

**Federal Decree No (52) of 2007
Concerning the GCC Trademark Law**

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We, Khalifa Bin Zayed Al Nahyan, President of the United Arab Emirates;

Having perused the UAE constitution; and

Federal Law No 1 of 1972 determining the competences of the ministries and the powers of the ministers, as amended; and

Acting upon the submissions of the Minister of Economy as approved by the Council of Ministers and ratified by the Federal Supreme Council;

Have decreed the following:

Article One

We hereby ratify the Unified GCC Trademark, the text of which is attached hereto.

Article Two

The Minister of Economy shall implement this decree that shall be published in the official gazette.

Khalifa Bin Zayed Al Nahyan
President of the United Arab Emirates

Issued by us in the Presidential Palace, Abu Dhabi
On 5 Jumada 1428 A.H.
Cor. To 20 June A.D. 2007

The Unified GCC Trademark Law
Section One
General Provisions

Article 1 - Definitions:

Unless otherwise required by the context, the following words and expressions shall have the meanings indicated opposite thereto:

Council States : The States of the Cooperation Council for the Arab States of the Gulf

Competent Authority: The ministry responsible for commerce affairs in each council state and for implementing this law.

Executive Regulations: The regulations developed by the Commercial Cooperation Committee in implementation of this law.

Register : The register of trademarks

Article 2

A trademark is anything which takes a distinctive form such as names, words, signatures, letters, symbols, figures, drawings, titles, seals, pictures, inscriptions, advertisements, packs, illustrative elements, shapes, combinations of colors, or a mixture thereof, or any mark or a combination of marks capable of being perceived by sight, used or is intended to be used for distinguishing the commodities or services of one establishment from those of another, or indicating the provision of a service, or conducting control over or inspection of commodities or services.

Marks of sounds and smells shall be considered trademarks.

Section Two
Procedures
Chapter One - Trademark Registration Procedures

Article 3

The following shall not be deemed a trademark or part thereof, nor may be registered as such:

1. A mark without any distinctive character, or marks consisting of no further details than the names customarily given to commodities, services, or familiar drawings and ordinary pictures of commodities.
2. Any expression, drawing or mark offensive to public morality or contravening the public order.
3. Public emblems, flags, military and honorary badges, national and foreign decorations, metal and paper currencies, and other symbols pertaining to the State, or any other state, or Arab or international organizations or any institutions thereof, or any imitation of the same.
4. Symbols of the Red Crescent or the Red Cross and other similar symbols as well as the imitative marks thereof.
5. Marks identical or similar to the symbols of a purely religious nature.
6. Geographical names and data where the use thereof may cause confusion as to the origin or source of commodities or services.
7. The names, surnames, photographs or emblems of third parties, unless their or their heirs' prior consent to use the same has been obtained.
8. Particulars pertaining to honor or academic degrees to which the registration applicant fails to his legal entitlement.
9. Marks likely to mislead the public or containing false data as to the origin or the source of products or services, or as to their other characteristics, as well as marks containing a fictitious, imitated or forged trade name.
10. Marks owned by natural or legal persons which whom dealing is prohibited pursuant to a law issued in this regard by the Competent Authority.

11. Any mark identical or similar to a mark previously deposited or registered by a third party in respect of the same or similar commodities or services if the use of the mark required to be registered is liable to give impression of connection with the products or services of the registered mark owner or harm his interests.
12. Marks whose registration, in respect of certain commodities or services, devalue the commodities or services distinguished by the former mark.
13. A mark deemed a mere translation of a famous or another mark previously registered if its registration is liable to confuse the consumer public as to the products or services distinguished by the mark or similar products.
14. Marks containing the following words or phrases: "Privilege", "Privileged", "Registered", "Registered Drawing", "Copyright" or similar words or phrases.

Article 4

1. No famous trademark whose fame exceeds the original country to any other country may be registered on identical or similar commodities or services without an application or express consent from the owner of the famous mark.
2. To determine whether a mark is famous, consideration shall be given to the extent of the public knowledge about the mark as a result of its promotion.
3. No famous mark may be registered to distinguish commodities or services that are not identical or similar to those distinguished by such mark if:
 - A. The use of the mark indicates a connection between the commodities or services to be distinguished and the commodities or services of the owner of the famous mark, or
 - B. The use of the mark leads to possible harm to the interests of the owner of the famous mark.

Article 5

Any concerned person may apply for registering a trademark bearing a geographical indicator to protect the origin of a particular commodity. Accepting the application shall not result in any exclusive right to the

applicant; it may be used by any person pursuing his activity in such geographical origin.

Article 6

The following persons shall have the right to register their trademarks:

1. Any natural or juridical person who is the owner of a factory, product, or is a trader, professional or the owner of a services project and possesses the nationality of any of the council states;
2. Foreigners residing in any of the council states and licensed to practice commercial, industrial, professional or service business.
3. Foreigners belonging to a state dealing on the basis of reciprocity with the council states in any of which the mark is registered.
4. Public departments.

Article 7

A register shall be prepared by the Competent Authority called the "Trademark Register", wherein all trademarks, names and addresses of their owners, descriptions of their commodities and services shall be entered, as well as any transfer, assignment, license to use, mortgage, renewal, cancellation or any other changes to trademarks. Any concerned person shall have the right to examine such register and take a certified thereof after paying prescribed fees.

Article 8

1. Any person who registers a trademark shall be deemed as the sole owner of such mark, unless the reverse is proved. The title to the mark may not be disputed if the mark is used by the registrar (applicant) for at least five years continuously from the date of registration without being sued for its validity.
2. The person who uses the mark earlier than the person in whose name the mark is registered may request the competent court to cancel such registration within five years from the date of registration, unless it is proved that the former has explicitly or implicitly consented to the use by the latter of the mark.

Article 9

The application for registering the mark shall be submitted to the Competent Authority on the designated form by the person concerned or his representative pursuant to the conditions stipulated in the executive regulations of this law.

Article 10

A trademark may be registered for one or more of the categories of commodities or services specified by the executive regulations of this law. No trademark registration application may however include more than one class.

Article 11

One application may be submitted for the registration of a group of marks which are identical in their substantial elements if the difference among them concerns elements that do not materially affect their entity, such as the color of marks, or the details of products or services related thereto, provided that such products or services belong to the same class.

Article 12

Where two or more persons apply simultaneously for the registration of the same, close or similar trademarks in respect of the same class of products or services, all applications shall be suspended pending submission of an assignment signed by the disputed parties and attested by the Competent Authority in favor of one of them, or pending a final judgment.

Article 13

If an applicant for the trademark registration or his successor wishes to exercise the right of priority on the basis of a former application deposited in a state reciprocally treating the council states, he shall attach to his application a declaration showing the date and number of the former application and the state wherein such application was deposited. The applicant shall also deposit a copy of the former application in the state wherein the application was deposited, within six months from the date of the application for registration for which he claims the right of priority, failing which he shall forfeit his right to claim such priority.

Article 14

1. The Competent Authority may impose whatsoever restrictions and modifications it may consider necessary for defining and clarifying the trademark in without confusion with another mark that was previously registered or for which an application was previously deposited for registration or for any other reason it may determine.
2. If the registration applicant fails to respond to the requirements of the Competent Authority by fulfilling the conditions within ninety days from the date of being notified, he shall be deemed to have abandoned his application.
3. If the Competent Authority rejects the application for a certain reason, or suspends the registration on restrictions or amendments, it shall notify the applicant or his representative in writing of the reasons for its decision.

4. In all cases, the Competent Authority shall determine the registration application within ninety days from the filing date whenever it fulfills the conditions and terms specified in this law and its executive regulations.

Article 15

1. Any decision by the Competent Authority rejecting the registration or suspending it on some condition may be appealed by the applicant or his representative within thirty days from the date of notification before a committee to be designated by the executive regulations of this law. The decision of such committee may be appealed before the competent court within sixty days of notification.
2. If the applicant fails to appeal the decision within the fixed periods, or enforce the restrictions imposed by the Competent Authority within such period, his application shall be considered abandoned.

Article 16

1. If the Competent Authority accepts the trademark, it shall before registration announce the trademark by any means of publication to be designated by the executive regulations of this law, with the applicant to bear the costs of publication.
2. Within sixty days from the date of publication, any interested party may submit to the Competent Authority a written objection to the registration, with a copy of objection to be served on the applicant within thirty days from the date of submission. The applicant shall submit to the Competent Authority a written reply to such objection, failing which the application shall be considered abandoned.
3. If the Competent Authority finds that the objection is not serious, it shall pursue the registration procedures and notify the objector of its grounded decision which may be appealed before the competent court within thirty days from the date of notification.

Article 17

1. Before deciding the objection submitted thereto, the Competent Authority shall hear both parties.
2. The Competent Authority shall issue a decision rejecting or accepting the registration. In the former case, it may determine any restrictions it may deem necessary.
3. Any interested party may appeal the decision of the competent authority before the court within thirty days from the date of notification.

Article 18

1. If the trademark is registered, its registration shall take effect from the application submission date, and the owner of the trademark shall, on completion of its registration, be given a certificate containing the following particulars:
 - A. The trademark registration number
 - B. The priority number and date, and the nationality of the state wherein the application was deposited.
 - C. The application filing date, the registration date, and the protection expiry date.
 - D. The trademark owner's name, surname, domicile and nationality
 - E. An identical copy of the trademark.
 - F. A statement of the commodities or services for which the trademark is assigned, and their class.
2. The owner of the registered trademark shall have the right to request the Competent Authority to ban others from using his mark or any sign similar thereof that is liable to mislead the public as to similar products or services.

Article 19

The owner of a previously registered trademark may, at any time, apply to the Competent Authority to make any additions or changes to his trademark in a manner not substantially affecting its identity. The Competent Authority shall issue a decision in this respect according to the conditions and rules prescribed for the determination of the original registration applications. Such decision shall be subject to appeal in the same ways.

Article 20

The Competent Authority may enter any addition in the register that has been omitted, or delete or amend any statement if it has been wrongfully entered in the register or is untrue.

Any concerned party may object before the competent court to any actions taken by the said entity in this respect.

Chapter Two – Trademark Protection Period

Article 21

1. The protection period entailed by the trademark registration shall be ten years. The trademark owner shall have the right to secure the continuation of protection for similar periods if he submits an application for renewal within the last year of the protection period, in accordance with the conditions and terms mentioned in this Law and its Executive regulations.

2. Within three months following the expiry of the protection period, the Competent Authority may serve the trademark owner written notice of the expiry of its protection period and send the notice at the address recorded in the register. If the six months following the expiry date of the protection period elapses without the trademark owner having filed a renewal application, the Competent Authority shall deregister the trademark.
3. Renewal shall be implemented without any new examination and without considering any third party objection.

Article 22

Provisional protection shall be granted to trademarks meeting the conditions of registration stipulated herein while they are displayed in the exhibitions held within or without the council states. Such exhibitions shall be designated by decision of the Competent Authority.

The executive regulations hereof shall determine the terms, conditions and procedure for granting such protection.

Chapter Three – Deregistration of Trademarks

Article 23

Without prejudice to the provisions of Article 8 hereof, the Competent Authority and any concerned party may apply to the court for deregistering any unlawfully registered trademark, whereupon the Competent Authority shall strike off the registration once it receives a final judgment for such action.

Article 24

The owner of a trademark may apply to the Competent Authority to cancel its registration, whether for all or part of the commodities or services for which the trademark has been registered. The cancellation application shall be submitted according to the conditions and terms mentioned in the Executive regulations of this law. Where the trademark is licensed for use according to a contract noted in the Register, it may not be cancelled without written consent from the licensee, unless the licensee expressly assigns his right to the license.

Article 25

Upon the request of any interested party, the court may order the cancellation of registration if it is proven that the trademark has not been seriously used for five consecutive years, unless the owner of the trademark provides justification for this non-use.

Article 26

If the trademark is deregistered, it may not be registered in favor of a third party for the same or similar commodities or services except after the elapse of three years from the date of deregistration, unless deregistration was effected pursuant to a court order, in which case the judgment may provide for a shorter period.

Article 27

The registration cancellation and renewal shall be announced by any means of publication to be designated by the executive regulations hereof.

Chapter Four - Trademark Ownership Transfer, Pledge and Attachment

Article 28

1. Unless otherwise agreed, the trademark ownership may be transferred with or without consideration, or pledged or attached with the commercial shop or the enterprise using the mark for distinguishing its commodities or services.
2. The trademark ownership may be transferred by inheritance, will or grant.
3. In all case, the trademark ownership transfer, pledge and attachment shall serve as evidence against third parties only after noting the action in the Trademark Register and announcing it in any means of publication designated by the executive regulations hereof.

Article 29

1. Unless agreed otherwise, the transfer of the ownership of the commercial shop or the enterprise shall include the trademarks registered in the name of the transferor, which can be deemed as closely connected with the shop or the enterprise.
2. Unless otherwise agreed, the transferor may continue manufacturing or trading in the same commodity or providing the same services for which the trademark has been registered or trade if the ownership of the commercial shop or the enterprise is transferred without that of the trademark.

Section Three Licensing Contracts

Article 30

The trademark owners may grant a license to any natural or corporate person to use the trademark for all or some of the commodities or services for which the trademark has been registered. The trademark owner shall have the right to license other persons to use the same trademark and use the trademark in person, subject to the license period not exceeding the prescribed protection period.

Article 31

The license beneficiary may not incur any restrictions not resultant from the rights conferred by the trademark registration or not necessary for protecting such rights.

The license contract may however include the following restrictions:

1. A specification of the bounds of the area or period of use of the trademark.
2. The conditions required for the effective quality control of commodities and services.
3. The obligations imposed on the license beneficiary to refrain from any operation that may be offensive to the trademark.

Article 32

For the validity of a license contract to use the trademark, the contract shall be in writing, without the necessity to be noted in the register.

Article 33

Unless otherwise agreed, the license beneficiary may not assign the license to, or sublicense a third party.

Article 34

Upon the request of the trademark owner or the license beneficiary, the license contract shall be canceled from the register after submission of proof of expiry or termination of the license.

The Competent Authority shall serve the other party a notice of the cancellation application, in which case the other party may object to the application according to the procedures and conditions stipulated in the executive regulations hereof.

Section Four

Collective Marks, Control Marks and Marks of Public Utility Organizations and Professional Institutions

Article 35

- A. It is permissible to register collective marks used to distinguish the commodities or services of an establishment of members belonging to a specific entity having a legal personality.

The application for registration shall be submitted by the representative of this entity for use by members according to the terms and conditions specified, subject to approval by the Competent Authority.

- B. The applicant for registering collective marks shall indicate in the application that it concerns a collective mark and attach thereto a copy of the requirements for the use of the mark to be registered.

In all events, the owner of the registered collective mark shall notify the Competent Authority of any changes to such requirements. No change shall be effective unless approved by the Competent Authority.

- C. No collective mark may be registered in favor of a third party if is deregistered in respect of identical or similar commodities or services.
- D. The competent court may, upon the request of any interested person, order the deregistration of a collective mark if it finds that the registered owner uses the collective mark individually, or uses or permits the mark to be used in a manner contrary to the requirements referred to in clause (B) of this article, or uses it in a manner liable to mislead the public as to the origin of the commodity or as to any common property of the commodities or services for which the collective mark is registered.

Article 36

- A. Corporate persons controlling or inspecting some commodities or services regarding their origin, components, manufacturing method, quality or identity or any other property may ask the Competent Authority to register a special mark to indicate that control or inspection has been performed.

In all events, such mark may not be registered or transferred without the approval of the Competent Authority.

- B. The applicant for registering a control mark shall indicate in the application that it concerns a control mark and attach thereto a copy of the requirements for the use of the mark to be registered.

In all events, the owner of the registered control mark shall notify the Competent Authority of any changes to such requirements. No change shall be effective unless approved by the Competent Authority

Article 37

Marks may be registered for non-commercial purposes such as the logo adopted by a public utility organization or used by a professional institution to distinguish its correspondence, or to serve as a badge for its members.

Article 38

The executive regulations shall specify the conditions and rules for the registration of the marks mentioned in articles (35), (36) and (37), together with the documents to be submitted for registration and all other regulatory matters related to such marks. The registration of such mark shall result in all effects stipulated in this law.

Section Five Penalties

Article 39

- A. Without prejudice to any severer penalty stipulated in another law, there shall be punished by detention for a term of not more than five years and/or a fine of not more than one million Saudi Rials or its equivalent in the currencies of the council states:
1. Whoever counterfeits a trademark which is lawfully registered or imitates it in such a manner as misleads the public, or in bad faith uses a counterfeited or an imitated trademark.
 2. Whoever in bad faith puts on his commodities, or uses in connection with his services a registered trademark owned by another person.
- B. Without prejudice to any severer penalty stipulated in another law, there shall be punished by detention for a term of not more than three years and/or a fine of not more than one hundred thousand Saudi Rials or its equivalent in the currencies of the council states:
1. Whoever sells, offers for sale or circulation or possesses for the purpose of sale, commodities bearing a trademark that is counterfeited, imitated, unlawfully displayed or used, whilst being aware of the same, or whoever offers services under this trademark.
 2. Whoever uses an unregistered mark in other than the cases stipulated in paragraphs “2” to “11” of Article 3.
 3. Whoever unlawfully records on his mark, commercial documents or papers whatever leads to believing that the mark is registered.
 4. Whoever intentionally omits in bad faith displaying his registered mark on the commodities or services the mark distinguishes.
 5. Whoever displays or possesses tools or materials with intent to use by imitating registered or famous trademarks.

Article 40

In case of recidivism, the recidivist shall be punished by a penalty not exceeding double the maximum limit of the violation penalty plus closing the commercial shop or the enterprise for a period of not less than fifteen days and not more than six months. The sentence shall be published at the violator's

expense according to the procedures to be specified by the executive regulations hereof.

In the application of the provisions hereof, any person sentenced for a violation mentioned herein and committing another similar violation within three years from the date of being finally sentenced in the previous violation shall be considered a recidivist.

Article 41

Any person sustaining damage as a result of any of the violations mentioned herein may claim from proper compensation the violator for the damage suffered.

Article 42

1. The owner of a trademark may, at any time, even before raising any civil or criminal claim, file a petition supported by an official certificate testifying the registration of the mark, to seek an order from the competent court, in order to take the necessary conservatory measures, including in particular the attachment of the machines or any tools used or that may have been used for the crime, the commodities and signboards of the shops or wrappings, papers, documents or any other items on which the mark or the details of the crime may have been put.
2. Confiscation may be implemented when the goods are imported from abroad
3. The court order may delegate one or more experts to assist the distrained in his duties, and bind the applicant to submit a financial security whose amount shall be determined by the court to indemnify the distrained if required. The security shall be released only with the court order.
4. After levying the attachment, the goods owner may dispute before the court concerning the adequacy of the financial security submitted by the distrained.

Article 43

The attachment procedures mentioned in the preceding article shall be deemed void ab initio if no action is filed against the person in respect of which these procedures have been taken within ten days from the attachment.

Article 44

1. The court may, in any civil or criminal case, order the confiscation of the items attached or which may be attached later, to deduct their price from the fines or compensations, or to dispose thereof in any other manner deemed fit by the court.
2. The court may also order the destruction of unlawful marks, or, if necessary, the destruction of the commodities, wrappings, binding equipment and other things which bear such marks or illegal statements, and the machines and instruments used in particular for counterfeit. The court may order all the above actions even in the case of acquittal.
3. The court may order the publication of the judgment in the Official Gazette or in one daily at the expense of the convict.

Article 45

A common right action shall abate upon the elapse of five years from the date of the violation without any investigation or trial procedure. Such abatement shall not prejudice any special rights.

Article 46

A defendant shall take the procedures for claiming against a mal fide claimant for compensation that may be due as a result of taking the procedures in article 42 hereof within ninety days from the expiry date of the deadline mentioned in article 43 hereof if the distrainer fails to file his action, or from the deliverance date of final judgment in the distainer action relating to the trademark. In no event may the financial security be released to the distainer except after a final judgment has convicted the distainee in the distainee's action, or after the elapse of the deadline set for filing the action without filing unless the final judgment in the action of the distrainer has decided on financial security.

Section Six Final Provisions

Article 47

Employees to be designated by the Competent Minister shall have the capacity of judicial officers in connection with the application of the provisions, and detecting the crime committed in violation of this law.

Article 48

The executive regulations of this law shall specify the fees relating thereto.

Article 49

The Commercial Cooperation Committee shall have the right to interpret and propose amendments to this law.

Article 50

The Commercial Cooperation Committee shall issue the executive regulations of this law.