

THE ESSENTIAL A-Z OF IP IN THE UAE

ARABIC

The official language of the region. Consider developing and protecting Arabic branding to help commercialise your goods/services. It is recommended to protect the Arabic branding as well as the non-Arabic branding.

ANTI-COUNTERFEITING

Strategies and procedures that help detect, seize and destroy counterfeit goods in the market through custom authorities and civil, criminal or administrative actions.

A

BRAND PROTECTION

The act of seeking to prevent third parties from using a right holder's IP without permission.

BERNE CONVENTION

As a member state of the Berne Convention, the UAE does not impose any copyright registration requirements to receive adequate protection and enforcement of copyright works in the UAE.

COMMERCIALISATION

The process of bringing your IP asset to the market and monetising it.

CONFIDENTIALITY

Confidentiality provisions and agreements establish and protect a company's trade secrets and any other information that is generally not available to the public and is intended to be kept secret or private.

C

DED

Department of Economic Development is a government body based in each emirate with the main purpose of developing economic plans and policies, identifying and supporting strategic sectors and providing services to domestic and international investors and businesses.

ENFORCEMENT

Administrative and criminal enforcement options may be available and can be effective, provided you have the registered/granted rights. Civil actions can also be filed through the Courts, though due to the lack of IP experience within the Courts system, these actions can be far less reliable and predictable.

E

FIRST-TO-FILE

The UAE is a first-to-file jurisdiction and, in practice, registered rights are generally required for effective enforcement. The UAE affords limited recognition to unregistered marks and marks that are considered famous but have not been registered in the UAE.

FALSE ADVERTISING

Advertisements that contain representations that are false, misleading or deceptive are illegal under UAE laws.

F

GCC (GULF CO-OPERATION COUNCIL)

The trading bloc of 6 Gulf countries - Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE. The GCC Patent Office suspended accepting new GCC patent applications as of 6 January 2021. Any applications filed prior to 6 January 2021 will continue to be prosecuted and granted based on eligibility. Granted patents remain in force. Patents must now be filed in each GCC country separately.

G

HOMEWORK

Do your homework before seeking local partners. To do business in the UAE you are likely to require a local partner for your local business. Consider clearance and registration of your key trademarks before you approach third parties as there have been instances where potential business partners registered the trademarks when they realised the brand owner has yet to do so.

H

INFRINGEMENT

The unauthorised use of IP rights protected under UAE IP laws.

INCONTESTABLE TRADEMARKS

Once a trademark has been registered and used for a period of five years from the date of its registration, its ownership can no longer be disputed.

JUDGES

There are very few specialist IP judges in the region. The UAE judiciary has worked with bodies in France and the US to train up a small number of judges and other members of the judiciary in IP matters, which has led to the introduction of specialist IP court circuits, but not specialist IP courts.

J

KNOW-HOW

Practical knowledge and expertise that your company uses and develops in order to carry out particular activities, processes or to achieve a desired outcome. It is an important asset which can be protected.

LEGALISATION

You may need to provide legalised supporting documents to manage your IP rights in the region. It can take time to finalise these and they can be costly. These need to be considered as part of your IP prosecution.

LICENSE

A rights holder is able to monetise its IP asset by entering into an IP licensing agreement whereby the rights holder retains ownership of its IP rights, but grants another party permission to use a portion or all of such IP rights for a specific period of time.

L

MADRID PROTOCOL

An international treaty designed to simplify the international trademark registration process. The UAE is not a member of the Madrid Protocol. If you are intending on using, exploiting and enforcing your IP rights in the UAE, you will need to file a national application with the Ministry of Economy.

MORAL RIGHTS

Rights granted to authors which consist of disclosure of the work, the right of attribution and the right of integrity.

M

NICE CLASSIFICATION

Is an international classification of goods and services created for the purpose of registering trademarks which has been adopted by the UAE.

NDA

A non-disclosure agreement, commonly known as an NDA, is one of the best ways to protect the disclosure of valuable information and IP owned by your business in dealings with third parties.

OUT-LICENSING

When an individual or company allows another to use its IP in exchange for a fee, typically in the form of royalties.

O

PUBLICATION

Once a trademark is accepted for registration, it will be published in the Official Gazette and two local newspapers. Once published, the trademark is open for opposition by any third party within 30 days of publication.

PATENT COOPERATION TREATY

A treaty that assists applicants seeking patent protection for their inventions internationally in designated member countries. It can be used to manage costs and timings of patent filings as you look to commercialise your innovation.

PROTECTION

The first step to protection is often registration of your IP right before the Ministry of Economy in the UAE.

QUALITY

To have time to prepare a quality translation for your patent, provide instructions as early as possible, preferably at least 4 weeks prior to the priority filing date, so that there is time to prepare the translation of the technical original language into Arabic.

REGISTRATION

Registered/granted rights are important for being able to take action against infringements and counterfeits. Without registered rights, you may not be able to take action, or you may find that your only options are an expensive court case, rather than the potentially more cost effective administrative or criminal enforcement action.

R

SENSITIVITIES

Particularly cultural sensitivities. Will the brand or the marketing campaign work in this region? Are any changes needed in order to avoid causing offence? You may have to change your branding and/or your marketing campaigns in order to respect the local culture in the Arab world.

SUPPORT

We are here to support YOU. Gowling WLG's IP team in the Middle East are on hand to assist you with any IP requirements you may have. See contact details below.

TAKEDOWN REQUEST

The process operated by online hosts in response to court orders or complaints filed by right holders alleging that the content at issue is infringing.

TRANSLATION

Important considerations for your Arabic branding, do you want the Arabic word which conveys the same meaning (if one exists), or the Arabic word which sounds the same/similar (usually a made up word in Arabic) to your non-Arabic brand?

TRADEMARK

A design, symbol or word, or branding element (traditional or non-traditional) that identifies and distinguishes the source of goods and/or services.

T

UNREGISTERED RIGHTS

The UAE Trade Mark law provides a level of protection of unregistered trademark rights, as well as registered rights, these are likely to require a civil action before the Courts in the case of infringement. Where they are relied on in opposition matters, significant evidence and supporting materials will be required to help demonstrate the existence of any unregistered rights.

U

VERIFICATION

The UAE does not operate a free online IP register you are able to check. Searches need to be conducted through the IP officials generally, and you may need to obtain certified copies of the rights in question. Even then it is not uncommon for the official data to be out of date or incomplete in a number of countries.

V

WIPO

The World Intellectual Property Organisation is an international organisation that was created to promote and govern IP protection across the world.

W

CROSS

Be aware that the UAE may raise issues with the use or registration of religious symbols, the most common symbol objected to being the cross. This can cause issues if used to designate a pharmacy, or the Swiss flag or similar on packaging or in an application.

Y

Y is IP protection important? IP protection is critical to fostering innovation. Without protection of people's ideas and works, individuals and companies would not reap the full benefits of their inventions and would less likely invest more time and efforts on research and development.

ZONES

More particularly Free Zones such as DMCC. These are special economic areas in which it is possible to have a company which is 100% foreign owned, which may not be permitted to trade onshore directly. You may have to set up an onshore company or have an onshore distributor, licensee or franchisee to sell your products or offer your services.

Z

For further information on protecting your brand in the UAE, contact Jon Parker, jon.parker@gowlingwlg.com or Rachel Armstrong, rachel.armstrong@gowlingwlg.com



GOWLING WLG