

SABA *bulletin*

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SEASON'S GREETINGS
& BEST WISHES
FOR THE NEW YEAR

IP NEWS

NICE CLASSIFICATION: TENTH EDITION

As of January 1st 2012, the 10th edition of the Nice International Classification for Goods and Services will enter into force. This edition has also been translated into Arabic by the Syrian Patent Office and will be adopted by WIPO as of January 2012. It is worth noting that the Nice classification is continuously revised and a new edition is published every five years. The revision is usually carried out by a Committee of Experts set under the Nice Agreement. All states party to the Agreement are members of the Committee of Experts. It is not clear how soon countries from our region will be adopting the 10th Edition.

The trademark offices are expected to decide on this during the course of the coming months. We will keep you updated.

OMAN NEWS

ARABIC DOMAIN NAMES SOON

Arabic domain names are expected to be launched soon in Oman. No specific date has been set yet and no official notification has been issued in this regard. We will keep you updated with any further developments in due course.

LIBYA NEWS

NEW OFFICIAL NAME

After the long period of unrest that the "Great Socialist People's Libyan Arab Jamahiriya" (Libya) witnessed, a number of changes occurred. One of the most important adjustments worth mentioning would be the change of the country's official name from "Great Socialist People's Libyan Arab Jamahiriya" to the more commonly known name (now official) "Libya". However, the country's international code remains the same (LY). Applicants should take note of this change when submitting official documents, including powers of attorney, at the country's Trademark and Patent Offices. Should you have any questions, or require any additional information, please contact us at libya@sabaip.com.



IP HIGHLIGHTS

1- DEVICE SEARCH

The table below answers the question of whether or not an official device search is possible at the Trademark Offices of Arab countries. The results of any official search will help determine whether the mark is available for registration in any given country. In countries where an official device search is not possible, Saba & Co. IP can provide an automated in-house search.

COUNTRY		METHOD
Algeria	Official Search Possible	Electronic
Bahrain		Manual and Electronic
Cyprus		Manual and Electronic
Gaza		Manual
Iraq		Manual
Jordan		Electronic
Libya		Electronic
Oman		Manual and Electronic
Qatar		Electronic
Saudi Arabia		Manual and Electronic
Syria		Manual
West Bank		Electronic
Yemen		Manual and Electronic
Ethiopia	Official Search Not Possible	
Iran		
Kuwait		
Lebanon		
Morocco		
Sudan		
Tunisia		
UAE		

It is also significantly important to assess whether a mark is available for use in order to avoid serious risk of infringement of the rights of a prior user. Conducting a full trademark clearance will help determine the overall picture of the commercial environment surrounding a proposed mark. Advice on trademark clearance should be sought from our local trademark attorneys.

2- MAJOR TRADEMARK AND PATENT DEVELOPMENTS OF 2011

The table below lists the recent trademark and patent developments which took place in the countries of our region in the year 2011. This year, the countries of our region witnessed many developments that have affected the scope of protection and enforcement, including the adoption of border protection measures and the introduction of new laws. Below are the major developments which are expected to change the way business entities and legislative bodies handle trademarks and patents in the region.

Afghanistan	<p>The Trademark Office in Afghanistan announced that the cancellation period against a registered trademark has changed. The new cancellation period has been reduced to 1 year from registration date compared to a period of 3 years as stipulated by the law.</p>
Bahrain	<p>A draft law on the protection of trade names is currently under discussion by the Bahraini Parliament. We list below the main features of this law:</p> <ul style="list-style-type: none"> - The new trade name shall not be similar to a well-known trade name nor to any other registered name. - The new trade name shall not include any political, military or religious content. - The new trade name shall not refer to any regional, Arab or international organization. - The new use of the trade name shall not create any confusion with other names of company owners or product distributors. <p>The Bahraini Trademark and Patent Office has recently announced that only powers of attorney that are legalized up to any Arab consulate will be accepted. This means that simply signed powers will no longer be admissible in support of trademark, patent and design applications.</p> <p>The Ministry of Industry and Trade has recently issued Decision no. 115 of 2011 on the formalities for granting patents in Bahrain. The main features of this Decision are as follows:</p> <ol style="list-style-type: none"> 1. Applications should be examined within 60 days from filing date. 2. Patent applications accepted by the Registrar should be published in the Official Gazette. 3. Whenever, on examination, any claim for a patent is rejected, the Patent Office shall notify the applicant, stating the reasons for such rejection. 4. The term of protection starts from filing date or from priority date if priority is claimed. <p>Ministerial Decision no. 115 of 2011 was published in the Official Gazette on June 23, 2011.</p>
Egypt	<p>Two important Ministerial decisions have been published in the Official Gazette no. 59 on March 13, 2011 related to the patent protection framework in Egypt:</p> <ul style="list-style-type: none"> - The 30-month time limit for entering the national phase under PCT Chapters I and II may no longer be extended for an additional 3-month period upon submission of a written request and payment of a substantial surcharge for late entry, (Ministerial Decree no. 23). - Increase in the official examination fees, (Ministerial Decree no 22). <p>An appeal was filed against the above two decisions but no decision has been reached yet.</p>
Gaza	<p>Trademarks covering all goods in class 33 as well as alcoholic beverages in class 32 of the Nice classification can no longer be registered in Gaza.</p>
India	<p>The Indian Government published on July 27, 2011 a draft manual on the registration of Geographical Indications (GIs). The purpose of this manual is to provide applicants with clear guidelines on the registration of GIs in the country in order to ensure that the GI system evolves in a consistent manner. The manual includes the required documents and application forms that must be completed when filing a GI application in order to avoid duplication of documents.</p>
Iraq	<p>A large number of trademark files were destroyed back in 2003 as a result of the war in Iraq. The latest step in the Iraqi Trademark Office's process to rectify the situation was the official announcement on October 11, 2011 to review the files of trademark registrations 23000 to 34999 in order to make sure that the records are in order. By way of background, the Iraqi Trademark Office has already completed the revision of two file batches: (files no. 1 to 16090) and (files no. 16091 to 22999).</p>

Morocco

Morocco has recently adopted Law No. 3108- on the Protection of Consumers. The new law was promulgated on February 18, 2011 and became effective as of April 7, 2011. Article 22 of Law No. 3108- includes provisions on comparative advertising. The use of comparative advertising is considered valid as long as it is honest, true and does not contain misrepresentations intended to mislead the consumer.

Furthermore, comparative publicity involving characteristics should relate only to essential, significant, pertinent and verifiable characteristics of goods or services of the same nature that are available in the marketplace.

Morocco has signed the Anti-Counterfeiting Trade Agreement (ACTA) in Tokyo on October 1, 2011. The ACTA is a proposed pluri-lateral agreement for the purpose of establishing international standards on intellectual property rights enforcement.

Oman

Arabic domain names are expected to be launched soon in Oman. No specific date has been set yet and no official notification has been issued in this regard.

Pakistan

The Trademark Office launched an on-line Journal of Trademarks on October 20, 2011. This means that all trademark applications accepted by the Registrar are now published or accessible to the public via the Intellectual Property Office website. This on-line Journal is an opportunity for third parties to oppose against a prospective mark. Oppositions may be filed within 2 months from publication date.

Qatar

Qatar has announced that it will begin offering the following domain names:

Second level domain name .qa (Sunrise period: 1 month starting July 18, 2011)

Arabic domain name قطر. (Sunrise period: 2 months starting August 17, 2011)

The Landrush period began in September 2011 and the above domain names are now publicly available.

The Qatari Shura Council has discussed the draft Law on IP border measures which comprises 12 articles. The draft Law contains provisions on customs activities related to IP protection in the field of import and export of goods.

The Qatari government is now working with stakeholders to develop a legal framework to protect the privacy of personal information, which is critical to the healthy development of Qatar's ICT sector. This framework, targeted for completion by the end of 2011, will set the minimum level of privacy protection required for all sectors, including finance, education, health and law enforcement. The framework will draw upon international best practices, while being innovative and forward looking in its approach. According to the draft law, breaching the new privacy standards will lead to a prison sentence of up to two years, in addition to a fine of up to QR300, 000 (around USD 81 000).

The Director General of the World Intellectual Property Organization welcomed the deposit of the instrument of accession of Qatar to the Patent Cooperation Treaty on May 3, 2011. The said treaty entered into force on August 3, 2011. However, filing patent applications in Qatar is not possible at this stage because there is currently no clear set-up that has been established to accept patent applications, even though a patent law was introduced in the country back in 2006. It is not known when these changes will occur...

Oman

According to an official notification issued by the Omani Patent Office on June 6, 2011, maintenance fees will be due annually on the anniversary of the local filing date or the PCT international date and will be payable before the granting of the patent. There will be a 6-month grace period for late payment with a surcharge. This decision comes in line with the provisions of Article 12(2) of Industrial Property Rights Law no. 67 of 2008, issued on May 17, 2008.

The Omani Patent Office is currently preparing the required setup and structure in order to begin accepting patent reinstatement applications in compliance with Article 12 of Law no. 67 of 2008. According to this Article, the Patent Office may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Patent Office to have been unavoidable or unintentional. Any petition to accept an unintentionally delayed payment of a maintenance fee must be filed within six months after the six-month grace period (within one year from the annuity due date). If the Patent Office accepts payment of the maintenance fee upon petition, the patent shall be considered as not having expired. The new formalities are effective as of July 2011.

Saudi Arabia	<p>The SaudiNIC announced the beginning of the Landrush phase of the second level domain under (.sa). The Landrush phase started on May 2, 2011. All applications will be accepted electronically through the website of SaudiNIC.</p>
Turkey	<p>The practice of the Turkish Patent Institute (TPI) regarding the registrability of trademarks for retails as a service has recently been reviewed in particular with regards to the specification of the type of retail concerned. The TPI may now accept the co-existence of identical or similar marks in class 35 in the name of different owners as long as details are provided with regard to the goods or types of goods to which those services relate.</p>
UAE	<p>The UAE Customs authorities have introduced new border measures on the recordal of trademarks in Ras al-Khaimah. As such, Ras al-Khaimah becomes the third emirate in the country, following Dubai and Sharjah, to offer recordal services. The importance of the recordal is that trademarks will be placed on watch, and products bearing the recorded mark or bearing a similar mark will be monitored and inspected ex-officio. This recordation is valid for the trademark's protection term, renewable for like periods.</p> <p>The General Availability phase for Arabic domain name registrations began in the UAE. It is the fourth phase of the registration process and it follows the Landrush phase during which auctioning may be possible in the event that more than one applicant applied for the same domain name.</p> <p>It is worth noting here that the General Availability phase includes all the domain names that were not requested in previous phases. This phase will be open for the public on a first-come, first-served basis. The registration is made through registrars accredited by the Domain Administration.</p>
West Bank	<p>All types of official notifications in the West Bank including IP related matters used to be published in the Palestinian Facts Journal. However, following ministerial decision number 4, issued on February 14, 2011, Articles 32 and 34 of Trademark Law No. 1 of 1952 have been amended. Based on this amendment, all intellectual property updates will be published in a new journal called "Industrial Property Gazette". Having an IP Gazette means that publication of accepted applications in the West Bank is expected to be more frequent and systematic. It is worth noting that the first issue of this Gazette has already been released.</p>
Yemen	<p>The official fees for all trademark-related matters in Yemen have substantially increased in comparison with their current level. This comes in accordance with the new implementing regulations of Trademark Law no. 23 of 2010 which were issued on July 27, 2011. Also, the country now adopts the 8th Edition of the Nice classification.</p> <p>The new Patents, Utility Models, Integrated Circuits and Trade Secrets Law No. 2 of 2011 of Yemen, which was issued on January 12, 2011 has recently been published in the country's Official Gazette. The new Law entered into force on April 12, 2011.</p>

IP WINDOW

ARAB CONTRACTING PARTIES TO THE WIPO ADMINISTERED TREATIES (2011)

The following table lists the countries from our region that have acceded to the WIPO Administered Treaties in 2011. It is worth noting that the major developments that occurred in 2011 are as follows:

- Qatar acceded to the Patent Cooperation Treaty which entered into force on August 3, 2011. However, entering into the national phase in Qatar is still not possible until a clear set-up is established to accept patent applications, even though a patent law was introduced in the country back in 2006.
- Morocco acceded to the Budapest, WIPO Copyright and WIPO Performances and Phonograms Treaties which entered into force on July 20, 2011.

	Algeria	Bahrain	Egypt	Iraq	Jordan	Kuwait	Lebanon	Libya	Morocco	Oman	Qatar	Saudi Arabia	Sudan	Syria	Tunisia	UAE	Yemen
Berne Convention	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Brussels Convention		✓					*		✓	✓							
Madrid Agreement (Source)	✓		✓				✓		✓					✓	✓		
Nairobi Treaty	✓		✓						✓	✓	✓			✓	✓		
Paris Convention	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Patent Law Treaty	*	✓					*			✓			*				
Phonograms Convention			✓														
Rome Convention	✓	✓					✓							✓		✓	
Trademark Law Treaty		✓	✓						✓	✓							
WIPO Copyright Treaty		✓			✓					✓	✓					✓	
WIPO Performances and Phonograms Treaty		✓			✓				✓	✓	✓					✓	
Budapest Treaty					✓				✓	✓					✓		
Hague Agreement			✓						✓	✓				✓	✓		
Lisbon Agreement	✓								✓						✓		
Madrid Agreement (Marks)	✓		✓						✓				✓	✓			
Madrid Protocol		✓	✓						✓	✓			✓	✓			
Patent Cooperation Treaty	✓	✓	✓					✓	✓	✓	✓		✓	✓	✓	✓	
Locarno Agreement	*																
Nice Agreement	✓	✓	✓		✓		✓		✓					✓	✓		
Strasbourg Agreement			✓														
Vienna Agreement					✓										✓		
The International Union for the Protection of New Varieties of Plants					✓				✓	✓					✓		

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The information contained in this newsletter is intended to provide a brief update of intellectual property news and should not be relied upon as legal advice. Legal or other professional counseling should be sought from the firm's Head Office in Beirut, Lebanon.

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