

New Kuwait Trademark Registration Procedures

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This article sets out some of the new procedures regarding registering a trademark in Kuwait.

Publication of Ministerial Decision

Ministerial Decision No. 500 of 2015 was published in the Official Gazette (Issue 1268) on December 27 2015 and took effect the following day. The decision was issued pursuant to Law No. 13 of 2015 Approving the Law (System) of Commercial Trademarks of the States of Cooperation Council for the Arab Gulf Countries, which was published in the Official Gazette (Issue 1228) on March 22 2015.

The Ministerial Decision governs trademark registrations, licence agreements, the duration of protection, assignment, mortgage and seizure. The decision has also extended the definition of a 'trademark' to include single colours, combinations of colours, sound marks and smell marks. The latter should be applied for in the form of musical notes and/or a written description.

Application Requirements

A trademark application must be accompanied by:

- four images of the marks
- legalised and translated power of attorney
- proof of business practice
- a translation of the mark if it is not in the Arabic language, with an explanation of how it should be pronounced.

The trademark application shall be confined to the registration of a trademark in one class only. However, a single application may be filed in respect of multiple classes, subject to the approval of the Kuwait Trademark Office in accordance with the Nice Classification (the International Classification of Goods and Services for the Purposes of the Registration of Marks published by the World Intellectual Property Organisation).

Priority Claims

The new system allows the trademark applicant or its successor to claim priority on the basis of a previous application filed in a state that is a signatory to a multilateral international convention to which a Gulf Cooperation Council ('GCC') State is a member. To do so, the applicant must submit, along with its application, a statement showing the date and number of the previous application and the state in which it was filed. The applicant must also deposit a certificate stating the filing date as issued by the state of the previous application, along with a copy of the previous application and its translation into Arabic, within six months of the date of the previous application for which priority is claimed. If the applicant fails to comply with these requirements, its priority claim will not be accepted.

Examination Time

According to the Ministerial Decision, the Kuwait Trademark Office should conduct a formal examination within 90 days of filing by either accepting or rejecting the application in terms of its formality; the applicant then has another 90 days to complete missing information, documents or explanations.

Appeals

An appeal committee formed by the Ministry of Commerce and Industry will hear an appeal against rejected applications within 60 days of notification. It will then examine the appeal and take a decision, which will be delivered to the appellant within 30 days of issue. The appellant can appeal the committee's decision to the court within 60 days of notification.

Temporary Protection

The Ministerial decision has also established a new system for the temporary protection of trademarks used in exhibitions. Any party that wishes to obtain temporary protection for its trademark in respect of products or services displayed at an exhibition in Kuwait or a GCC state must notify the Kuwait Trademark Office of this desire at least one month before the exhibition's inauguration. Notification should be filed on a specific form accompanied by four images of the trademark and evidence of payment of the requisite fees. The Kuwait Trademark Office will issue a certificate of temporary protection for the trademark used in exhibitions for a period not exceeding six months from the exhibition's opening date.

Increased Fees

The Ministerial Decision has increased the official fees for trademark registration services. This increase will affect all trademark applications filed after the effective date of the Ministerial Decision, as well as pending applications.

Conclusion

We expect that the changes to the Kuwait trademark system and the increased fees will create some challenges for the Kuwait Trademark Office and brand owners while the new procedures are being implemented. If you have any questions on trademark registrations in Kuwait please contact Ahmed El Klatawy at a.elklatawy@tamimi.com.