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139th ANNUAL MEETING

BARCELONA FIRA GRAN VIA

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SAUDI ARABIA: UPCOMING FORMATION OF IP COMMISSION

Given Saudi Arabia's unrelenting commitment to the protection of intellectual property, the Saudi Council of Ministers recently approved a proposal for the formation of the Saudi Intellectual Property Commission. The committee will be led by the Ministry of Commerce and Investment and its duties will include handling all IP matters in the country.



This news follows other recent updates that took place in Saudi Arabia, the most noteworthy of these include: (1) the change of the opposition procedure from a purely legal process to an administrative proceeding, and (2) the shift to online filing of applications for trademark renewals, with the possibility for the e-filing of trademark records in the near future.

These are but a few major highlights of high profile events in Saudi Arabia that are indicative of the country's drive and motivation to develop its own innovation and economic systems.



JORDAN: REMEMBER TO INCLUDE ARABIC ON YOUR SIGNBOARDS

More than 120 commercial establishments in Jordan recently received a warning for not including the Arabic rendition of their marks on the signboards. This comes pursuant to the provisions of Article 5 of Law no. 35 of 2015 for the protection of the Arabic language. The Article allows for the use of a language on the signboards other than Arabic, as long as the Arabic part appears in a more prominent and significantly larger font. The scales, however, are not explicitly identified in the Law. It is worth noting that violations will be subject to fines ranging between US\$1,400 and US\$4,200.

Seeing that use of a mark in Arabic is not a matter of choice but is a statutory requirement governed by local regulations, it becomes advisable to register the transliteration in the local script in class 35, in addition to the registration in the Latin version. Clearly, a key disadvantage of filing an Arabic trademark is the additional costs of clearance and registration. However, the benefits of protecting a mark in Arabic outweigh the associated costs. Problems may arise when it comes to enforcing trademark rights against third parties using or attempting to register confusingly similar Arabic transliterations. It is always easier to enforce marks in the same language.

In addition to Jordan, the other countries in the Middle East and North Africa that require the use of the Arabic script of a mark on signboards are Egypt, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, and Yemen.



MENA: INFRINGEMENT EXEMPTIONS WILL NOT QUELL INNOVATION

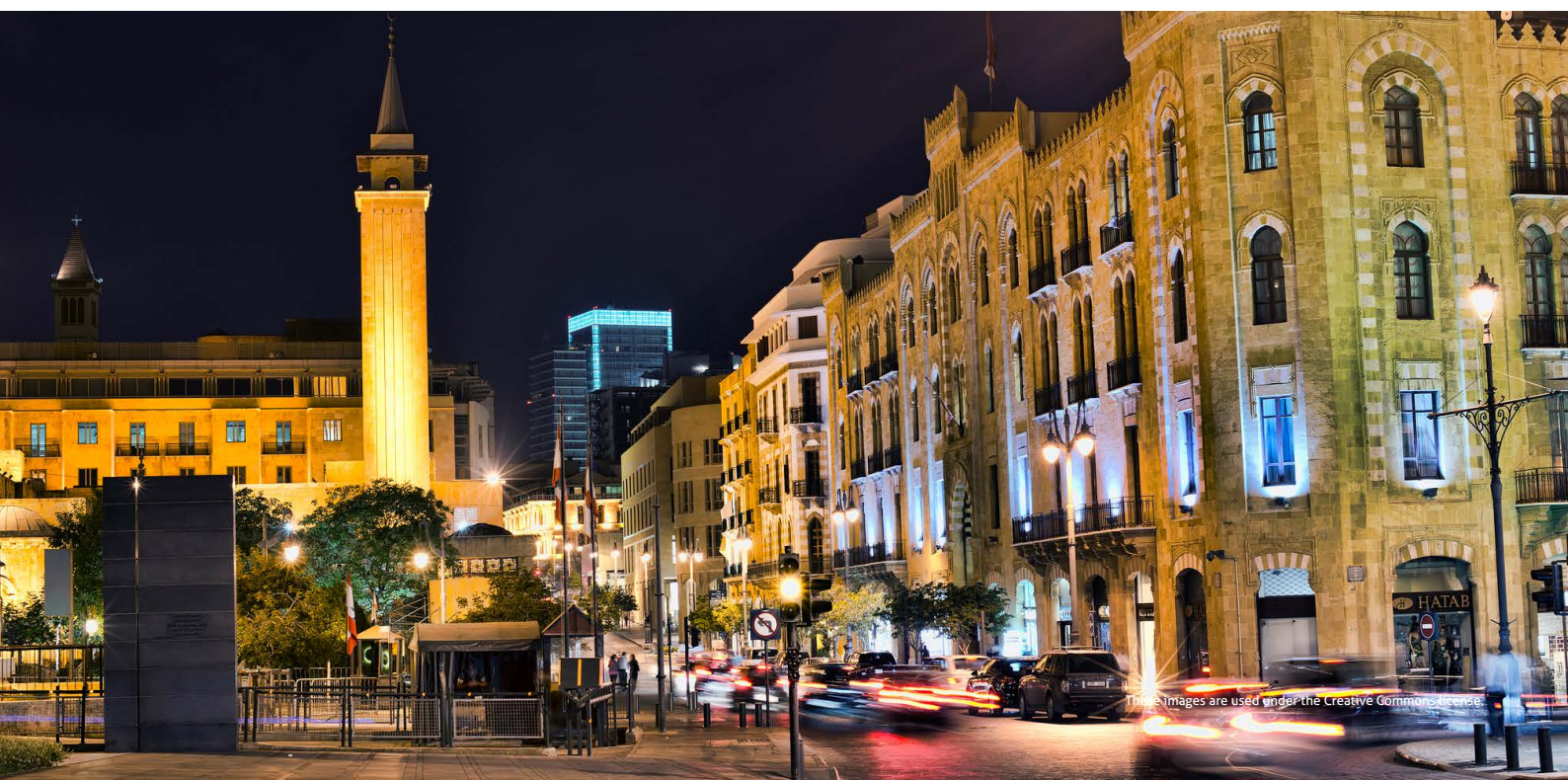
Patent laws in practically all jurisdictions in the Middle East and North Africa clearly define what is considered to be an infringement act and from what date such acts may be considered infringing. As is the case in most countries outside the MENA region, there are many infringement exemptions that can be summarized in a brief statement: as long as the product and/or process is not being used for direct commercialization and profits, then any related acts are not considered an infringement.

Essentially, the aforementioned statement is homologous to the more known Bolar Provision or the Hatch-Waxman Act. Indeed, as it is more and more apparent in the MENA, and primarily driven by the rapidly growing local generic industry, these exemptions stretch as far as submitting a marketing authorization dossier for prompt approval following the expiry of any related patency.

As a result of international agreements, i.e. FTAs, TRIPS, and where regulatory data exclusivity (RDP) is enforced, it is conceivable that generic companies are unable to support their marketing authorization dossiers with the requisite bioequivalence studies. This however may be overcome in certain cases by performing local clinical studies and submitting these in support of a marketing authorization.

While an important driver is the local generic industry, the need for cheaper medicaments where social healthcare dominates has driven local authorities to introduce into law preferential pricing for local generics, as well as force dispensaries to supply generic substitutes when ones are available.

With an already well-established generic industry in the region, which is also rapidly growing in such countries such as Jordan, Lebanon, Saudi Arabia, Egypt, Morocco, Iran and, the United Arab Emirates, and the existing social healthcare system constantly demanding lower prices on drugs, local and regional generic companies have certain advantages over foreign generic companies.



Currently, none of the countries in the MENA maintain a patent listing system such as the Orange Book, which is maintained by the Food and Drug Administration in the United States. Between this shortcoming and the lack of an effective patent linkage system, the burden of preventing generics falls primarily and heavily on the patent owner. It is highly recommended that patent owners list any patents related to the chemical entity being registered with the health authorities. In case patency is obtained after a marketing authorization, then it is also recommended that the health authorities be advised of this update.

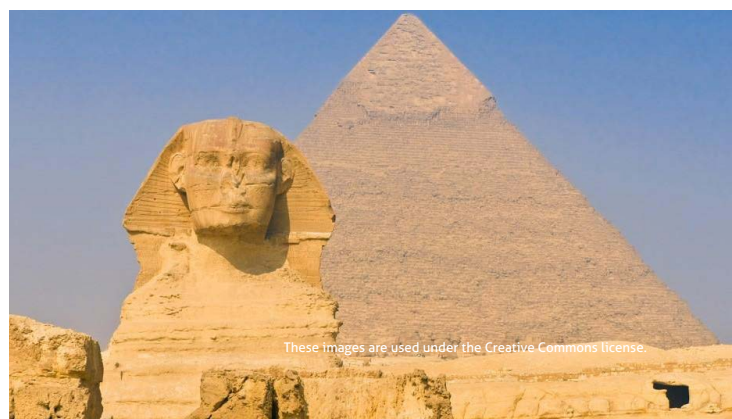
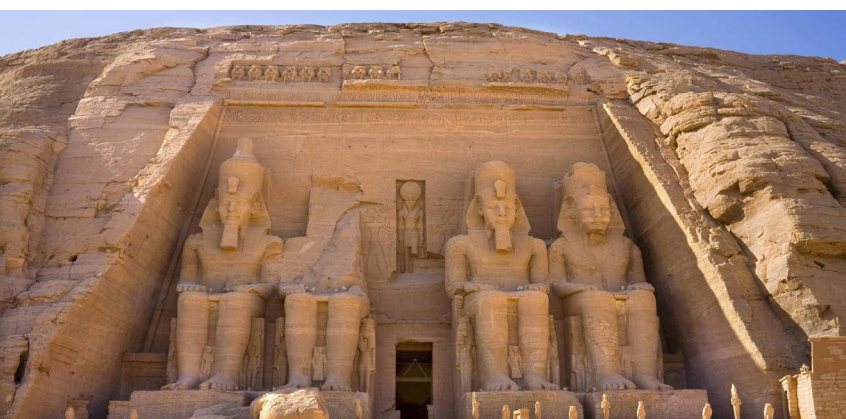
In short, the assertion and enforcement of patents is a challenging and labor intensive process that requires special consideration and handling. Inventors and owners must be able and ready to adopt a model that incorporates both legal as well as regulatory approaches in order to arrive at a well-established protection strategy in the MENA.



EGYPT: COUNTRY INSIGHTS

With a transcontinental location in Africa and Asia, and a considerable proximity to Europe, Egypt occupies an unrivaled and an increasingly significant regional role in the Middle East and North Africa. Egypt holds the record for being the most populous country in the region with over 94 million inhabitants. More than half of Egypt's residents are located in urban areas, with most spread across the densely populated centers of Cairo, Alexandria, and other major cities across the fertile Nile.

Egypt boasts one of the largest and most diversified economies in the MENA, and its economy is expected to continue growing at an accelerated pace in the coming years. Local industries include textile production, food processing, tourism, chemicals, pharmaceuticals, hydrocarbons, construction, and light manufactures. Egyptian exports include crude oil and petroleum products, cotton, textiles, metal products, and chemicals. On the other hand, imports include machinery, foodstuffs, chemicals, and fuels. The annual GDP growth averaged 3.8 percent over the past year and the GDP is \$1.105 trillion, while the GDP per capita is \$12,100. Furthermore, the GDP composition by sector of origin is 11.3 percent for agriculture, 35.8 percent for industry, and 52.9 percent for services.



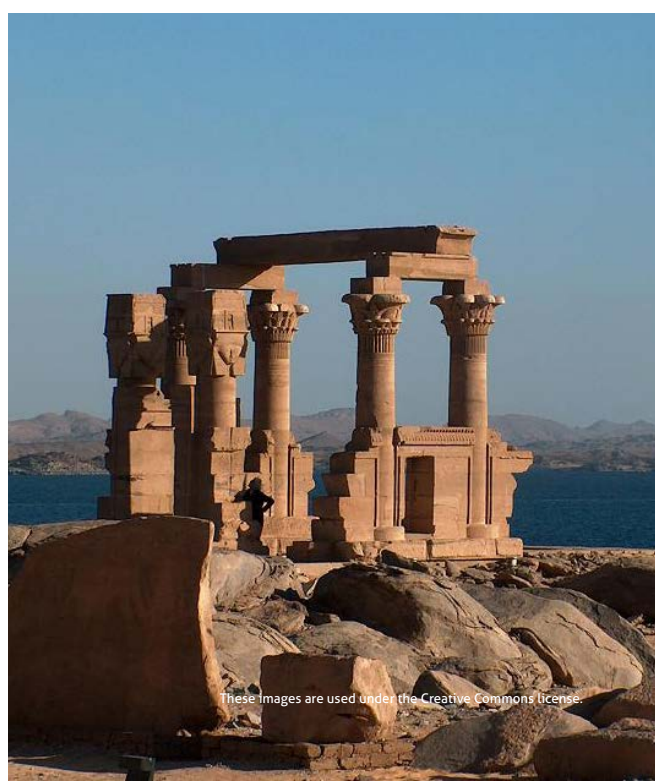


Egypt maintains a relatively comprehensive regulatory and legislative system for the protection of trademarks, patents, designs, copyright, trade secrets, and unfair competition. In addition, Egypt is a party to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Berne Convention, Madrid Agreement (Source), Nairobi Treaty, Paris Convention, Phonograms Convention, Trademark Law Treaty, Hague Agreement, Madrid Agreement (Marks), Madrid Protocol, Patent Cooperation Treaty, Nice Agreement, and Strasbourg Agreement.

In recent years, the authorities concerned have been increasingly more involved in the enforcement of intellectual property rights through the issuing of new statutes for combating counterfeit products and through the establishment of the Economical Court, a specialized court that primarily handles all IP matters. Furthermore, in an effort to combat the illicit importation goods into the country, Egyptian authorities decreed a new set regulations that entered into force in March 2016, which stipulate that certain imported goods will not legally enter into the Egyptian market unless the merchandise is authorized by the General Organization for Export and Import Control (GOEIC). In order to obtain authorization, importers are required to record the name of the manufacturer, as well as the corresponding trademark registration of the imported products at the GOEIC. It goes without saying that this comes as a necessary step to ensure that the imported goods are not counterfeits.

On the trademarks front, Egypt follows the 10th edition of the Nice classification and a single application may not include several classes. Trademark examination is done on formal, absolute, and relative grounds and oppositions may be filed after 60 days from publication date. The protection term for a trademark is 10 years from filing date and is renewable for like periods. As for use, trademarks are vulnerable to a cancellation action by any interested party if there has been no effective use of the mark for a period of five consecutive years preceding date of filing for cancellation.

As for patents, the Egyptian Patent Office has been operating as an International Search Authority (ISA) and an International Preliminary Examining Authority (IPEA) since April 2013. With the increase in number of patent offices in the Arabic speaking countries acting as receiving offices, the Egyptian Patent Office is often selected for search and examination. There are two main reasons for this: 1) applications may be filed in Arabic only; and 2) the related fees are much more feasible to the local applicants.

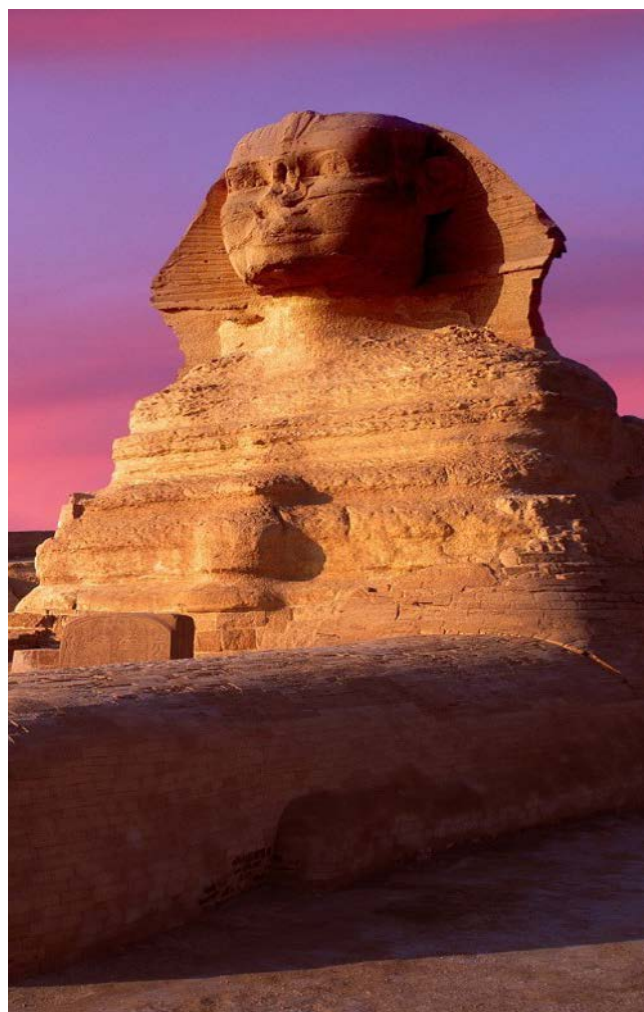


The Egyptian Patent Office has capitalized on this status by acting as the Examining authority for the Omani Patent Office, pursuant to the Memorandum of Understanding executed between these two parties in September 2014. In addition, inventors filing international applications using the Omani, Egyptian, Saudi, Qatari, or Egyptian patent offices as receiving offices can designate the Egyptian Patent Office as the ISA.

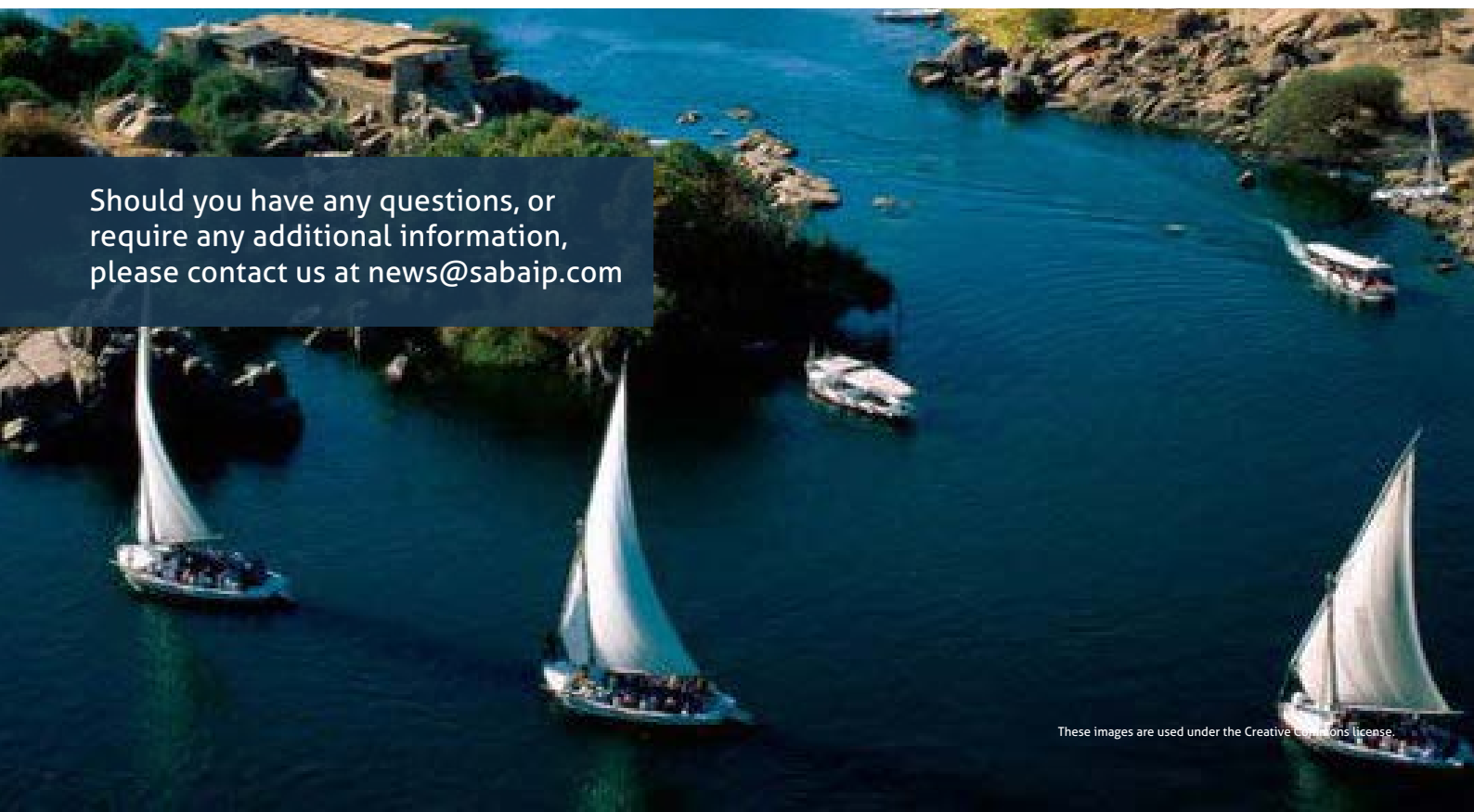
Foreign patent applications may be filed claiming 12 month Convention or entered as national stage via PCT within 30 months from the earliest claimed priority. The Egyptian Patent Office does not allow for restoration of rights under any circumstance in case of a missed deadline—not even under PCT Rule 49.6. Once allowed, the application is published upon grant in the Official Gazette and oppositions may be filed within three months from the publication date.

In line with expected PCT Rules, patents are protected for a period of 20 years, minus one day, from the international filing date. Annuities are due annually on the anniversary of the international filing date (minus one day) and payable as of nationalization of the application in Egypt. A one year grace period is observed for late payment along with a surcharge.

In short, the protection of IP assets in Egypt is a challenging and labor intensive process that requires special consideration and handling. Needless to say, rights holders should seek sound advice before they decide on the best route to in order to arrive at well-established protection strategy.



Should you have any questions, or require any additional information, please contact us at news@sabaip.com



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