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### **What You Need to Know About Protecting Your Marks in MENA**

The Middle East and North Africa (MENA) receives its fair share of news on the international circuit. At the forefront, the economic boom, which began in Saudi Arabia and the United Arab Emirates (UAE) a few years ago, is still going strong, along with the introduction of a number of reforms which are steadily fueling the diversification of the economy and attracting both national and foreign investment. Egypt's economy also continues to grow and draw considerable attention from foreign investment given the development of a number of industries, including manufacturing, food processing, agriculture, hydrocarbons, and pharmaceuticals, and other service sectors that are driving the country's relatively diverse economic activity.

Brand owners have become increasingly aware of the importance of extending their trademark portfolios to the rapidly developing MENA market. A combined, relatively young population of half a billion, growing at double digit rates, plays a significant role in making the region one of the fastest-growing markets in the world with a five-year compound annual growth rate outlook of 9 to 30 percent depending on the field or sector.

With that in mind, it is worth noting that the countries and jurisdictions in the MENA region follow the first-to-file principle for trademark registration, and thus, it is advisable for brand owners to seriously consider filing before unscrupulous individuals or entities exploit their brand's goodwill. The standard definition of a trademark is somewhat common and the absolute grounds for registration in the countries and jurisdictions of the region are relatively the same with some minor differences. Ex officio examination on relative grounds is performed all over the region, with the exception of Lebanon and Tunisia. Nearly all countries, except Algeria and Lebanon, provide interested third parties with an opposition period prior to registration, which ranges from 30 days to several months from the publication date.



#### Importance of Protecting Brands in the Arabic Language

Arabic is the official and main language in all the MENA countries and certain considerations arise when it comes to the protection of trademarks. In some countries, it is highly recommended to register trademarks in Arabic if intended to be used on signboards. In most countries and jurisdictions in the MENA, marks may be registered in Latin script, either on their own or alongside their Arabic translation or transliteration.

Even though transliterations are protected by law in many MENA countries, because of the immense lexicon of the Arabic language, it is highly advisable for brand owners to register their brands in Arabic characters as to how they want the brand to be used and recognized. This gives them better protection against any alterations in the Arabic version of their mark which are similar to their own.

#### Non-Conventional Marks in the MENA

Despite the novelty and unfamiliar nature of non-conventional marks in the MENA, Saba IP has successfully filed non-conventional marks in many countries, namely Saudi Arabia, Oman, and the UAE. Recently, both the Saudi Authority for Intellectual Property (SAIP) and the Omani Trademark Office accepted their first sound trademark application, which was examined as to form only, and it was subsequently registered.

In the absence of fundamental principles of the protectability of sound marks, including related definitive issues such as specific articulation or affixation/product connection requirements, gray areas in the legislation and the implementation have still to be clarified. In addition, there are no precedents on how prior cases regarding infringement of unconventional sound trademarks have been decided. The existence of such precedents gives an indication of how the judicial interpretation of the laws would be in cases involving identical circumstances.

Therefore, the question of enforceability of sound trademarks is a matter solely determined by the articles on trademark infringement as referred to under the local law, depending on the country or jurisdiction. Many registrations of non-conventional marks have also been witnessed in the UAE, where 3D trademarks are proving extremely helpful for clients to enforce their rights against look-alike infringing products.

### **Digital Assets in the MENA**

Protecting non-fungible tokens (NFTs) and other digital assets in the MENA region requires proper due diligence and local familiarity with the relevant laws. While it is possible to protect NFTs in theory, the practice may vary from one jurisdiction to another.

For instance, in the UAE, applicants may select a detailed description of the goods and services to be claimed for the protection of digital assets under classes 9, 35, 41, 42, and other relevant ones, while in some of the other countries in the region, class headings might be an alternative option.

As NFTs continue going viral, they present both opportunities and potential risks for brand owners. This necessitates the identification of local representatives with the ability to not only understand the legal aspects of these rights, but also advise on the proper way to enforce and protect intellectual property (IP) rights in the digital realm.

### **Conclusion**

It is evident that setting an IP strategy for the protection of a brand, company, or product name in the MENA is highly recommended and needed, and should consider the elements that are unique to the region. Additionally, and to safeguard and enforce valuable marks, brand owners must continuously monitor trademark publications and react immediately against any potential infringement or damage to their existing rights.

With several trademark offices issuing office actions, and in most countries in the local language, Arabic, applicants tend to depend on their local representative to fully understand the technical and legal implications and provide a strategy for filing the best response to address these reports in a methodical, adequate, and timely manner. In many instances, an interview with the registrar may be required. The applicant's local representative should be able to understand the applicant's strategy and argue with the registrar as needed to address any comments made during examination hearings.

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### MENA IP Key Facts

Country	Nice Classification	Multiple/ Single Class Application	POA	Priority	Opposition Period from Publication Date	Protection Term	Renewal Grace Period
Algeria	10 <sup>th</sup>	Multiple	Simply signed	Yes	-	10 years	6 months
Bahrain	11 <sup>th</sup>	Single	Legalized	Yes	60 days	10 years	6 months
Egypt	10 <sup>th</sup>	Multiple	Legalized	Yes	60 days	10 years	6 months
Gaza	10 <sup>th</sup>	Single	Simply signed	No	3 months	7 years	1 month
Iraq	7 <sup>th</sup>	Multiple	Legalized	Yes	90 days	10 years	6 months
Jordan	11 <sup>th</sup>	Single	Legalized	Yes	3 months	10 years	1 year
Kuwait	10 <sup>th</sup>	Single	Legalized	Yes	60 days	10 years	6 months
Lebanon	11 <sup>th</sup>	Multiple	Legalized	Yes	-	15 years	3 months
Libya	8 <sup>th</sup>	Single	Legalized	Yes	3 months	10 years	6 months
Morocco	11 <sup>th</sup>	Multiple	Simply signed	Yes	2 months	10 years	6 months
Oman	11 <sup>th</sup>	Single	Apostille	Yes	60 days	10 years	6 months
Qatar	11 <sup>th</sup>	Single	Legalized	Yes	4 months	10 years	6 months
Saudi Arabia	10 <sup>th</sup>	Single	Legalized	Yes	60 days	10 Hijri years (~ 9 years and 8 months)	6 lunar months
Sudan	9 <sup>th</sup>	Single	Legalized	Yes	8 months	10 years	6 months
Tunisia	11 <sup>th</sup>	Multiple	Simply signed	Yes	60 days	10 years	-
United Arab Emirates	10 <sup>th</sup>	Single	Legalized	Yes	30 days	10 years	3 months
West Bank	10 <sup>th</sup>	Single	Legalized	Yes	3 months	7 years	1 month
Yemen	8 <sup>th</sup>	Single	Legalized	Yes	90 days	10 years	12 months