

**SABA**  
INTELLECTUAL  
PROPERTY

sabaip.com



# BULLETIN

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# INTA 2018

140<sup>th</sup> ANNUAL MEETING

**MAY 19-23**  
**SEATTLE, WASHINGTON**

Meet us at

**THE WESTIN HOTEL**  
**SOUTH TOWER . FLOOR 39**  
**SEATTLE SUITE 3953**

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## UAE | ANNOUNCEMENT OF OFFICE RELOCATION



**We are pleased to announce that we are moving to a larger office premises in the United Arab Emirates. Effective March 19, 2018, our new contact details will be as follows:**

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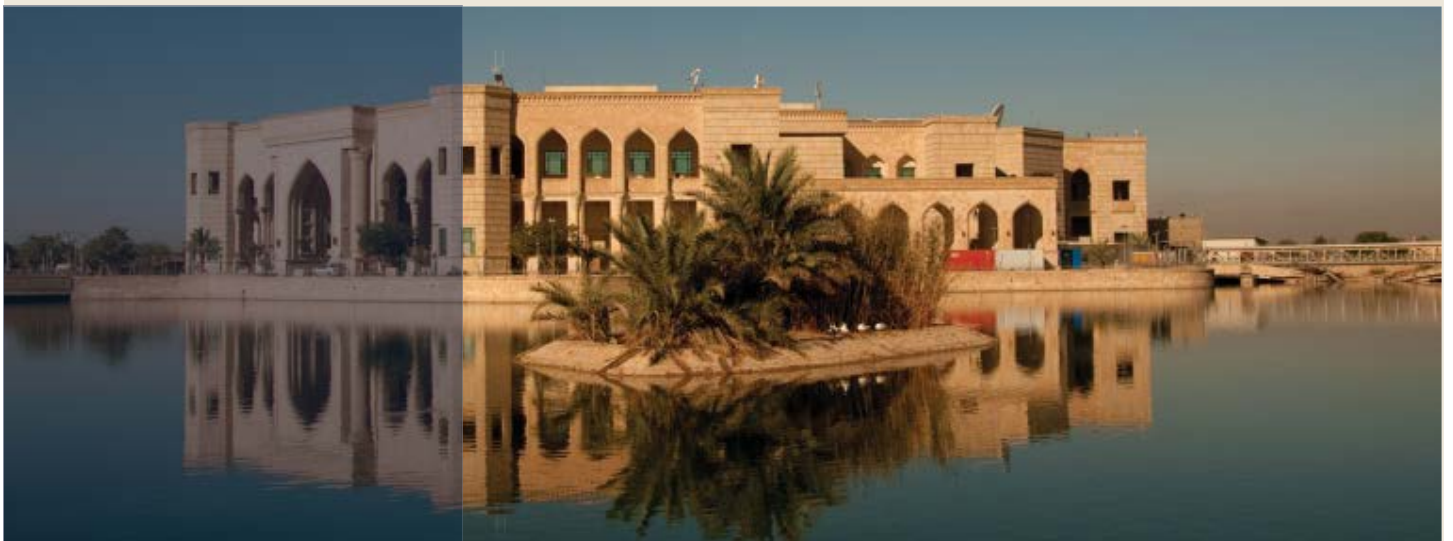
## IRAQ | SAY IT IN LATIN

IRAQ

**The Trademark Office in Iraq announced that trademark applications may be filed in Latin script without having to submit the Arabic transliteration of the mark. This update rescinds the previous registration requirement that demanded trademarks to be filed in Arabic alongside the Latin version, which provided for the protection of the transliteration of a registered mark without having to file a separate application for it.**

With the new procedure in place at the TMO, it becomes advisable to register the transliteration of the mark in Arabic. However, transliteration into the Arabic script is not without challenges. Certain letters have no equivalent in the Arabic language, such as the letters V and P. Common practice is to either substitute the letter with the next best option (F for V and B for P), or to borrow letters from the Persian alphabet, which is the closest to Arabic and is widely understood by the Arabic-speaking public. It is therefore imperative to register the correct Arabic version of a mark in order to ensure that consumers have clear visibility as to the origin of the goods or services, and eventually to be able to build up brand equity in Iraq.

Another advantage of registering the Arabic transliteration of the mark is that it may mitigate problems that would arise when it comes to enforcing trademark rights against third parties using or attempting to register confusingly similar Arabic transliterations. It is worth noting that it is easier to enforce marks in the same language - Arabic, in this case.





## KUWAIT | COUNTRY UPDATES



**Maps of the Middle East illustrate Kuwait as a small country in the region. But what the country lacks in geographic size, it makes up in economic impact. Kuwait is a high income economy backed by the world's sixth largest oil reserves, and the Kuwaiti dinar is the highest valued currency in the world. Local industries include the production of petroleum, petrochemicals, cement, shipbuilding and repair, water desalination, food processing, and construction materials. Imports to Kuwait include food, construction materials, vehicles and parts, and clothing.**

The following feature highlights important intellectual property developments and news that unfolded recently in Kuwait, which coincided with plans to diversify the Kuwaiti economy away from oil, attract more investment, and boost private sector participation in the economy.

One of the most important steps that brings Kuwait more and more in line with the international standards was the country's accession to the Paris Convention. This move is an indication of Kuwait's desire to further align itself with the international IP community standards in general, beyond its WTO membership and accompanying TRIPS agreement. Priority claim requests in Kuwait became officially admissible in the beginning of 2015. Also, with the Paris Convention membership, Kuwait is now expected to respect Article 6bis. Needless to say, there are no clear regulations or case laws so far that comment specifically on the prerequisites for claiming protection under Article 6bis.

Another recent development is the introduction of e-filing by the Trademark Office in Kuwait 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 mature into registration. Prior to e-filing, applications were allotted a six-digit number.

On the patents front, the Patent Office in Kuwait announced that, in collaboration with the Gulf Cooperation Council Patent Office, they have completed the formality examination for all pending Kuwaiti patent applications.

KUWAIT

## KUWAIT | COUNTRY UPDATES



# KUWAIT

The Office further announced that they intend to begin performing substantive examination on patent applications filed in 2008 and later. The examining authority is expected to be the Gulf Cooperation Council Patent Office.

As a recap on patents in Kuwait, in April 2016, we reported that the Patent Office has adopted the GCC patent law and regulations as its national law and regulations. Following this announcement, we reported that the Patent Office stopped accepting new patent applications, advising patentees seeking protection in Kuwait to pursue protection via the regional GCC patent system. At the time, the fate of all pending patent applications was uncertain. Then, in July 2016, we reported that Kuwait has acceded to the PCT, which entered into force on September 9, 2016. This created a new uncertainty since the GCC Patent Office itself has not acceded to the PCT.

In the latest development, an indication that the authorities wish to comply with international agreements, the Patent Office unofficially announced that they have begun accepting PCT national stage entries designating Kuwait. We are pleased to announce that Saba IP was the first to utilize the system as soon as it became available, thus ensuring that the 30 month deadline is met. The procedures and guidelines for the prosecution of these applications are still to be defined, however, this is indeed great news for patentees looking to extend patent protection into Kuwait. With this final move, it is now possible to designate all six GCC member countries, namely: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates upon filing of an International application, thus benefiting from the additional grace period for entering in any or all of these countries. As indicated above, it is not possible to benefit from this additional grace period for a regional GCC patent application.

## SYRIA | FIFTH CIRCUIT TO HANDLE IP MATTERS

# SYRIA

**The Fifth Civil Court of First Instance (Fifth Circuit) in Syria recently announced that it will be handling all intellectual property related matters in lieu of the First Circuit, which typically handles commercial disputes.**

The Fifth Circuit will be holding hearings related to IP disputes in Damascus only. Pending cases may face a delay as cases are transferred from the First Circuit to the Fifth Circuit.

We expect this update will result in an effective and efficient resolution of disputes in Syria.



## MENA | SOWING THE SEEDS FOR THE PROTECTION OF PLANT VARIETIES



Plant variety laws, among other norms of positive legal systems such as trademark and patent laws, were introduced in the past in some countries in the Middle East and North Africa region, either by their own codes or by including them in general codes. Such laws explore and discuss the plant varieties protected, the duration of protection, the transfer of rights, the procedures, penalties, and remedies, and the scope of protection.

COUNTRY	LAW
ALGERIA	Law no. 05-03 (Implementing Regulations have not been issued yet)
EGYPT	Law no 82/2002
JORDAN	Law no 24/2000
MOROCCO	Law no 9/94
OMAN	Law no 49/2009 (Implementing Regulations have not been issued yet)
SAUDI ARABIA	Law no 159/2004
TUNISIA	Law no 99-42/1999
UNITED ARAB EMIRATES	Law no 17/2009 (Implementing Regulations have not been issued yet)

### *International Conventions*

Jordan, Morocco, Oman, and Tunisia are the only Arab countries that have acceded so far to the International Convention for the Protection of New Varieties of Plants.

### *Basic provisions*

1. Examination and protection period: For the time being, plant variety applications are only admissible in Egypt, Jordan, Morocco, Saudi Arabia and Tunisia. The national list of approved plant varieties is not the same across all five countries. In order to qualify for exclusive plant variety rights, a variety must be new, distinct, uniform and stable.

The rights conferred do not apply to acts done for: private and for non-commercial purposes; for experimental or research purposes; or for the purpose of breeding other varieties. Plant variety rights are usually granted by the national offices, after examination. Seeds are submitted to the plant variety office, which grows the plant for one or more seasons, to check that it is distinct, stable, and uniform.



## MENA | SOWING THE SEEDS FOR THE PROTECTION OF PLANT VARIETIES



If these tests are passed, exclusive rights are granted for a specified period, as detailed in the list below.

- Egypt: 25 years from date of grant for trees and grapevines, and 20 years for other agricultural products
- Jordan: 25 years from date of filing for trees and grapevines, and 20 years for other agricultural products
- Morocco: 20 years from date of grant for species of great culture, and 25 years for species of arboriculture and vine
- Saudi Arabia: 25 years from date of filing for trees and grapevines, and 20 years for other agricultural products
- Tunisia: 20 years from date of grant for trees and grapevines, and 20 years for other agricultural products

1. *Filing requirements:* The filing requirements of a plant variety application are as follows:

- Denomination of the variety.
- Full disclosure of the origin of the variety and the method of breeding.
- A detailed description of the consecutive stages of the choice and propagation processes which were used to breed the variety.
- Proof of the novelty of the variety, in the sense that the variety has not been sold or otherwise disposed of for purposes of exploitation.
- Proof of the uniformity of the variety in the sense that any variations are describable, predictable, and commercially acceptable.
- Proof of the stability of the variety in the sense that the variety, when reproduced, will remain unchanged with regard to its essential and distinctive characteristics within a reasonable degree of commercial reliability.
- Proof of the distinctiveness of the variety, in the sense that the variety is clearly distinguishable from any other publicly known variety.
- Illustrations of the variety, if they are necessary to identify it, along with a brief description.

## MENA | SOWING THE SEEDS FOR THE PROTECTION OF PLANT VARIETIES



2. *Annuities*: Maintenance fees are required to maintain the rights, as outlined in the table below.

COUNTRY	ANNUITIES
EGYPT	A maintenance fee is due annually and should be paid within a period not exceeding three months from the date of the grant of the certificate
JORDAN	A maintenance fee is due annually and is payable during the first four months of each year following the year during which the plant variety is granted
MOROCCO	A maintenance fee is due annually on the anniversary of the date of grant
SAUDI ARABIA	A maintenance fee is due annually and is payable during the first three months of each year following the year the plant variety application was filed with a further grace period of three months (April-June) with payment of a surcharge
TUNISIA	A maintenance fee is due annually on the anniversary of the date of grant

### ***General State of Enforceability***

In general, there are no precedents in the Arab countries on how prior cases regarding plant variety infringement have been decided. Generally speaking, the existence of such precedents give an indication of how the judicial interpretation of the laws would be in cases involving identical circumstances.

So the question of enforceability of plant variety rights is a matter solely determined by the extent to which plant variety infringement is referred to under the local laws.

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