Doing Business in the United Arab Emirates
An Introduction to the Laws on Intellectual Property Rights

1. Introduction

UAE law recognises a broad range of national intellectual property rights, which are similar in form to those under the UK, European and US systems. By virtue of the UAE’s membership of certain worldwide conventions on intellectual property (e.g. the Madrid Convention, the WTO, TRIPS, Patent Cooperation Treaty 1970 (the PCT), etc.), there is also recognition within the UAE of worldwide intellectual property rights. The federal Ministry of Economy handles intellectual property registration.

2. Patents (or Industrial Property)

Patents are protected under the UAE’s Industrial Property Law (Federal Law No. 17 of 2002), as amended by Federal Law No. 31 of 2006. The UAE operates under two systems, the Patent Cooperation Treaty (PCT) system for domestic patents, and the Gulf Cooperation Council (GCC) Patent system which provides a mechanism for regional filings of patent applications within the GCC countries. The GCC is not part of the PCT system, so patent applications of local interest only should be filed through the GCC system. The number of patents registered in the UAE annually is very small, and as the UAE is an importing country, infringement issues are usually dealt with in the US or Europe. However, it is possible to register patents in the UAE to maximise protection. Obtaining a grant is expensive and time consuming, because the examination for patentability is outsourced. Infringers of patents registered in the UAE are subject to limited damages, fines and possible imprisonment. Patent litigation is time consuming, costly and very rare. While there has been some discussion of law reform, because statutes relating to patents and statutes relating to confidential information need to be separated, none has taken place to date.

3. Copyrights

Federal Law No. 7 of 2002 Concerning Author’s Rights and Neighboring Rights gives copyright protection to a wide range of works. Copyrights are protected in the UAE in accordance with widely accepted international conventions, though there are some areas (notably in the area of ownership of employee works and the assignment of future copyright) where UAE law diverges from international norms. For employers it is important to ensure that copyright works such as software are written by more than one author so as to avoid the worst consequences of the law limiting the assignment of future copyright. Before suing under copyright, works must be registered. This is largely to establish title. In the court system, enforcement is based on criminal law principles, which means that fines – often inadequate – are levied, but injunctions against future conduct are not awarded. Damages are per consignment before the court and not generally for all infringement, and therefore are inadequate.

4. Trademarks and Trade Names

Federal Law No. 37 of 1992 (as amended by Law No. 19 of 2000 and Law No. 8 of 2002) gives protection to both trademarks and trade names. Trademarks and the applications procedures are slow and expensive and not computerised, so searching is difficult. Registered trademarks are a federal right, but business names are dealt with locally by each Emirate, which makes for multi-layer protection and enforcement. The UAE trade mark office
does not allow filing of multi-class applications for trademarks. Dubai customs seems to have efficient means of border control, but the other Emirates are less well-equipped. In the court system, enforcement is based on criminal law principles, which means that fines are levied, which are often inadequate, but injunctions against future conduct are not awarded. Damages are per consignment before the court and not generally for all infringement, and therefore are inadequate.

5. Confidential Information

The UAE’s Industrial Property Law (Law No. 31 of 2006), which deals also with patents and industrial designs, specifically protects trade secrets. The UAE’s general contract law, unfair competition law and various confidentiality provisions in specific areas of law (e.g. employment law) also protect know-how and confidential information. The absence of a uniform trade secrets law means there is a degree of uncertainty as to protection of these rights under UAE law. The statute for protecting confidential information is also the statute which protects patents, which is a particular problem, because it results in conflict in attempting to resolve competing rights. Consequently the best protection is through contracts with employees and third parties, and this does seem to be enforceable. In recent years, both the DIFC and the Ministry of Economy have looked at issuing a separate draft law on trade secrets, but at the time of writing, neither law has been enacted. UAE Courts will generally act to prevent the confidential information of one party being used or disclosed by another party, especially where there are contractual relations, including contracts of employment.

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