

*(Translation by Dr. Sayed M. Hosni
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*Federal Law No. (37) for the year 1992
concerning Trade Marks*

We, Zayed bin Sultan Al Nahyan, President of the United Arab Emirates.

After considering the Provision Constitution,

*And Federal Law No. (1) for the year 1972 concerning the jurisdiction of
the Ministries and the competence of the Ministers and Laws amending
it.*

*And Federal Law No. (4) for the year 1979 concerning Suppression of
Fraud and Deceit in Commercial Transactions.*

*And Federal Law No. (5) for the year 1985 issuing the Civil
Transactions Code and the Laws amending it.*

And Federal Law No. (2) for the year 1987 issuing the Penal Code.

*And Upon the submission of the Minister of Economy and Commerce and
the consent of the Council of the Ministers and the Federal National
Council and the approval of the High Federal Council.*

We issue the following Law:

Part - I

Definitions

Article (1)

*In the application of the provisions of this Law, the following words and
phrases shall have the meanings shown opposite each, unless the context
otherwise requires:*

<i>: The United Arab Emirates</i>	<i>The State</i>
<i>: The Minister of Economy & Commerce</i>	<i>The Minister</i>
<i>: The Ministry of Economy & Commerce</i>	<i>The Ministry</i>

: *The Competent Authority in the Emirate* *The Competent Authority*
 : *Each design containing a number of seen* *The Drawing*
parts
 (*an artistic composition*).
 : *Each one seen drawing* *Symbol*
 : *Engraved hallmarks* *Hallmarks*
 : *The Relief Marks* *Vignettes*
 : *The Picture of the person whether it was the* *Pictures*
Picture of the owner of the project or
otherwise.
The Committee of Trade Marks provided for *The Committee*
in this law.

Article (2)

The following shall be considered a trade mark:

Names, worlds, signatures, letters, numbers, drawings, symbols, addresses, hallmarks, stamps, pictures, vignettes, notices, packages or any other mark or combination of marks having a distinctive form and used or meant to be used - in distinguishing goods or products of whatever origin, or in showing that the goods or products are owned by the owner of the trade mark because he manufactured it or selected it or traded in it, or rendered a service under it.

A sound shall be considered part of the trade mark if it was accompanying it.

Article (3)

The following shall not be registered as trade marks or as component elements thereof.

Marks deprived of any distinctive character or marks composed of statements which are merely appellations in use for such goods, products and services or common designs and usual pictures of the said goods and product s. (1)

Any mark which violates public morals or is contrary to public order. (2)

Public emblems, flags and other symbols relating to the country or to Arab or international organizations or one of its divisions or to a foreign country unless authorized by it - as well as any imitation of such emblems or flags or symbols. (3)

Symbols of the Red Crescent or Red Cross and other similar symbols imitating it. (4)

Marks which are similar to or resemble symbols of a religious character. (5)

Geographical names when they would create uncertainty as to the origin or source of the goods or the products or the services. (6)

The name or surname of a third party or his picture or his emblem unless his, or his heirs, consent has been obtained in advance. (7)

Indications of honorary distinctions to which the applicant cannot prove that he is legally entitled. (8)

Marks which are likely to deceive the public or which contain false indications as to the origin or source of the products or the services or as to its other characteristics, as well as Marks containing an indication of a fictitious, falsified or counterfeit trade name. (9)

Marks belonging to physical or moral persons under interdict. (10)

Marks, the registration of which for certain category of products or services would result in prejudicing the value of other products or a services which the former mark distinguishes. (11)

Marks which contain the following words or phrases: (Distinction) or (having distinction) or (Registered) or (Registered design) or (Copyright) or (Imitation shall be considered counterfeit) or such other similar words or phrases. (12)

Article (4)

Foreign trade marks of an international firm which transcends the boundaries of the origin country of the trade mark to other countries may not be registered except upon application of the original owner.

Part (II)

Registration and de-registration of trade marks

Article (5)

The Ministry shall keep a register to be called "Trade Marks Register" which shall be registered all trade marks, names and addresses of their owners, type of their activity, description of their goods or products or services and any assignment or transfer of ownership or change of license to use or any other amendments.

Every person may apply for a true copy of the contents of the said register upon payment of the prescribed fees.

Article (6)

The following persons shall have the right to register their trade marks:

U.A.E. Physical or moral persons who exercise any commercial, (1) industrial handicraft or service activity.

Non-U.A.E. physical or moral persons who exercise any commercial, (2) industrial, handicraft or services activity in the state.

physical or moral persons who exercise any commercial, Non U.A.E. (3) industry, handicrafts or services activity in any country which grant the State reciprocal treatment.

Public moral persons. (4)

Article (7)

Each person desiring to use a trade mark to distinguish any goods or products or services may apply for registering it in accordance with the provisions of this law.

The application for registration of a mark shall be submitted to the Ministry in accordance with the procedures and conditions prescribed in the Executive Regulations.

Article (8)

The trade mark may be registered in respect of one or more of the classes of products or services set out in the Executive Regulations.

Article (9)

One application may be submitted for the registration of several marks which resemble each other in material particulars yet differ in respect of matters of non-distinctive character which does not substantially affect the identity of the trade mark, such as the colour or the statements of the products or services in relation to which they are respectively used, and provided that the said products or services are of one class.

Article (10)

Without prejudice to Article (26) of this law, a trade mark which is identical or similar to a mark already registered in respect of the same classes of products or services may not be registered.

If the Committee confirms the Ministry's decision in refusing the application or making it conditional upon compliance with certain requirements, the applicant may appeal against the said decision before the competent civil court within sixty days after the date of notifying it to him.

If the applicant didn't appeal the decision of the Ministry, or file an opposition against the decision of the committee, within the periods prescribed in this article, or if he did not comply with the limitations or conditions required by the Ministry within the period prescribed in the notification given to him in this respect, he shall be considered as having withdrawn his application.

Article (13)

The Trade Marks Committee shall be composed of the Under-Secretary of the Ministry of Economy & Commerce as Chairman and the membership of two representatives of the Ministry and one representative of each Emirate to be chosen by the competent authority.

Article (14)

Where a trade mark is accepted the Ministry shall - before registering it - publish it at the expenses of the applicant in the official gazette and in two daily newspapers issued in the State.

Any person interested may oppose the registration of the trade mark by addressing, within thirty days after the last publication, a notice in writing to the Ministry or sending it by registered mail. The Ministry shall send a copy of the notice of opposition to the applicant within fifteen days after receiving it.

The applicant may furnish the Ministry with a written reply to such opposition within thirty days after the date of notifying it to him. If no reply is received during that period, the applicant shall be deemed to have withdrawn his application.

Article (15)

Before deciding upon the oppositions submitted to it, the Ministry shall, upon request of either party, hear both parties or either of them.

The Ministry shall issue its decision, refusing or accepting registration, and may - in the latter case - impose such limitations or conditions as it thinks fit.

Any person interested may oppose the decision of the Ministry within fifteen days after its notification to him by a notice to the Committee. He may appeal against the decision of the Committee to the competent civil c

The appeal against the decision of the Committee to accept registration of the trade mark shall not have the effect of suspending the registration procedures unless otherwise decided by the competent court.

Article (16)

The registration of a trade mark, when registered, shall take effect as of the date on which the application for registration was submitted.

As soon as registration of the trade mark is effected, a certificate shall be issued to the owner containing the following information:

The registration number of the mark. (1)

The filing date of the application and the date of registration. (2)

The trade name or the name of the owner of the mark, his (3) nationality and his place of residence.

A facsimile of the mark. (4)

An indication of the products, goods or services in respect of which (5) the mark is registered and the class of such products, goods or services.

Article (17)

The person who has a trade mark registered in his name shall be considered its exclusive owner. Ownership the trade mark may not be disputed if such trade mark has been used by its registered owner continuously for at least five years after the date of its registration without a case relating to its validity has been raised against him.

Article (18)

The Owner of trade mark already registered may apply - at any time - to the Ministry of making additions or alterations to the trade mark, which do not substantially affect the identity thereof. The Ministry's decision in this regard shall be issued in accordance with the conditions and rules prescribed for deciding upon the original applications for registration, and shall also be subject to opposition and appeal with the same procedures prescribed therefor.

Article (19)

The duration of the protection of a mark resulting from its registration shall be ten years. The owner of the mark may ensure the continuation of the protection for further consecutive periods of ten years by submitting during the last year of the current protection period an application for renewal of the mark in accordance with the manner and conditions prescribed in this law and its Executive Regulations.

The mark shall be renewed without any new examination and without the possibility of opposition by third parties. The renewal of the registration of the mark shall be published at the expenses of the owner in the official gazette and in two daily newspapers issued in the State.

At the time of renewal, no change may be made in the mark, and no addition to the list of goods or services in respect of which the mark is registered shall be allowed.

The Ministry shall -during the month following the expiration of the protection period - send to the owner of the mark through his address recorded in the Register a written notification of the date of expiration of the protection period. If the owner of the mark fails to submit the application for renewal within three months after the date of expiration of the protection period, the Ministry shall - of its own volition - remove the mark from the Register.

Article (20)

The owner of the trade mark may apply for removing it from the register, either in respect of all or part of the products or services for which the mark was registered , by submitting an application for removal in accordance with the procedures and conditions prescribed by the Executive Regulations of this law.

If the owner of the mark has granted, by contract, to a third person a license to use the mark, the said mark may not be removed from the register except upon written consent of the licensee unless the licensee expressly renounces his right in the license agreement.

Article (21)

Without prejudice to the provision of Article (17) , the Ministry and any person interested may apply to the court for a decision ordering the

removal of the trade mark from the register if such mark was registered wrongly. The Ministry shall effect removal of the mark from the register upon submitting to it a final decision to the effect.

Article (22)

At the result of any person interested, the competent civil court may order a mark to be removed from the Register, if it was proved to it that during five consecutive years - the owner failed to effectively use the mark, unless he was able to justify his inaction.

Article (23)

At the request of the Ministry or any person interested, the court may order the addition to the register of any information which might have been admitted through an oversight, or order the deletion or amendment of any information recorded in the register if such information was wrongly recorded or was not true.

Article (24)

The Ministry shall remove -ex officio - marks which the Israeli Boycott Office in the state decides that it is similar or identical to an Israeli mark, symbol or emblem, and also marks belonging to persons under an interdict by virtue of a decision to that effect.

Article (25)

The removal of a trade mark from the register shall be published in the official Gazette.

Article (26)

If a trade mark is removed from the register, it shall not be re-registered in the name of another person for the same products except after the elapse of three years from the date of its removal from the register.

Part III

Article (27)

Transfer of the ownership of a trade mark or levying a charge on it or attaching it may be effected together with the commercial establishment or the enterprise in respect of which the trade mark is used to distinguish its products and services, or it may be effected independently from them.

Article (28)

Transfer of the ownership of the commercial establishment or the enterprise shall include the trade marks registered in the name of the transferor which can be considered as closely related to the establishment or the enterprise, unless otherwise agree.

If the ownership of a commercial establishment or an enterprise is transferred without the trade mark, the transferor may continue to use that trade mark for the goods or services for which it was registered, unless otherwise agreed.

Article (29)

Transfer of the ownership of a trade mark or levying a charge on it shall have no effect against third parties unless recorded in register of trade marks and published in the way prescribed by the Executive Regulations.

Part IV

Article (30)

The owner of a trade mark may, by a written and notarized contract, grant to any other person or persons a license to use the trade mark for all or part of the goods or services in respect of which the trade mark is registered. The owner of the trade mark may also use the trade mark himself unless otherwise agreed. The duration of the license to use

the trade mark should not be longer than the period prescribed for its protection.

Article (31)

the license agreement to use the trade mark shall be recorded in the register of trade marks. The license shall have no effect against third parties until it has been recorded in the Register and published as prescribed in the Executive Regulations.

Article (32)

A licensee may not assign the license to third parties or grant sub-licenses, unless otherwise provided in the license agreement.

Article (33)

The recording of the license may be removed from the register on the request of the owner or the licensee upon submitting evidence of termination or recession of the license agreement.

The Ministry shall notify the other party of the application for canceling the registration. The other party may object to the said application for cancellation in accordance with the procedures and conditions prescribed in the Executive Regulations.

Article (34)

The license agreement may not contain any clauses imposing on the licensee limitations not resulting from the rights conferred by the registration of the mark or not necessary for the maintenance of such rights. Nevertheless the license agreement May contain the following limitations:

Limitation of the geographical territory of marketing the goods or (1) services in connection with which the trade mark is registered.

Limitation of the duration of the use of the trade mark, without (2) prejudicing - in this respect - the provisions of article (21) of this laws.

Provisions ensuring the effective control by the owner of the quality (3) of the products to which the license applies.

The obligation imposed on the licensee to abstain from all acts (4) capable of prejudicing the value of the products or services to which the license applies or defaming them.

Part - V

Marks used exclusively in controlling or inspecting certain products or services

Article (35)

Moral persons undertaking the control or inspection of certain products or services as to their origin, competent elements, manufacturing process qualities, identity or any other common characteristics, may apply to the Ministry to authorize them to register a trade mark exclusively used in undertaking their control or inspection.

In all cases, the said trade mark may not be registered, or its ownership transferred, except with the approval of the Minister.

Article (36)

The Executive Regulations shall determine the conditions and rules related to the registration of the trade mark mentioned in the preceding article, and also the documents required to be enclosed to the application for registration.

The registration of the said trade mark shall have all the effects provided in this law. In case the said trade mark is removed from the Register or not renewed, it cannot be re-registered for the benefit of a third party in respect of identical or similar products or services.

Part VI

Sanctions

Article (37)

The following persons shall be liable to imprisonment and to a fine not less than Dhs. 5000 or to either of these two penalties:

Any person counterfeiting a registered trade mark or imitating it in (1) such a way as to mislead the public, as well as any person making fraudulent use of a counterfeit or imitated trade mark.

Any person who wrongfully uses a registered trade mark belonging (2) to another person.

Any person fraudulently affixing to his products a registered trade (3) mark belong to another person.

Any person who knowingly sells or offers for sale or distributes or (4) possess for the purpose of sale products bearing a trade mark which is counterfeit, imitated or wrongfully affixed.

Any person who knowingly offers services under a trade mark which (5) is counterfeit, or imitated or wrongfully used.

Article (38)

The following persons shall be liable to imprisonment for a term not exceeding one year and to a fine not less than Dhs. 500/- and not exceeding Dhs. 10,000/- or to either of these two penalties:

Any person who uses an unregistered mark as specified in par's (1) 2,3,4,5,6,8,9,10,11 & 12 of Article (2) of this law.

Any person falsely indicating on his marks or on his business papers (2) any statement which leads to the belief that the said mark is registered.

Article (39)

Any person who commits one of the crimes provided in Article (37) & (38) of this law, shall be sentenced - in the case of recidivism - to the

same penalty as well as to the closing down of the commercial establishment or the enterprise for a period of not less than 15 days and not more than 6 months and the publication of the judgment at the expenses of the convicted person in accordance with the procedures specified in the Executive Regulations.

Article (40)

Any person who incurred damages as a result of any of the acts provided in Articles (37) & (38) of this law may bring before the competent civil court an action against the person who caused the damage, for a suitable compensation for the damages he incurred.

Article (41)

The owner of a trade mark may, at any time, and even before initiating any civil or criminal action, obtain from the court, upon a petition accompanied by an official certificate establishing the registration of the mark, an order directing the necessary preventive measures be taken, including in particular the following:

preparing a detailed descriptive inventory of the articles and tools intended to be used or actually used in committing any of the crimes provided in this Law. The said inventory shall also include the products and goods, manufactured locally or imported, addresses of the establishment or packaging, papers or any other articles on which the counterfeit mark or statement was affixed. (1)

Seizure of the articles mentioned in the preceding chapter after the plaintiff shall have submitted a financial security determined by the court to indemnify the defendant if that becomes necessary . (2)

The court may nominate one or more experts to assist in the implementation of the preventive measures. In all cases, the preventive measures taken by the owner shall be considered null and void unless followed, within eight days after the date of the court order, by a civil or criminal action initiated by the owner of the mark against the party in respect of whom the measures were taken.

Article (42)

The defendant may bring an action against the seizure for damages within 90 days after the expiration of the period indicated in the last par. of article (41) of this law, if no action was brought against the defendant, or after the final judgment passed in the action brought against him. In both cases the security shall not be refunded to the seizure until a final decision has been taken in the action brought by the defendant or after the expire of period prescribed for bringing his action.

Article (43)

In any civil or criminal action, the court may order the confiscation of the articles seized or articles which may be seized afterwards, and the deduction of their value from the fines imposed or compensations awarded, or may otherwise dispose of them as it may think fit. The court may also order the destruction of the illegal marks and may order - when necessary - the destruction of the products and packaging and tools of packing and other articles bearing the illegal marks or statements, as well as the tools and articles particularly used in counterfeiting. The court may pass all the above mentioned orders even in the case of acquittal. The court may also order the publication of its judgment in the official gazette or in one of the daily newspapers at the expenses of the losing party.,

Part VII

General and Transitional Provisions

Article (44)

Owners of the trade marks registered or used in the U.A.E at the time of the coming into force of the provisions of this law, shall submit applications for recording them in the Ministry's Register in accordance with the provisions and conditions specified therein within one year from the date of its application.

Those who do not comply with the conditions prescribed in this law shall adjust their status within one year of its application. if the trade mark does not comply with the prescribed conditions within the period specified in the preceding par. it shall be considered as exlege extinct.

The first user shall have a right of priority in registering his mark during the said period. In determining the first use, the date of starting the use, its continuity, the fact of registering the mark and the surrounding circumstances shall be taken into consideration.

Article (46)

The officers appointed by a decision of the Minister of Justice in consultation with the Minister of Economy and Commerce and also with the competent authority, to control the application of the provisions of this law and its implementing decisions shall have the status of Judicial Police. In such status they are empowered to enter into the places which activity falls under the purview of this law, except places of habitation, with a view to ascertain the compliance with the provisions of the law and its implementing decisions, and seizing the cases of violation. The local authorities in the Emirates shall offer the facilities necessary to enable the said officers to discharge their duty.

Article (47)

The fees payable in respect of the procedures provided for in this law shall be determined by a decision of the Council of Ministers.

(Article (48))

All provisions contrary to, or in conflict with, this law shall be repealed.

Article (49)

The Minister shall issue the regulations and decisions necessary for the implementation of this law.

Article (50)

This law shall be published in the official Gazette, and shall enter into force after three months from the date of its publication.

(Signed)
Zayed bin Sultan Al Nahayan
President of the United Arab Emirates.

Issued by us in the Presidency Palace in Abu Dhabi
on 1st Rabie Al Thani, 1413 H.
corresponding to: 28.9.1992 A.D.

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