

Registration of trademarks and its objectives in Oman

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Introduction

Business profitability is highly dependent on its brand. As a result, brands that gain fame and profitability among consumers create competition in the market. The fame of a brand opens the door to third parties in creating a similar brand; thereby potentially resulting in an infringement. Such a controversial and political issue gave rise to the complexity and importance of trademark registrations. Trademark registrations are a way of protecting an owner's legal rights in the goods and services a company holds. It also allows the trademark owner to sue for any infringement of any unauthorised use of their brand. The Omani trademark office is keen on inviting foreign investors and citizens who wish to do business in Oman to register their trademarks.

Since the Omani market has begun to recognise innovation, this article will demonstrate how trademarks are generally registered (theoretically and practically) in Oman and how products could be recalled if the labelling and trademark of the products are not consistent with the service of the product.

Registration of a trademark in Oman

Trademark law is defined as 'Everything that takes a distinctive form such as names, words, signatures, characters, symbols, numbers, titles, seals, drawings, images, engravings, packaging, figurative elements, shapes and/or a colour or a mixture of colours, or any other sign or group of signs used or intended to be used to distinguish goods or services of one business from the goods or services of another business, indicate the provision of a service, or indicate control and inspection of goods or services.'

To register a trademark in Oman, a trademark application must be submitted to the department of Intellectual Property Department ('IP Department') at the Ministry of Commerce and Industry. The

application shall include the description of the mark and the list of goods and services (that are covered within the Nice Classification) required to register the mark. The trademark should be distinct from other trademarks in terms of shape, colours and symbols used and the trademark shall not be descriptive. The trademark shall also be truthful in describing the product. For example, the trademark 'GODIVA Belgium 1926' that is associated with a drawing of a horse is a distinct trademark associated with distinct handwriting, symbol and shape. As an example the term 'Belgium 1926' is an indication that GODIVA chocolate has been present since the year 1926. This represents the true meaning of the product and the company itself. Moreover, when registering trademarks, the applicant shall not use wordings such as 'discounted' associated with their trademark. This is because the trademark office is of view is that a shop cannot be discounted the whole year as it is against the policy in Oman. Therefore, the trademark shall not go against the policies and morals of the country. The fee for the submission of a trademark application is OMR 50 (US\$ 139) for every Nice Classification in which the goods are covered.

Once the trademark is considered, a decision is issued by the IP Department that explains its objections in writing (if any). The applicant has 60 days to respond to the trademark office's decision. Once the objections have been resolved and the trademark application is accepted (without conditions), the applicant proceeds to pay OMR 100 (US\$ 278) for the publication notice of the trademark application in the official gazette. The trademark will also need to be published in a local daily magazine. Publication in the official gazette is aimed at inviting any interested party to oppose the registration of the trademark. The opposition period is 60 days from the date of publication. Once 60 days have elapsed from the date of publication in the official gazette, the applicant can proceed in registering their trademark by paying a fee of OMR 50 (US\$ 139) (for every Nice Classification).

Document trail required for registration of a trademark

The documents required for registering trademarks at the Omani trademark office are as follows:

- a power of attorney from the country of origin and notarised by the Omani embassy;
- a copy of the certificate of incorporation of the applicant company or an extract of the entry of the applicant in the commercial register;
- a soft copy of the proposed trademark;
- name and address of the company wishing to register the trademark; and
- a description of goods and services along with the Nice Classification.

It should be noted that in, practice, the above documents must be submitted to the trademark office in Arabic. Also, an applicant can initially proceed in filing for a trademark without submitting a power of attorney or certificate of incorporation; however, once the trademark is approved, the approval will only be based on the condition of submitting a power of attorney or certificate of incorporation.

Renewal of trademark

Under Omani trademark law, the protection conferred by the registration of a trademark is for a period of 10 years from the date of filing the registration application. The trademark owner shall have the right to renew the registration of a registered mark within the six months following the expiration of the registration. If the period of six months lapses and the owner of the mark has not applied for renewal thereof, the trademark office shall strike off the mark from the register. However, in practice, the trademark office gives applicants more than six months to renew their trademark without striking it off the register. For example, if a trademark expired in 2015, the trademark office will allow the applicant to file for renewal for a fee of OMR (US\$ 834) with a fine of OMR (US\$ 139) and the protection of the trademark

will continue until 2025.

Importance of registering your trademark

It is also very important to have your trademark registered in other countries as it will be easier to challenge other potential infringing trademarks. It should be noted that the Omani trademark law provides leeway for established trademarks. For example, if a recognised trademark is not registered in Oman and a competitor wishes to register a similar trademark to that well known trademark, under Omani trademark law, the applicant of that well established trademark is within its rights to challenge the proposed registration under conditions, as set out below:

1. submits evidence that he or she has used that mark in good faith for at least six months prior to the filing date or the priority date, if applicable;
2. submits evidence that he or she has acquired clientele and that clientele attributes some reputation to the mark; and
3. he or she files an application for registration of his or her own mark prior to sending the registry the notice to opposition.

Moreover, it is important to have your trademark registered to protect your business from unfair competition and in order to easily raise cases at the competent authority if your trademark is infringed by other parties. Further, since we are living in a generation of innovation, the marketplace is flooded with products and it is hard to distinguish a person's product from their competitors'. Therefore, trademarks are an efficient commercial communication to capture customers' attention.

Conclusion

To conclude, intellectual property is a growing field in the Sultanate of Oman. Consumers in Oman have been innovative in creating brands and products and therefore registering such brands can protect businesses from unfair competition. Consumers should always create a trademark that best describes the role and service of their product. Falsifying the true meaning of a product can be recalled by the Authority. The Omani trademark office has simplified the process for consumers to protect their brands making the procedures for registering trademarks that much easier for their consumers.

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