

GCC: A Glance at a New Trademark Law

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The Saudi government's decision approving the unified GCC Trademark Law has recently been published in the country's Official Gazette. The Law was ratified in Saudi Arabia in 2007 and is expected to enter into force in the country six months after its implementing regulations are issued by the GCC Trade Cooperation Committee (made up of the Trade Ministers of the GCC member states). The governments of Qatar and the United Arab Emirates have also announced their approval of the unified GCC Trademark Law back in 2007 (Qatar: Decree no. 18/2007; UAE: Federal Decree no. 52/2007), but the Law has still not entered into force in both countries. The purpose of the GCC Trademark Law is to replace the local trademarks laws of each of the GCC member states (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) and, thereby, creating unified implementing regulations for trademark protection in all states. However, the GCC Trademark Law is not expected to offer for a unified filing system as the case is with the GCC Patent Law. Trademark applications will continue to be filed separately in each GCC member state for protection.

The GCC Trademark Law was initially submitted by the GCC General Secretariat and approved by the GCC Trade Cooperation Committee back in 1987. Since then, the GCC member states used the Law for consultative purposes only. By the end of the year 2005, the GCC Trade Cooperation Committee approved amendments to certain articles of the unified Trademark Law and recommended the submission of the amendments to the GCC Supreme Council for endorsement. The Law was then ratified by the Supreme Council in its 27th summit in 2006.

The 50-article Law outlines the general directives and rulings governing trademark registration, renewal, assignment, and cancellation procedures in the GCC countries. The main features of the Trademark Law as approved by the GCC Supreme Council are as follows:

1. The definition of a trademark has been broadened to include sound and smell marks.
2. A trademark may be individual or collective.
3. A separate application is required for each class.
4. Claim of priority, based on an earlier-filed foreign application, is possible.
5. Trademark applications accepted by the Registrar will be published for opposition purposes. Oppositions must be filed within 60 days from publication date.
6. Trademark registrations are valid for 10 years from filing date and are renewable for like periods. There is a grace period of six months for late renewals.
7. A trademark is vulnerable to cancellation by any interested party if there has been no effective use of the mark for a period of five consecutive years after registration.
8. The Law shall recognize famous trademarks that are well-known in the GCC member states and shall ensure protection thereof even if the marks are not registered.
9. The Law gives the right to trademark owners to initiate civil and criminal actions against any infringing party. Penalties include a maximum of five year imprisonment and payment of fines of up to US \$ 270,000.

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