

PROTECTING YOUR TRADEMARK IN THE UAE

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Most company executives often focus on setting up businesses in new jurisdictions, expanding an existing business or improving the quality of their goods or services. However, they often overlook the critical need to protect their valuable trademarks in the enthusiasm of increasing profitability of the company. Achieving immediate business goals is crucial, but it is also equally important to consider how one can protect the company's trademark or even whether or not the trademark infringes the rights of others before registering the new corporation. The same holds true if you plan to do business in the United Arab Emirates (UAE), or if you are already conducting business there.

The Government of the UAE has taken commendable steps to put in place robust trademark laws. The current approach to the protection of trademarks and the mechanisms through which this protection is carried out in the UAE are very similar to those used in Western jurisdictions and will be familiar to many business managers already acquainted with intellectual property issues. Trademarks in the UAE are well protected by Federal Trademark Law No. 37 of 1992 (amended by Federal Law No. 8 of 2002) ("Trademark Law"). The Trademark Law contains a range of provisions outlining the procedural steps required to register a trademark and the penalties for breach. This article discusses some of the pertinent steps to guard one's trademark in the UAE and how to deal with any potential infringements.

Register your trademark

A trademark is used to distinguish the goods and services of one trader from those of another; to put it simply, a trademark could be a word, phrase, signature, drawing, symbol, hallmark, stamp, vignette, logo, picture and/or aspect of packaging that is unique to an organization. Once your trade mark becomes a valuable asset, it may become a target for competitors in the region. New companies may try to use your trademark without your permission thus either unfairly leveraging the equity that you

would have accumulated over the years or at worse erode your trademark's equity. So, how do you ensure that your company's trademark is protected? This is a question which we are often asked particularly from international businesses looking to move into the UAE.

It goes without saying that foreign companies should register their trademarks in order to acquire their rights and protect them. Registration of trademarks in the UAE is accomplished by means of an application to the Trade Mark Section of the Ministry of Economy and Commerce. By investing in such protection, a company will obtain exclusivity over the rights, which means being able to protect others from using the same right.

In addition to the initial trademark registration at the Ministry of Economy and Commerce, you can also register your trademark at UAE Customs which will enable the customs authorities to file and archive your trademark related data and detect any counterfeited trademarks.

Potential Infringement Problems and how to deal with them

Like any other region in the world, trademark infringement is a major problem in the UAE and the effect of which can be very serious for your company. The legislation demonstrates the clear aim of protecting trademark rights in the UAE, in line with many other developed economies. However, if a company does not have good title to its trademark, it could be at risk of infringement.

If you identify any parties infringing your trademark, you can take legal action against them in a variety of forms, from issuing warning letters to commencing criminal action. It is also worth noting that a holder of a trademark can commence civil proceeding for infringing use of the trademark. However, enforcement can be an issue depending on the strength of your right. In this region the key for enforcing your rights is registration. For example, you do need to register your trademark with the relevant government in order to give you the best chance of stopping a third party from infringing your rights. In this region, the enforcement authority would need to see a copy of the registration of your trademark showing what your rights are and what they should protect you for.

The Trademark Law also provides criminal remedies for infringement of trademarks in the form of fines and/or imprisonment. You can also take action against trademark infringements through Dubai Customs which has the mandate to stop infringing products before entering the country, thus making your trademark protection more efficient and secure.

Conclusion

It is therefore highly recommended that businesses draw up and implement a plan for operating in the UAE, particularly in relation to how trademark rights are handled. A trade mark is one of the most valuable assets that you can own. To guard and enforce the rights you have over your trademark, it is recommended to register your trademark at the time of setting up your business in the UAE. This will enable your company to have a sustainable corporate name capable of building the goodwill of the business. Last but not the least, companies must constantly be watchful for and strenuously defend against the infringement of registered trademarks in the region.