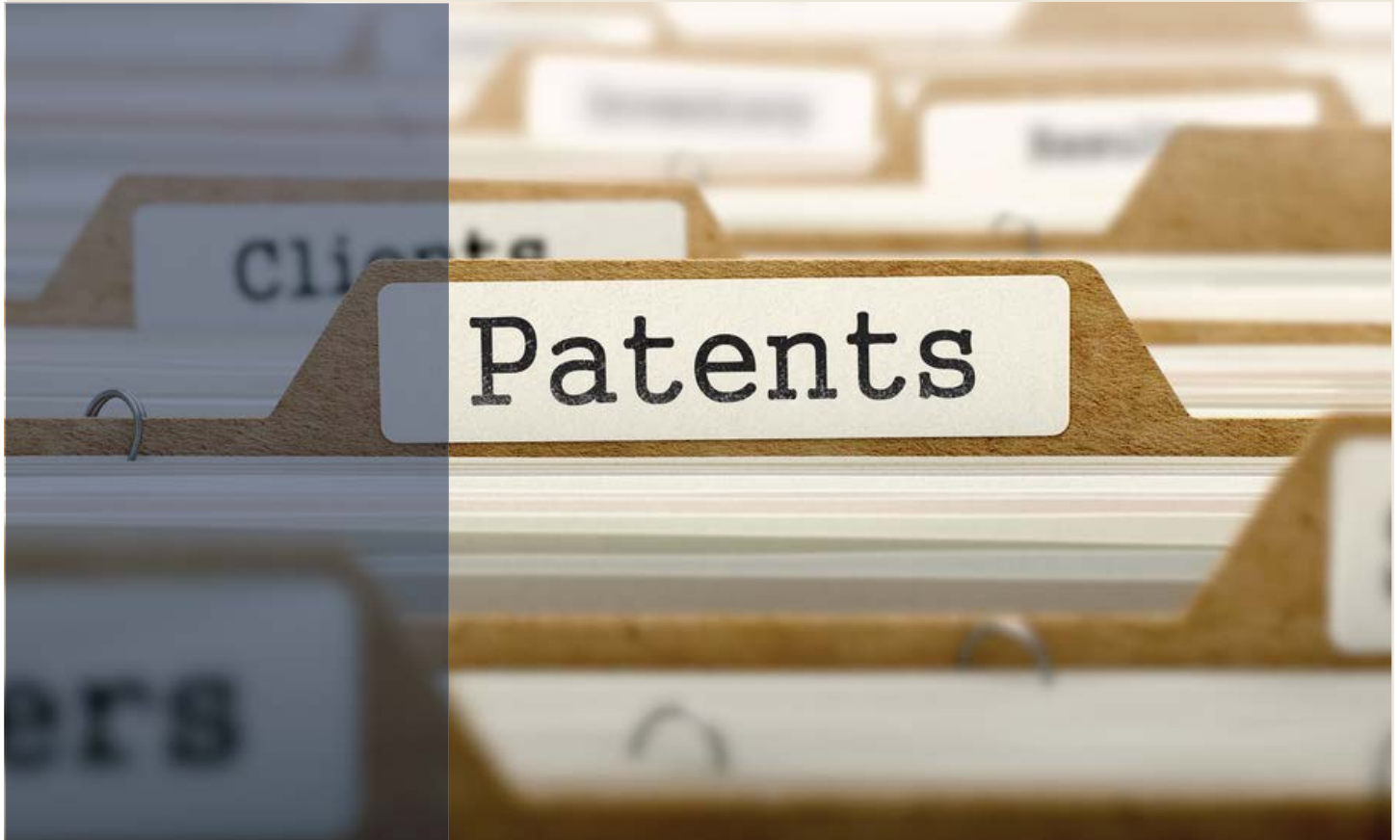
WEST BANK | ADOPTING THE TENTH EDITION OF THE NICE CLASSIFICATION



WEST
BANK

COUNTRY	NICE EDITION ADOPTED	MEMBER OF THE NICE AGREEMENT?	IS IT POSSIBLE TO CLAIM CLASS HEADINGS?
LIBYA	8 th ; Class 33, alcoholic goods in class 32, as well as Christmas trees and related products in class 28 cannot be registered	No	Yes, provided that the headings are specified. Using the phrase "all goods/services in the class" is not acceptable.
MOROCCO	10 th	Yes (entry into force: October 1, 1966)	Yes
OMAN	10 th	No	No
PAKISTAN	8 th	No	Yes
QATAR	11 th ; Class 33 & alcoholic goods in class 32 cannot be registered	No	Yes
SAUDI ARABIA	10 th ; Class 33, alcoholic goods in class 32, pork meat in class 29, & Christmas trees and related products in class 28 cannot be registered	No	Yes, provided that the headings are specified. Using the phrase "all goods/services in the class" is not acceptable.
SUDAN	9 th ; Class 33 & alcoholic goods in class 32 cannot be registered	No	No
SYRIA	10 th	Yes (entry into force: March 28, 2005)	Yes
TUNISIA	11 th	Yes (entry into force: May 29, 1967)	Yes, provided that the headings are specified. Using the phrase "all goods/services in the class" is not acceptable.
TURKEY	9 th	Yes (entry into force: January 1, 1996)	Yes
UNITED ARAB EMIRATES	10 th ; Class 33 & alcoholic goods in class 32 cannot be registered	No	Yes
WEST BANK	10 th	No	Yes, provided that the headings are specified. Using the phrase "all goods/services in the class" is not acceptable.
YEMEN	8 th ; Class 33 & alcoholic goods in class 32 cannot be registered	No	Yes

MENA | ENFORCEMENT OF PATENTS IN A RAPIDLY DEVELOPING REGION



MENA

Over the past few decades, the Middle East and North Africa region witnessed an increased interest in intellectual property. This is primarily evidenced by the urge to update or introduce IP laws and implementing regulations. With the exception of a few countries, the current laws and regulations governing IP rights are in line with applied international practices. The laws provide for the basic filing and priority rights, allowed subject matter, clear definitions of the patent owners' rights and, most importantly, the legal recourse for asserting and enforcing these rights.

As is the case whenever there is an attempt to discuss IP matters for the MENA region, it is not possible to describe the various articles and provisions in every country without boring the reader. There are certain statements that can be made generally; however, in this article, the focus will be on one or two countries based on their market size and also based on country experience in such matters.

MENA | ENFORCEMENT OF PATENTS IN A RAPIDLY DEVELOPING REGION

MENA

Legal Provisions on Enforcement

In order to take legal action on any matter, including IP matters, the laws have to define the IP owner's rights and which actions are considered an infringement against these rights. The laws and the related guidelines will also provide a roadmap and determine the venues, the process, the duration, and the escalation options (i.e. appeal).

Making, using, marketing, selling, and importing are considered as acts of infringement in most MENA countries - in brief, any act which results in the unlawful commercialization of a patented product or process by a third party. The exceptions are rare. For example, pursuant to the laws in Egypt, it is possible to file and obtain a marketing authorization for a pharmaceutical product without this being considered an infringement.

Accordingly, and importantly, all the patent laws in the region clearly define what is considered as an act of infringement, thus providing a patent owner with the extent of the related rights. The laws also provide for a mechanism by which the patent owner may request an injunction, temporary or permanent, in order to stop such activities until a court decision is issued. Similarly, most of the laws include a minimum penalty. The laws further require the losing party to pay the fees for the publication of the decision in the official gazette. Most laws also provide for a doubling of the penalty and imprisonment in case of a repeat offense.

A court ruling may be executed by the relevant authorities to ensure proper enforcement of the decision. However, enforcing patent-related court decisions is rather difficult, especially for process patents.



MENA | ENFORCEMENT OF PATENTS IN A RAPIDLY DEVELOPING REGION



Local experience on enforcement

In an earlier paragraph, we made the following statement: "[I]t is too early to pronounce a verdict on this subject either way." An important reason for such a statement is the lack of statistically significant cases on which to base such a verdict. In addition, there has yet to be specific case laws on which to base precedence or jurisprudence.

The region's experience in enforcing patents is extremely limited to a small number of cases in total. It is not possible to even estimate the average number of cases per year. In some countries, it is simply zero: Is this equal to no enforcement?

Whereas the region has little to no experience in patent enforcement, there is a wealth of experience from documented cases relating to other IP rights. Not to say that enforcement of trademarks, for instance, correlates directly with patent enforcement, but the conclusion to draw from these relates to the existing systems and procedures.

In the absence of specialized courts for handling IP matters, and in particular patent matters, solutions have been proposed and utilized. In the few cases brought before the courts, sworn experts were appointed to address the technical aspects of the infringement or invalidation case. The expert, an individual or a panel, were brought in to weigh in and issue an expert technical opinion to go in conjunction with the legal opinion. In other countries, such as Saudi Arabia, patent law provides for the formation of a Patent Committee, which will hear and issue a decision on a case. In the next section, we will focus on the handling of such legal cases in Saudi Arabia.

MENA | ENFORCEMENT OF PATENTS IN A RAPIDLY DEVELOPING REGION

***Patent enforcement in Saudi Arabia***

Both Saudi patents as well as Gulf Cooperation Council patents are enforceable in Saudi Arabia. The GCC patent system provides for a unitary system that includes all six GCC member countries; but it does not provide for a unified court system. Pursuant to the GCC patent law, infringement matters are to be handled directly in each country pursuant to the country's own national patent laws. Accordingly, in case of a suspected infringement against either a Saudi or a GCC patent, the patent owner should file a claim to the Patent Committee.

The committee consists of three lawyers and two technical experts designated by the president of King Abdul-Aziz City for Science and Technology. As a reminder, the Saudi Patent Office also resides in KACST, which acts as a major hub for science and technology in Riyadh.

The committee system involves lower costs than those associated with filing a court case. A complaint is initiated by filing a written claim with the committee. In these proceedings, the committee acts as a jury and reads both sides of the issue. In case the committee decides that outside expertise is required, then such expert is brought in. A decision issued by the committee is binding, but may be appealed.

The Patent Committee's decision may be appealed within a prescribed period of time to the Board of Grievances. The Board is headed by a judge who, although is not an IP specialist, is generally knowledgeable in all IP matters. The Board of Grievances decision is final and no further appeals are possible. Patent law in Saudi Arabia provides for several courses of action. The Committee for instance has jurisdiction over all infringement and invalidation matters. It can issue injunctions and authorize the seizure and destruction of infringing products. It can issue the decision to publish the outcome and set out damages.

The Committee is also the authority which hears invalidation cases. If invalidation proceedings are used as a defense in an infringement case, the latter is put on stay until the outcome of the invalidation case.

MENA | ENFORCEMENT OF PATENTS IN A RAPIDLY DEVELOPING REGION

MENA

Concluding remarks

As a whole, the patent system in the MENA region is still in its infancy, maybe rather in its adolescence to maintain the same simile. Enforcement of patents in this case is in its infancy. The few cases which have been reported in the region involved local firms allegedly infringing on patent rights for foreign multinational companies. The local industries are primarily imitators or me-too companies with little internal R&D. The limited technologies and capabilities have not created instances where local industries have been considered as major threats to these multinationals. This is changing, however, and with time we will see more local firms challenge such patents, and begin filing their own patents. The current status of the laws and regulations provide local innovators with all the rights to be able to protect their own inventions and encourage further investment in developing innovative products and processes. Local and foreign investments have already catalyzed such developments and, in combination with growing markets and needs, it is only a question of time before certain local industries become pioneers in their fields.

Creating the right protection and enforcement environment is crucial to these developments. The region is growing in that direction and certain key countries such as Egypt, Iran, Morocco, Saudi Arabia, and the United Arab Emirates are poised to take advantage of these developments.



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