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INTELLECTUAL
PROPERTY

BULLETIN

June 2021



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GCC | AN OASIS FOR INNOVATION: NEW AMENDMENTS TO THE OLD GCC PATENT LAW

As the region awaits an update from the GCC Patent Office on resuming regional patent filings, the Secretariat General of the GCC in the meantime published the amendments to the GCC Patent Law, which were approved in the last meeting of the GCC summit.

The amended law was published in the Official Gazette No. 22 which was issued on April 11, 2021

In summary, the new law sees amendments or replacements of a number of articles, namely Articles 1, 4, 9, 17-21, 25, 28-30 and 32-33. Most importantly though, is the introduction of Article 1 (*bis*) and its various provisions wherein the GCC Patent Office may accept new patent filings at the request of one of the GCC national offices, as well as its examination.

No patent will be granted without the approval of the requesting national office or offices, and in all cases, a GCC patent will only be enforced in the said country or countries only.

As for pending and granted patents, these will be prosecuted and enforced pursuant to the law and regulations under which they were filed and no changes will be applied on them.

The effect of the amended law and its provisions will be applied once the implementing regulations are published. Also to be published will be the list of the participating countries and the services they may request from the filing of a GCC patent application.



KUWAIT | UPLOAD THAT: PATENT OFFICE LAUNCHES NEW ONLINE FILING SERVICE



KUWAIT

Given the recent trend in going paperless in the member states of the Gulf Cooperation Council (GCC), the Kuwaiti Patent Office (KPO) announced that it will begin receiving and processing patent applications in electronic form as of May 19, 2021.

This development, which follows the recently announced examination, publication, and grant of several pending applications, is a clear indication of the KPO's intention to secure national patents for local and foreign innovators with business and investment interests in Kuwait.

The recent update is also a recognition of the KPO's continued investment in developing its patent system, following this year's announcement that the regional GCC Patent Office stopped accepting new filings, upon which Kuwait was dependent.

GAME ON | THE INTERSECTION OF ESPORTS AND INTELLECTUAL PROPERTY



With the exponential rise of digital media, coupled with the ubiquity of smart devices, esports is a pastime that entertains millions of fans and generates billions of dollars that are up for grabs. Streaming services, especially during the global lockdown, have transformed even the most casual gamers into serious contenders, with a select few reaching celebrity status and raking in seven-figure earnings and landing massive endorsements from world-famous brands.

Esports Is Here To Stay

Esports is developing fast, and the market size is projected to reach USD 1860.2 Million by 2026, from USD 691.6 Million in 2019, at a compound annual growth rate (CAGR) of 15.1 percent during the forecast period 2021-2026. Major factors that are behind this phenomenal growth of the global esports market size are the increasing popularity and availability of video games, growing mobile penetration and internet

access, substantial investments, rising live streaming platforms, and increasing infrastructure for hosting league tournaments.

Esports encompasses a massive ecosystem that is both the playing and the watching of competitive video games. The basics of esports are comparable to traditional sports, where professional players compete in an area and are cheered on by their adoring spectators.

The modern esports ecosystem is young, complex, and fast-growing, but essentially its constituent elements are: spectator fans; skilled players (i.e., the athletes of esports); amateur and professional teams that focus on preferred video games; event/league organizers; games publishers (which actually create and distribute the video games that are used in esports); broadcasters; and finally ancillary players such as advertisers, sponsors, and merchandisers.

GAME ON | THE INTERSECTION OF ESPORTS AND INTELLECTUAL PROPERTY



Millennials and Gen Z see esports as a competitive occupation due to the growing popularity of gaming tournaments, substantial international prize pools, streaming revenues, one-to-one sponsorships, and monetary gifts from loyal fans. The rising investment in sponsorship deals with gamers are expected to increase the growth of the esports market size. Increasing investment in the last two years has created new avenues for development in the esports market.

Gain (X)IP and Level Up

When examined through the lens of intellectual property (IP) rights, esports raises a considerable number of important issues worth bearing in mind. These questions are relatively distinctive to the realm of esports, such as: To what degree does a publisher's ownership of a game give it control over the game's use as an esports? Who owns the rights in an esports tournament broadcast online? Some of these issues already exist elsewhere, but have yet to be clearly answered for esports. For example, it is important to consider if esports mechanics are protected under copyright law or if they are patentable. Another relevant consideration is to examine under which trademark classification model an esports can be registered, knowing that it is an amalgamation of video games, traditional sports, live events, and technology.

In the past, game publishers would use their IP rights and actual control over the relevant game to assert their claim. Whether their IP rights actually would work in that way if tested is an immensely complicated question that has not yet been reviewed or tested. In practice, however, this notion has been supplanted by a more straightforward contractual power over a publisher's game.

GAME ON

GAME ON | THE INTERSECTION OF ESPORTS AND INTELLECTUAL PROPERTY



These days, for most large scale tournaments, the game publisher and the tournament organizer are signing contracts that stipulate the licensing and use of the game IP in esports events, including how the events are run and marketed. The question of what IP rights are held by the publisher and which are fragmented among other stakeholders including organizers, broadcasters, clubs, and players will make its presence felt as the esports industry matures.

Trademark protection is uncommon in the realm of esports. For the few esports businesses that have trademarks, there is a lack of consistency or industry practice regarding how, where, and in what classes these trademarks should be obtained. Indeed, given the novelty of esports and the already complex and overlapping nature of trademark classification across different systems, it is not clear what the natural or ideal specification should be. We expect that the matter of classification will evolve fairly rapidly in the next few year.

This is due to the competition between different businesses and the legal demands that will be made by investors and commercial partners, such as sponsors.

In traditional sports, image rights and other player-focused IP is an important facet for monetization and making profits. For example, famous athletes, like Michael Jordan, have a plethora of trademarks that span the globe. While some degree of image rights exploitation takes place in esports, it is nothing like the level of traditional sports that is often controlled by professional clubs. It will be some time before esports sees meaningful individual player sponsorship or endorsement where a player has taken control of and exploited their own IP and image rights. Image rights in esports will highlight some unique issues. For example, no player has obtained a trademark registration for their gamer tag, which is the core of their identity as a professional player.

PAKISTAN | ONLINE ANTI-COUNTERFEITING MEASURES

With its significant geopolitical position in South Asia that provides the country with convenient access to the international market, Pakistan is nestled in the cradle of the historical Indus Valley civilization, which dates back at least 5,000 years.

In a more contemporary context on the legal scene, Pakistan maintains a relatively comprehensive regulatory and legislative system for the protection of trademarks, patents, designs, and copyright.

When it comes to cyberspace, however, Pakistan has been ranked 76th out of 100 countries on the Inclusive Internet Index 2020 released by the Economist Intelligence Unit (EIU), falling into the last quartile of the global index overall. By way of background, the annual report is commissioned by

Facebook and benchmarks countries on the Internet's availability, affordability, relevance and the readiness of people to use it.

Despite this gap in connectivity and access to the worldwide web, online counterfeiting is widespread in Pakistan due to the country's strategic location bordering China, India and Afghanistan. This means that a high volume of trade in goods, both internationally and locally, is expected to be in transit at any given moment in Pakistan. With that said, this does not mean that the authorities concerned in Pakistan turn a blind eye to illicit activity, even when users think they are anonymous online.



PAKISTAN | ONLINE ANTI-COUNTERFEITING MEASURES

It is possible to file legal proceedings in front of an IP Tribunal to obtain an injunction against the unauthorized registration and use of a domain name by an infringer or counterfeiter. Courts in Pakistan also have the jurisdiction to issue restraining orders to block access to infringing websites that are offering counterfeit products for sale.

In case an infringer or counterfeiter has succeeded in registering a .PK domain which infringes a registered or well-known trademark, the rights owner has two options: (1) To initiate a Uniform Domain-Name Dispute-Resolution Policy (URDP) complaint, which may result in the domain being removed or transferred to the complainant; and (2) To file a suit for infringement or passing off against the opposing party before the IP Tribunal with an application for interim injunction against continued operation of the domain.

This order shall then be served on Pakistan Telecommunication Authority (PTA) and Pakistan Network Information Centre (PKNIC), which manages the .pk ccLTD, to block access to the infringing domain. It is worth noting that if the domain name does not end in .pk, then option 2 is not available.

The rights owner may file a criminal complaint through the local police, or the Federal Investigation Agency, against merchants selling counterfeit products online. Action will be taken by a written complaint filed with a proof of ownership of the intangible rights. The offense is persecuted under the Copyright Ordinance 1962 (amended in 2000), the Trademark Ordinance 2001 and the Penal Laws of Pakistan.

Investigations, anti-counterfeit raids, destruction of fakes and the arrest of the infringer. The case will then be transferred to the Criminal Court for further trial under the Criminal Procedure Code of Pakistan.

THE BIGGER YOU GROW,
THE STRONGER WE GET



90⁺
YEARS

50⁺
JURISDICTIONS

1
FIRM

COUNSELING | PROSECUTION | ENFORCEMENT | ANTI-COUNTERFEITING

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