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Trademark Insights

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A Review of Intellectual Property-Related News and Developments in the Middle East and North Africa
Morocco issued Law No. 23-13 on December 18, 2014, which amends and completes Law No. 17-97 of 2000. The new law entered into force on the date of announcement and publication in the official gazette.

The law includes provisions on the protection of patents, integrated circuits, industrial designs, trademarks, and trade names.

The main features of the law regarding trademarks are as follows:

1. **Examination**

Examination on absolute as well as relative grounds is now possible. Prior to the new law, applications were published after passing only through formal examination, and a certificate was issued in the absence of an opposition. An important consequence of introducing substantive examination is that if a registered trademark should have been refused on absolute or relative grounds in the first place, any interested party may bring proceedings to have the mark declared invalid. Examination on relative grounds is expected to be laid down with the internationally recognized framework — or in other words: the global appreciation approach. The TMO will thus compare the marks as a whole, the way an average consumer views them.

2. **Opposition**

The new law reduces the time period to respond to oppositions from six months to two months. This reduction is expected to develop a faster and more structured procedural process.

3. **Division of Trademark Applications**

It will now be possible for an applicant to transform a single application into several divisional applica-

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**4. Article 6ter of the Paris Convention**

Article 135 of the amended law generally excludes trademarks from registration which consist of specifically protected emblems now defines admission of the provisions of Article 6ter of the Paris Convention related to prohibitions concerning state emblems, official hallmarks, and emblems of intergovernmental organizations.

**5. Unconventional Marks**

The definition of a figurative representation of a sign under Article 133 has expanded to include 3D trademarks. Although this is stepping stone, difficulty may arise at the time of substantive examination. However, the following rule of thumb is generally applied by the examiners of the TMO: a sign will not be registered as a trademark if it consists exclusively of a shape which (1) results from the nature of the goods themselves, (2) is necessary to obtain a technical results, and (3) gives substantial value to the goods. The law also refers to sound and smell marks as non-conventional marks that can be registered, in addition to 3D marks. In fact, sound and smell marks are not new additions to the law but existed in the previous law prior to the amendments. Although the administration of such rights is still in development, broadening the definition of a trademark is clearly a sign of the positive direction Morocco is taking towards internationally standardizing trademark protection.

As for patents, the main features of the law are:

**1. Substantive Examination**

Substantive examination is now possible, whereas previously, applications were granted within eight months following formal examination only.

**2. EP Validation**

It is now possible to validate European patents, which was not an option previously.

**3. Annuities**

Annuities will become due post-grant, whereas previously, annuities were due each year starting from the date of filing.

**4. Divisional Applications**

It is possible to file divisional applications, whereas in the past this was not an option. Additionally, since there will be examination and possible rejection, the general provisions now allow for an applicant to petition against a rejection.

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Saudi Arabia: PCT National Phase Entry Begins on Schedule

The Saudi Patent Office accepted the first PCT national stage entry on February 3, 2015.

We are pleased to announce that Al Hadaf Marks Services, in cooperation with Saba & Co. IP, utilized the system as soon as it became available, thus ensuring that the 30 month deadline is met.

Saudi Arabia acceded to the PCT and became bound by the Treaty on August 3, 2013, as reported in the Saba IP Bulletin. Accordingly, the first applications to designate SA for national stage entry would have been filed on August 3, 2013 and the 30 month deadline for entering those at the national stage would then be February 3, 2015.

The requirements, annuity due dates, and fees remain the same as for national filings.
With an area of 1,001,450 sq. km, overlooking Egypt on a map would be extremely difficult. The country occupies an impressive regional role of growing significance.

Egypt experiences stable economic development as the annual GDP growth averaged two percent. The country’s GDP is $262 billion, while the GDP per capita is $6,600. The GDP composition is 14.5 percent for agriculture, 37.5 percent for industry, and 48 percent for services.


Through the revision and consequent passing of Law 82 of 2002, Egypt has made an important stride in the improvement of its legal framework for intellectual property rights enforcement and protection.

The law brought Egypt’s legal IPR regime into line with its obligations under the WTO Trade-Related Aspects of Intellectual Property Rights Agreement.

Trademarks are registered in Egypt, in accordance with the 10th edition of the Nice International Classification, for a period of 10 years from filing date and are renewable for like periods. A separate application is required for each class, however.

The main features of trademark registration are as follows:

**FILING REQUIREMENTS**

1. Power of attorney, legalized. A general power may be used for subsequent filings.

2. Certificate of incorporation, legalized.

3. Copy of priority document, if priority is claimed, certified.

4. 10 prints of the mark for each application.

Item 4 must be submitted

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at the time of filing. Document 3 may be submitted within three months from filing date. Documents 1 and 2 may be submitted within six months from filing date.

EXAMINATION
Examination is performed on formal, absolute and relative grounds.

OPPOSITION
Trademark applications accepted by the Registrar are published in the Trademark Gazette. Oppositions may be filed within 60 days from publication date.

EXTENSION OF TIME
Extension of time for oppositions/counter-oppositions or for responding to office actions is not possible.

PROTECTION TERM
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 with payment of a surcharge.

Documents required for renewal: Power of attorney, legalized.

USE REQUIREMENTS
Use of a trademark is not required for registration or renewal of a mark. However, 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.

SEARCH
An official search may be conducted for word marks and devices. It takes approximately seven working days. The search report discloses similar and identical trademarks.

ASSIGNMENT
Trademark applications and registrations may be assigned with or without the goodwill of the business concerned.

Documents required: Power of attorney from the assignee, legalized; power of attorney from the assignor, legalized; deed of assignment, legalized; and certificate of incorporation of the assignee, legalized.

CHANGE OF NAME/ADDRESS
A change of name/address may be recorded for trademark applications and registrations.

Documents required: Power of attorney from the assignee, legalized; and certificate of change of name/address of the applicant, legalized.

LICENSENG
License recordal is not compulsory but advisable in order to be effective against third parties.

Documents required: Power of attorney from licensor, legalized; license agreement, legalized; and certificate of incorporation of the licensee, legalized.

MERGER
A merger may be recorded for trademark applications and registrations.

Documents required: Power of attorney, legalized; certificate of merger, legalized; and certificate of incorporation, legalized.

MARKING
Marking is not compulsory.

CANCELLATION
A trademark is subject to cancellation before the Court by any interested party within five years from registration date unless the mark was registered in bad faith in which there is no time limit.

REGISTRATION TIME FRAME
The time frame for completing the registration process is three years.

THREE DIMENSIONAL TRADEMARK APPLICATIONS
Inadmissible.
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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