

SABA
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In the scope of their continuous efforts to create competent border enforcement measures and to provide effective protection, the Saudi Customs Authority and our local affiliate in Saudi Arabia signed a strategic Memorandum of Understanding in order to benefit from the trademark recordation system for registered marks.

Upon recordation of a trademark, the SCA would stop shipments of suspected counterfeit products carrying the said trademark from entering into Saudi Arabia and issue notifications to the attorney on file so that the latter can verify the authenticity of the suspected products. If confirmed to be fake, the goods would be confiscated and destroyed by the SCA. Accordingly, brand owners with registered trademarks can apply to the SCA requesting recordation. The application must be accompanied by a copy of the certificate of registration of the mark and a power of attorney that has not been issued more than five years from the date of application, legalized up to the Saudi consulate. The SCA will then issue a recordation notice, which is valid for one year and is renewable for like periods.

One fundamental premise of the recordation system - other than providing a central registry containing information for recorded trademarks - is that it allows SCA officials to adopt an *ex-officio* border system. The key advantage of the *ex-officio* system is that it allows for prompt and proactive action by the SCA, thus avoiding the delays inherently involved in seeking judicial action.

SAUDI
ARABIA

OAPI | ADOPTING THE ELEVENTH EDITION OF THE NICE CLASSIFICATION



The African Intellectual Property Organization, better known by its French acronym OAPI, recently adopted the 11th Edition of the Nice Classification, thus replacing the outgoing 9th Edition.

The adoption of the 11th Edition will not affect trademarks already filed and registered. Upon next renewal, goods and services affected by this change should be reclassified accordingly by the Trademark Office.

It is worth noting that the amendments in the 11th Edition cover 15 class headings and explanatory notes for seven classes. Furthermore, the list of goods and services was extended by 334 terms. Major revisions in the 11th Edition include:

- Class headings affected by current revisions are those numbered 3, 6, 10, 14, 16, 17, 18, 20, 21, 22, 24, 26, 28, 31 and 45
- All serving utensils are grouped under class 21 instead of class 8
- The addition of unlocking of mobile phones under class 42
- The addition of dog walking, kimono dressing assistance, and conducting religious ceremonies under class 45
- The addition of eyelash brushes and foam toe separators for use in pedicures under class 21
- The addition of herbal extracts for cosmetic purposes under class 3
- The addition of herbal extracts and physiotherapy preparations for medical purposes under class 5
- The addition of body composition monitors under class 10
- The addition of several new goods under classes 29 and 30, including guacamole, onion rings, falafel, bibimbap, dulce de leche, almond, peanut and coconut milks, as well as nut- and chocolate-based spreads. Escamoles (prepared edible ant larvae) and edible insects have also been added under classes 29 and 31

By way of background, OAPI is comprised of Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo, Ivory Coast, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Mauritania, Niger, Senegal, Togo, and Comoros. Besides providing a central registration system of intellectual property, OAPI's mission is to afford member states the opportunity to work together, share resources and exchange ideas to meet economic and social development needs, and promote literary and artistic expression.

OAPI

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Protection and enforcement of intellectual property rights are becoming essential aspects in driving growth, innovation, and investment in the Middle East and North Africa.

IP enforcement procedures and the possible measures vary significantly from one country to the other and trademark owners are able to benefit from a wide range of enforcement options. Generally speaking, careful consideration should be given to the nature of the dispute before adopting a particular enforcement strategy whereby it is not always necessary to embark on litigation when tackling an infringement of trademark rights.

In counterfeiting cases, for instance, trademark owners have the option to pursue alternative enforcement measures by resorting to administrative bodies, some which are listed in the following article. It is also possible to record trademarks at Customs authorities in various countries in the MENA and even file complaints directly with the Customs to have imported shipments of fake goods seized and destroyed without the need to obtain a court judgment. Optimal results are achieved by awaiting the best measures that each country has to offer.



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ADMINISTRATIVE ENFORCEMENT MEASURES

United Arab Emirates - Departments of Economic Development:

The United Arab Emirates is formed of seven Emirates each of which has its own autonomous Department of Economic Development. Although the specific procedures followed by the said departments in the different Emirates may vary, all departments allow right holders to file complaints against counterfeiters and infringers which is usually followed by a raid of their premises and the seizure of the illicit goods. Some departments, such as the Dubai Department of Economic Development, allow brand owners to record their trademarks using an online portal. Pursuant to such a recordal, the department proactively monitors the market, reports traders offering suspect counterfeit products and carries out raids and seizures. It is also possible to provide the department with leads on specific targets. This system has proved extremely effective and is definitely a tool in the arsenal that rights holders should consider as part of their anti-counterfeiting strategy for the UAE. The complaint with the Department of Economic Development is unlikely to succeed though without the support of a trademark registration certificate.

Saudi Arabia – Anti-Commercial Fraud Department:

The most effective enforcement agency in Saudi Arabia is the Anti-Commercial Fraud Department at the Ministry of Economy and Industry. A successful action by the Department usually results in the seizure and destruction of the infringing products, a fine levied on the infringer and a signed undertaking from the infringer not to repeat the offence.

MENA | TRADEMARK ENFORCEMENT MEASURES



Filing a complaint with the Department achieves fast results, is simpler to put together and is considerably less expensive than seeking civil or criminal enforcement. The complaint with the Anti-Commercial Fraud Department is unlikely to succeed without the support of a trademark registration certificate. The certificates should clearly depict an appropriate representation of the mark and a relevant description of the goods. The Department may decline to act if these are not tied closely to the infringing conduct.

Customs Recordal and Complaints

Border measures are always a key tool in the fight against counterfeiting and piracy and are critical for successful intellectual property enforcement. The Customs in Algeria, Morocco, Sudan, UAE, Tunisia, Turkey, and Cyprus have established trademark recordation systems for registered trademarks.

Pursuant to these recordation systems, the owner of a trademark registration can apply to the Customs of the above-mentioned countries requesting recordation. The application should include certain information as required by the applicable policies, accompanied by the certificate of registration of the mark and a power of attorney.

The Customs will then issue a recordation notice which in turn activates a watch program whereby the trademark owner (or its representative) would be notified of suspected shipments of fake goods. Customs authorities in other countries in the region, and despite not having a formal trademark recordation system in place, can still be approached with information about brand owners and they are very active in sending notifications of suspected shipments.

In certain jurisdictions, such as the UAE, brand owners can file direct complaints with Customs authorities where the said authorities would issue administrative decisions to have fake goods seized and either destroyed or re-exported without the need to have judicial intervention.

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 4.1 percent over the past year and the GDP is \$1.199 trillion, while the GDP per capita is \$13,000. Furthermore, the GDP composition by sector of origin is 11.9 percent for agriculture, 33.1 percent for industry, and 55.7 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.

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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 accessible to the local applicants.



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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, or Qatari patent offices as receiving offices can designate the Egyptian Patent Office as the ISA.

Foreign patent applications may be filed claiming 12 month Convention priority 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 arrive at well-established protection strategy.

THE SABA NETWORK

Head Office

Saba House
Saïd Freiha Street, Hazmieh
Beirut, Lebanon
T. +961 5 45 48 88
F. +961 5 45 48 44
P.O. Box 11-9421
headoffice@sabaip.com

Algeria

Cabinet Boukrami
(In cooperation with Saba & Co. IP)
Centre Commercial et d'Affaires El Qods
10th floor, BU 10-04 B, Cheraga 16002
Algiers, Algeria
T. +213 21 34 11 61
F. +213 21 34 11 62
P.O. Box 86 Centre Commercial et d'Affaires
El Qods, Cheraga 16002
algeria@sabaip.com

Bahrain

Bahrain Tower, Al-Khalifa Road
Manama, Bahrain
T. +973 17 210 301
F. +973 17 224 699
P.O. Box 21013
bahrain@sabaip.com

Cyprus

Mitsis Building #2
14, Makarios Avenue
1065 Nicosia, Cyprus
T. +357 22 755 434
F. +357 22 754 037
P.O. Box 21143
1502 Nicosia
cyprus@sabaip.com

Djibouti

Saba House
Saïd Freiha Street, Hazmieh
Beirut, Lebanon
T. +961 5 45 48 88
F. +961 5 45 48 44
P.O. Box 11-9421
djibouti@sabaip.com

Egypt

10 Aisha El Taymouriah Street
Garden City, CP 11451
Cairo, Egypt
T. + 20 2 279 59686
F. + 20 2 279 52314
P.O. Box 129, Mohamed Farid
info@sabaip-eg.com

Ethiopia

Saba House
Saïd Freiha Street, Hazmieh
Beirut, Lebanon
T. +961 5 45 48 88
F. +961 5 45 48 44
P.O. Box 11-9421
ethiopia@sabaip.com

Gaza

Saba House
Saïd Freiha Street, Hazmieh
Beirut, Lebanon
T. +961 5 454 888
F. +961 5 454 844
P.O. Box 11-9421
gaza@sabaip.com

Iraq

Saba House
Saïd Freiha Street, Hazmieh
Beirut, Lebanon
T. +961 5 454 888
F. +961 5 454 844
P.O. Box 11-9421
iraq@sabaip.com

Jordan

56 Prince Shaker Bin Zaid Street
Al Shemissani
Amman, Jordan
T. +962 6 464 2145
F. +962 6 464 2159
P.O. Box 840553, Amman 11184
jordan@sabaip.com

Kuwait

Al Hajri Building
Al-Shuhadaa Street
Kuwait, Kuwait
T. +965 2 242 3428
F. +965 2 240 2243
P.O. Box 1245, 13013 Safat
kuwait@sabaip.com

Lebanon

Saba House,
Saïd Freiha Street, Hazmieh
Beirut, Lebanon
T. +961 5 45 48 40
F. +961 5 45 48 42
P.O. Box 11-9420
lebanon@sabaip.com

Libya

Saba House,
Saïd Freiha Street, Hazmieh
Beirut, Lebanon
T. +961 5 454 888
F. +961 5 454 844
P.O. Box 11-9421
libya@sabaip.com

Morocco

185 Boulevard Zerkoutouni
Residence Zerkoutouni
Casablanca 20330
Casablanca, Morocco
T. +212 522 251 530
F. +212 522 251 603
P.O. Box 13 921
Casablanca 20032
morocco@sabaip.com

Oman

Muscat International Centre
Beit Al Falaj Street
Muscat, Oman
T. +968 248 111 26
F. +968 248 111 28
P.O. Box 2027 Ruwi
Postal Code 112, Sultanate of Oman
oman@sabaip.com

Qatar

Gridco Building
C Ring Road
Doha, Qatar
T. +974 44 42 3992
F. +974 44 32 4106
P.O. Box 14035
qatar@sabaip.com

Saudi Arabia

Al Hadaf Marks Services LLC
(In Cooperation with Saba & Co. IP)
Office # 1, 2nd Floor, Tower B GOSI Olaya
Towers Olaya Street, Riyadh 11565
Saudi Arabia
T. +966 11 2079596
F. +966 11 2079598
P.O. Box 61145
saudi@sabaip.com

Sudan

Saba House
Saïd Freiha Street, Hazmieh
Beirut, Lebanon
T. +961 5 454 888
F. +961 5 454 844
P.O. Box 11-9421
sudan@sabaip.com

Syria

Saba House
Saïd Freiha Street, Hazmieh
Beirut, Lebanon
T. +961 5 45 48 88
F. +961 5 45 48 44
P.O. Box 11-9421
syria@sabaip.com

Tunisia

Saba House
Saïd Freiha Street, Hazmieh
Beirut, Lebanon
T. +961 5 454 888
F. +961 5 454 844
P.O. Box 11-9421
tunisia@sabaip.com

United Arab Emirates

Tamani Arts Tower - 18th Floor
Al Asayel Street, Business Bay
Dubai, UAE
T. +971 4 553 9911
F. +971 4 566 8470
P.O. Box 42259
uae@sabaip.com

West Bank

Saba House
Saïd Freiha Street, Hazmieh
Beirut, Lebanon
T. +961 5 454 888
F. +961 5 454 844
P.O. Box 11-9421
westbank@sabaip.com

Yemen

Hadda Towers, Building #7
Hadda Street
Sana'a, Yemen
T. +967 1 420 595
F. +967 1 420 596
P.O. Box 1493
yemen@sabaip.com