



CHAMBERS
Global Practice Guides

Copyright

UAE – Law and Practice

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LAW AND PRACTICE:

p.3

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The 'Law & Practice' sections provide easily accessible information on navigating the legal system when conducting business in the jurisdiction. Leading lawyers explain local law and practice at key transactional stages and for crucial aspects of doing business.

Law and Practice

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UAE LAW AND PRACTICE

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Al Tamimi & Company is the largest law firm in the Middle East with 17 offices across nine countries and a total of 330 lawyers. Al Tamimi & Company's intellectual property practice comprises specialist lawyers and experienced trade-mark, copyright, patent and design professionals. The team routinely handles many of the most significant IP matters across the Middle East, representing major global

and regional brands. In detail, the firm's IP services include: IP prosecution; clearances; portfolio management; enforcement; litigation; anti-piracy programmes, anti-counterfeiting campaigns, brand activations/launches, consumer protection, copyright; competition law; IP audits and due diligence; transactions; domain names; patents and designs; R&D and innovations.

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1. General Information

1.1 Historical Roots

The historical roots of the copyright system can be traced back to the printed matter and publishing law, which dates back to 1980. In particular, this law provided the threshold as to an author's rights with regard to printed materials, newspapers and publications. It also provided a list of prohibited acts with regard to the publication of certain material.

1.2 Principal Sources

The principal source of law regulating copyright is Federal Law No 7 of the Year 2002 Concerning Copyrights and

Neighbouring Rights as amended by Law No 32 of 2006 ("Copyright Law").

1.3 International Conventions/Treaties

The UAE acceded to the WIPO Performances and Phonograms Treaty on 9 June 2005, the Rome Convention on January 14, 2005, the Berne Convention on 14 July 2004, and the WIPO Copyright Treaty on 14 July 2004.

1.4 Protected Holders

There is no requirement for a copyright to be registered in order for it to be protected, but registration is required for

enforcement purposes. As such, foreign copyright-holders are theoretically protected through the UAE's obligations under the Berne convention; however, in practice, enforcement of such rights requires a UAE copyright registration.

2. Copyright Works

2.1 Essential Elements

A Work is identified in the Copyright Law as any creation in the field of literature, art and science, regardless of its type, mode of expression, value or purpose. Article 2 of the Copyright Law provides a list of original works that could be subject to copyright protection. This list is not exhaustive, so any literary or artistic work that meets the criteria of originality according to the law will be subject to the protection provided by the law.

According to the Copyright Law, literary and artistic works include written works, lectures, sermons, dramatic and dramatic musical works, dumb shows, musical compositions, sound and audio-visual works, drawings, paintings and all types of fine arts, applied and plastic arts.

The Copyright Law does not specify any type of applied art that is subject to protection by copyright; it is listed in general. Accordingly, any work of applied art shall be subject to protection under the Copyright Law if the general requirement – ie, the originality of the work – is met.

2.2 Access Copyright Protection

There is no requirement for a work to be registered in order to receive copyright protection, but registration is always recommended as it creates a favourable presumption as to the right, and is required for enforcement purposes.

In order for the copyright to be protected, the work needs to be original. Creation is defined by the law as the creativeness that gives genuineness and distinctiveness to the work. For the identification of creations, it is at least a requirement that the work is not copied from another work – ie, it should be a new work.

2.3 Copyrighted Works Register

Copyrights can be registered with the Copyright section of the UAE's Ministry of Economy. In practice, such records are not public.

2.4 Categories of Copyrightable Works

According to the Copyright Law, literary and artistic works include written works, lectures, sermons, dramatic and dramatic musical works, dumb shows, musical compositions, sound and audio-visual works, drawings, paintings and all types of fine arts, applied and plastic arts.

The Copyright Law provides a list of copyrightable works, but it is not exhaustive. Any non-categorised works of art can be subject to copyright if the general requirement is met – ie, the originality of the work.

2.5 Protection Requirements for Software

Computer programs and their applications are protected under Copyright as long as the program is original, as per the criteria provided by the law. There are no specific requirements for such protection.

2.6 Protection Requirements for Databases

The Copyright Law includes databases as works that are subject to protection under copyright, but does not provide any specific conditions for the protection of such databases. Accordingly, the only requirement is the originality of the database.

Collections are not listed as protected works. However, Article (3) of the Copyright Law provides that collections of official documents, laws, regulations, decisions, news, events and any other works that fall within the public domain can be subject to copyright protection if the compilation and arrangement of such elements are original.

2.7 Protection Requirements for Industrial Design

Industrial designs may benefit from copyright protection: there are no specific requirements, so the general requirements would be applicable. The copyright protection would not prevent design protection, and both protections can exist.

2.8 Peculiar Works

Peculiar works are not identified specifically in the Copyright Law, but they could be protected if the relevant criteria are met. The most common peculiar work that has been addressed in the UAE is websites and their layout design, which have been subject to protection; other types have not been much addressed or debated.

3. Authorship and Copyright Ownership

3.1 Author of Copyrightable Work

According to Article (1) of the Copyright Law, an author is defined as the person who creates the work and has his or her name mentioned on the work, or has the work attributed to him as its author at the time of publication.

3.2 Corporate Body

The author of the work should be a natural person, but a corporate body can practise the author's moral and economic rights in the event of collective works.

3.3 Identification of the Author

The author is identified by his or her name and as mentioned on the work. Whoever publishes the work anonymously or pseudonymously is considered to be the author.

3.4 Regulation on Collaborated Works

Collective works are protected and can be identified as works created by a group of authors under the direction of a corporate body or natural person who undertakes the publication in his or her name and under his or her control. Such works can be identified as having been created by the group of authors under the main objective set by said person and in such manner where their respective works cannot be separated or singled out independently.

Where the contribution of each author participating in making the work cannot be separated from the other contributions, all the parties shall equally be considered authors, unless they have agreed in writing otherwise. In this case, none of them is allowed to practise the rights of the author alone, unless there was a written agreement among them. If the contribution of all the authors is listed under a different type of art in the same work, each one of them has the right to exploit the part of his or her own contribution, provided that this would not damage the exploitation of the work by the others, unless they agree in writing otherwise.

3.5 Collective Works

The Copyright Law does not provide any specific criteria or qualifications for collective works; the only requirement is that, in order to enjoy protection, the compilation must be made in a creative manner.

3.6 Work for Hire Doctrine

There is no concept of “work for hire” whereby the copyright is automatically owned by the employer. Generally, the author owns the work, regardless of any given relationship such as employment, unless agreed otherwise.

An employer who wants to be sure to own the copyright and have the financial rights needs to have written arrangements with the employees, subject to obtaining a perpetual assignment of the created copyright.

3.7 Anonymous and Orphan Works

Works of an anonymous author receive protection for 50 years, beginning on the first day of the calendar year following its first publication. The publisher of such work would be authorised to exercise the rights of the author, unless the author has authorised someone else or makes his or her identity public.

4. Copyright Protection and Management

4.1 Copyright-Owner’s Economic Rights

The economic rights of the copyright-owner are neither defined nor listed specifically in the Copyright Law. Economic rights are only mentioned as part of the copyright-owner’s right to license its rights (which is obviously one of the economic rights), which includes the right to license reproduction of the work, electronic downloading of the work, electronic storage of the work, the acting of the work by any means, the broadcast or re-broadcast of the work, the public performance of the work, the transmission of the work, the translation of the work, the alteration of the work, the amendment of the work, the rental of the work, the lending of the work, any kind of publishing of the work, and to give any kind of access to the work including by means of computer or communication networks. Accordingly, as the author can license such rights, it implies the author/copyright-owner’s right to exercise such rights on its own.

4.2 Duration of Economic Rights

Economic rights are protected under the Copyright Law (Article 20) for the lifetime of the author, and for 50 years after their death, beginning on the first calendar day after the death. Joint authors are protected throughout their lifetimes, and for 50 years after the death of the last survivor.

For collective works, the economic rights are protected for 50 years from the first day of the calendar year following the first publication, provided that the author is a legal person. If the author is a natural person, he or she receives protection for the duration of his or her life plus 50 years. The works of an author published after his death or the works of an anonymous author receive protection for 50 years, beginning on the first day of the calendar year following its first publication.

As for applied art works, the Copyright Law provides that the duration of the protection of the authors’ economic rights expires 25 years after its first publication, starting on the first day of the next calendar year.

4.3 Alienable Economic Rights

Economic rights are alienable, according to the Copyright Law; the author has the right to license and assign his or her economic rights in a work. The Copyright Law makes a distinction between the licence and the assignment with respect to the requirements, which are listed in Article (9). The Copyright Law requires a licence or assignment of economic rights to be in writing, specifying the object of the right to be exploited along with the purpose, the duration and place of exploitation. The rights disposed or licensed shall be clearly stated in the licence or assignment; all other rights will continue to be owned by the author.

As for the consideration for licence or assignment, the Copyright Law provides that the author can charge cash or in rem in consideration of transferring or licensing one or more economic rights to a third party on a rational contribution base in the revenue resulting from exploitation. The Copyright Law prevents the disposal or exploitation of all future works or of more than five such works; any transaction to the contrary will be considered void.

4.4 Transmissible Economic Rights

Economic rights are transmissible upon death. The Copyright Law does not provide explicitly for this, but all rights exercised by the author/copyright-owner can be exercised by the author's successors, which implies that such rights are transmissible upon death. As there are no specific regulations in this regard, the general rules of law would apply.

4.5 Moral Rights

The Copyright Law lists the moral rights of the copyright owner in Article (5), as follows:

- the right to determine first publication of the work;
- the right of writing the work in his or her name;
- the right to protest against alteration of the work if the alteration leads to distortion, mutation or derogation to the author; and
- the right to withdraw his or her work from circulation in case of serious reasons justifying such an act.

4.6 Duration of Moral Rights

Moral rights are perpetual.

4.7 Alienable Moral Rights

Moral rights cannot be alienated and remain with the author. Moral rights are defined as personal to the author and his reputation in the work.

4.8 Transmissible Moral Rights

Moral rights can be transferred upon death to the successor of the author; if the author does not have successors or there was no specific will in this regard, the Ministry of Economy will practise these moral rights after the expiry of the economic right in order to protect the work.

4.9 Minimum Age Requirement

According to the UAE Federal Civil Transactions Law, the minimum age for conducting any transaction is 21 years. However, young authors (under 21 years) can enjoy rights under the UAE law, but any transactions (transfer, licence, sale of their rights) shall be done by their guardian.

4.10 Specific Types of Contract

A licence or assignment contract must be in writing, according to the Copyright Law. While the Copyright Law does not require the contract to be signed before a Notary Public,

from a practical point of view, the government authorities in the UAE require such contracts to be notarised; therefore, if the contract is to be used in front of any of the authorities in the UAE, it is preferable to have it notarised.

The licence or assignment agreement should follow the requirements of a contract format, namely that the subject matter and purpose of the contract should be identified, as well as the term, consideration and geographical area.

4.11 Exhaustion Doctrine

The exhaustion doctrine is not applicable in the UAE.

4.12 Dealing with Rights

There are no specific regulations related to rights arising from the Information Society; hence, the general rules of the Copyright Law apply.

4.13 Synchronisation

A synchronisation right is not available in the UAE Copyright Law.

4.14 Collective Rights Management System

Collecting societies are regulated under Articles 30-33 of the Copyright Law, as well as Ministerial Decision No. 133 of 2004 on Collective Management of Copyright and Related Rights ("Ministerial Decision"). The holders of the copyright and the neighbouring rights may assign their economic rights to specialised professional societies to administer them, or may authorise other bodies to practise these rights. Contracts concluded in this regard by such societies or bodies shall be considered civil contracts.

The Copyright law allows the establishment of many societies, which shall be licensed by the Ministry of Economy ("Ministry") based on certain rules and criteria, as stated in the Ministerial Decision. The collecting societies established under the Copyright Law shall:

- hold registers including the names of their members, their positions and the jobs they contracted, indicating the type of job, the duration and the agreed amounts of money, and shall keep the Ministry informed of any changes thereof;
- keep records of all contracts signed with licensees to exploit the rights and the agreed amount of money;
- take all administrative and legal action necessary to protect the rights of the contracting parties;
- prepare financial reports and accounts of the royalties received from licensees, and distribute the profits generated among its members annually at least; and
- provide reports to the licensors setting out the details of the parties that have used their services.

These societies and bodies must abide by the administrative decisions of the Ministry at all times. The Ministry may

withdraw the licence if the societies do not comply with the provisions of the law or its implementing regulations.

It is worth noting that, to date, there have been no collecting societies established in the UAE pursuant to the abovementioned articles.

4.15 Powers of Societies

According to the Copyright Law, the collecting societies administer the economic rights of the copyright-holders and neighbouring rights holders. As there are currently no collecting societies in the UAE, there is no practical view on what powers such societies may have.

4.16 Specific Feature

Software or computer programs are protected under the Copyright Law as works of art. There are no specific features that apply to software rights: the same economic and moral rights that apply to other types of work apply to software/computer programs.

5. Exceptions to Copyright

5.1 General Clause

Articles 22 and 23 of the Copyright Law provide a list of exceptions to the right-holders' rights, where copyrighted works are allowed to be used without consent. The moral rights of the author are intended to remain unaffected. The list is comprehensive and based on statutory law; however, there are certain criteria that must be met for each use in the list.

5.2 Factors to be Considered

The exceptions provided by the Copyright Law are as follows:

- Personal use: the right allowed is the reproduction right. It is permitted to make a single copy of a published work for personal use, as long as the purpose is not for profit or professional use. This exception is allowed for all types of works, except (a) works of fine art or applied art, which can be copied with the consent of the rights-holder unless they were displayed in public places; (b) architectural works; and (c) computer programs and databases, unless the copying falls within the exception below.
- A single copy can be made of a computer program, its applications or a database with the knowledge of its legitimate possessor, who has the right to adapt it but only within the limits of the licensed purpose, or for the purpose of back-up, or as a replacement for when the original copy is lost or destroyed or unusable, on the condition that the substitute or adapted copy is destroyed as soon as the copier no longer has the right to possess the original copy, even if the copy is carried or stored on a computer. The Copyright Law provides that the back-up copy shall be destroyed when the original possession right becomes invalid.
- Use in judicial proceedings: the right allowed is the reproduction right. It is permitted to make copies of protected works to use them in judicial proceedings or the like, but such use shall be limited to the extent required by such procedures, provided that the source and the author name are mentioned.
- Preservation of documents: the right allowed is the reproduction right. It is permitted to make a single copy of a protected work with the knowledge of the records house or archives, and not for profit, and only if the purpose of the copying is to preserve the original, or to replace it due to it being lost or destroyed, and where it is not possible to obtain a replacement in reasonable conditions.
- Research: the right allowed is the reproduction right. It is allowed to make a single copy of a protected the work, with the knowledge of the records house, archives or libraries, based on a request of an individual for the purpose of using the copy for research or study provided that it must be granted for one time or for interrupted periods of time provided that obtaining a licence to copy was impossible.
- Criticism and debate: the right allowed is the quoting right. It is permitted to quote short paragraphs or extracts from a protected works for the purpose of criticism and debate, or to provide news, provided that it is only to the extent necessary with respect to the type of work, and that the source and author are mentioned.
- Performance: the right allowed is the performance right. It is permitted to perform protected works in family meetings or by students inside an educational institute, provided that the performance is made for no direct or indirect profit or return.
- Broadcast showing certain works: the right allowed is the display through broadcast. It is allowed to show works of fine arts, applied and plastic arts or architectural works in broadcasting programs, if such works are permanently present in public places.
- Educational, religious or cultural training needs: the right allowed is the reproduction right. It is permitted to copy short sections of protected works in written, audio or visual recorded form, solely for the purpose of cultural, religious, educational or vocational training, provided that (i) the copying is within reasonable limits and does not exceed its purpose, (ii) the name of the author and the title of the work are mentioned each time it is possible, (iii) the copier does not aim to profit directly or indirectly from the copying, and (iv) it was not possible to obtain a licence to copy.
- Use in newspapers and periodicals, and by broadcasting organisations: the right allowed is the publication right. The following works are permitted to be published, provided that the work has been lawfully made available to the public, that the extent of copying is justified by the purpose, and that the name of the author and source are mentioned:
 - (a) excerpts of protected works – this also applies to

communicating excerpts from audio or visual works during ongoing events, and broadcasting or communicating them to the public by any other medium;

- (b) published essays relating to debates that have engaged public opinion at a certain time, as long as no notification of prohibition was mentioned at the time of publication; and
- (c) addresses, lectures, speeches recited in open sessions of parliamentary or judicial councils, and public meetings, as long as such lectures and speeches are addressed to the public and copied within the limits of copying the current news.

5.3 Exemption of Private Copy

The Copyright Law provides an exception to copying for private use: it is permitted to make a single copy of a published work for the copier's personal use, as long as the purpose is not for profit or professional use. This exception is allowed for all types of works, except: (a) works of fine art or applied art can be copied with the consent of the rights-holder, unless they have been displayed in public places; (b) architectural works; and (c) computer programs and databases, unless the copying falls within the description below.

A single or private copy is allowed for a computer program, its applications or a database with the knowledge of its legitimate possessor who has the right to adapt it but only within the limits of the licensed purpose, or for the purpose of back-up, or as a replacement for when the original copy is lost or destroyed or unusable, on the condition that the substitute or adapted copy is destroyed as soon as the copier no longer has the right to possess the original copy, even if the copy is carried or stored on a computer. The Copyright Law provides that the back-up copy shall be destroyed when the original possession right becomes invalid.

5.4 Exemption of Cultural Goods/Buildings

The Copyright Law provides an exception for showing or displaying buildings/architectural works in broadcast programs if such works are permanently displayed in public places. The Copyright Law does not specifically provide for the reproduction of such works in other forms.

5.5 Exemption of Intermediaries

The Copyright Law does not provide for any exceptions with respect to activities carried out by intermediaries.

5.6 Exemption of Satire/Parody

The Copyright Law provides an exception for parody. It is permitted to quote short paragraphs or extracts from a protected works for the purpose of criticism and debate or providing news, provided that it is only to the extent necessary with respect to the type of work, and that the source and author are mentioned.

5.7 Freedom of Speech

Freedom of speech and the right of information are protected by the UAE Constitution; however, exercising such rights shall not contradict or violate other laws, including the Copyright Law. Therefore, the Copyright Law provides certain exceptions that protect the freedom of speech, and at the same time provides certain rules and criteria.

6. Neighbouring/Entrepreneurial/Copyright-Related Rights

6.1 Neighbouring Rights

Neighbouring rights relate to public performances, broadcasts and sound recordings. According to the Copyright Law, the holders of neighbouring rights are performers, producers of sound recordings and broadcasting organisations.

Performers are defined in the Copyright Law as the actors, singers, musicians, dancers and other persons who recite, chant, play or perform – by any way – literary, artistic or other works protected according to the provisions of this law or inclusive within the public property. A producer of sound recording is defined as the natural or legal person who records the sounds of a performer or other sounds for the first time. Broadcasting organisations are defined as any authorities that practise sound, visual or audio-visual and wireless broadcasting transmission.

6.2 Content of Neighbouring Rights

Pursuant to the Copyright Law, the holders of neighbouring rights enjoy both economic and moral rights, which are stated as follows.

Performers' Rights:

- Moral rights, which are neither assignable nor prescribable, consist of:
 - (a) the right of attribution, whether the performance was live or recorded; and
 - (b) the right to prevent any distortion, mutilation, modification or derogation action that would be damaging to their reputation.
- Economic rights:
 - (a) the right to broadcast their unfixed performance and communicate it to the public;
 - (b) the right to fix their performance on a phonogram; and
 - (c) the right to reproduce their fixed performance on a phonogram.

The duration of the economic rights for performers is 50 years, calculated from the first year following the performance. If the performance is fixed in an audio recording, the protection is calculated from the end of the year it was made.

Producers of Sound Recording:

- Moral rights: there are no moral rights for the producers of sound recordings.
- Economic rights:
 - (a) The right to prohibit any exploitation of their phonograms by any means without their authorisation. Copying, rental, broadcasting, re-broadcasting, making available to the public via computer or other media is a prohibited exploitation for third parties.
 - (b) The right to disseminate their recordings via wire, wireless, computer or other means.

The duration of the economic rights for producers of sound recording is 50 years, calculated from the beginning of the year after the one in which the publication of the phonogram was done or the year in which the phonogram was fixed if it was not published.

Broadcasting Organisations:

- Moral rights: there are no moral rights for the producers of sound recording.
- Economic rights:
 - (a) The right to grant licences for the exploitation of their recordings and broadcasting programs.
 - (b) The right to prohibit any communication of their programs or recordings to the public without their authorisation. Recording of such programs, copying or re-copying their recordings, rental, re-broadcasting, and communication to the public by any means are prohibited for third parties in particular.

The duration of the economic rights for broadcasting organisations is 20 years, calculated from the beginning of the calendar year following the year in which the first transmission of these programs was made.

6.3 Collecting Societies

According to the Copyright Law, a collecting society could be established to manage neighbouring rights. However, to date no such society has been established in the UAE for this purpose.

6.4 Specific Types of Contracts

The licensing or assignment of neighbouring rights has not been addressed explicitly under the Copyright Law, but the same requirements for licensing and assignment of copyright would apply. Licence or assignment contracts must be in writing, and must specify the right subject to the licence or assignment in the contract. In addition, the contract shall state the purpose of the licence or assignment, the period of exploitation and the geographic area.

6.5 Exceptions to Copyright and Neighbouring Rights

The exceptions applicable to copyright are also applicable to neighbouring rights.

7. Copyright Infringement and Litigation**7.1 Considering Copyrighted Work as Infringed**

The UAE Copyright Law provides a number of instances whereby infringement has occurred due to unauthorised use of the protected work. By way of example, the right to modify or adapt a copyrighted work is granted to the author of the work, and he or she has the exclusive right to license that piece of work, under Article 7 of the Law. Should it be determined that a work is modified during a translation and the translator does not indicate these modifications, the author will have a claim for copyright infringement as outlined by Article 6.

Article 5 of the law provides that the author has the right to publish his or her work for the first time, and Article 7 further provides the author the exclusive right to license the use of his work, including the communication of the work to the public and the broadcasting, re-broadcasting, or any other form of publication. To the same extent, performing artists enjoy the right to broadcast their performances and convey them to the public. Third parties are prohibited from recording live performances with the intention of broadcasting the performance or presenting it in another form. Producers of phonograms enjoy similar protection under Article 18, while Article 19 gives broadcasting authorities the right to prohibit any unauthorised public broadcasting of their programs or recordings.

7.2 Defences Available Against Infringement

Articles 22 and 23 of the UAE Copyright Law provide 11 exceptions. Four of these exceptions provide direct benefits for the education community and their libraries, covering the use of quotations, reproductions in educational settings, performances at educational institutions, and reproductions in libraries.

Another four of the 11 exceptions are established to benefit the press and media broadcasting in support of freedom of information and information circulation. These exceptions permit reproduction by the press of articles in newspapers and periodicals, essays relating to issues of public interest, addresses, lectures, speeches recited in open sessions of parliamentary or judicial councils and public meetings, and reproduction in broadcasting of works of fine arts, applied and plastic arts, or architectural works that are permanently located in public places.

7.3 Proceedings Available

Article 34 of the Law provides the author the right to request the Court of First Instance to issue certain orders with regard to a work that has been reproduced without the author's permission. Such orders include the making of a full report, a ban on the illegal activity, an attachment of the original work, and the appointment of an expert to calculate the proceeds resulting from the infringement, and to obtain proof concerning the infringement. If any of the above orders are handed down, the applicant must file a substantive proceeding with the relevant court within 15 days of any such order to prevent it becoming void. Upon the decision of the substantive proceedings, such an order may be made permanent.

7.4 Neighbouring Rights Versus Copyrights

The protection provided applies to neighbouring rights; the same proceedings apply.

7.5 Moral Rights in Court

Moral rights are protected and can be enforced by the author in Court.

7.6 Non-Declaratory Infringement Proceedings

The courts do not generally make orders for declaratory relief.

7.7 Court Handling Copyright Proceedings

A claim for copyright infringement is filed before the Court of First Instance, the decision from which can be appealed before the Court of Appeal and all the way up to the Court of Cassation (Court of last instance). There are no specialised Courts for copyright claims.

7.8 Necessary Parties

The author and the copyright-holder (if assigned) are the necessary parties in an infringement proceeding. There is no provision in the law that prohibits the licensee from being a party to the claim; such a right is governed between the parties' contractual terms. As such, the licensee can be a party to the claim if the parties' contractual agreement allows the licensee to participate in the proceeding. In addition, the general rules of the law provide that any person who has suffered damage may seek compensation. Accordingly, as a person who has suffered damage because of infringement, the licensee can claim damages and file infringement proceedings.

7.9 Involvement of Third Parties

There are no provisions in the law regarding remedies and sanctions relating to third parties. The sanctions as provided in Articles 37 and 38 of the Law would be applicable to anyone who is found to be infringing on a protected right.

7.10 Court Fees

Court fees are paid by the losing party. However, the Court fees are minimal, averaging AED2,500.

7.11 Formalities Required Before Intiation

There are no formalities required before initiating the proceedings, including no requirement to send a cease and desist letter. However, a UAE copyright registration is required in order for the Courts to enforce a right effectively.

7.12 Urgent Measures for Right Holders

Article 34 of the Law provides the author the right to request the Court of First Instance to issue certain orders with regard to a work that has been reproduced without the author's permission, including the making of a full report, a ban on the illegal activity, an attachment of the original work, and the appointment of an expert to calculate the proceeds resulting from the infringement, and to obtain proof concerning the infringement. If any of the above orders are handed down, the applicant must file a substantive proceeding with the relevant court within 15 days of any such order in order to prevent it becoming void. Upon the decision of the substantive proceedings, such an order may be made permanent.

7.13 Available Urgent Measures

When filing for an attachment, each case is reviewed by the Court on a case-by-case basis. Some of the factors considered by the courts are that the claiming party has an effective right in the UAE (ie, copyright registration), that there is urgency in the matter, and that there may be irreparable damage if an attachment is not handed down. Secondly, if an attachment order has been ordered, the claiming party may be required to provide the court with a security deposit, which is kept with the court, to ensure that the attachment has not been filed fraudulently and without basis in order to disrupt the other party's business. At the end of the proceedings, the security deposit will be returned to the claiming party regardless of the outcome of the proceedings in the substantive case.

7.14 Obtaining Information and Evidence

The claiming party should already have the relevant evidence of the infringement to hand, as there are no special proceedings allowing for discovery before the filing of proceedings.

7.15 Requesting Urgent Seizure

The copyright law provides for the seizure of the infringing goods, but not any other goods or bank accounts, although a seizure would be possible according to the general rules of the law. In practice, such seizures are not accepted by courts in infringement cases, as the damages are not usually high.

7.16 Addressing Intermediaries with Urgent Measures

In practice, the court will not issue an order for urgent measures to the intermediaries until a final judgment regarding the infringement has been handed down.

7.17 Role of Experts in Copyright Proceedings

A court-appointed expert can be assigned in a copyright proceeding, whose role is to determine whether there is an effective copyright registration in the UAE, whether the copyright is valid, and whether the reported activities of the defendant amount to infringement and go against the claimant's protected rights. Experts are usually appointed in copyright cases.

7.18 Regimes Regarding Burden of Proof

All copyrighted works are governed by the same regime, and the burden of proof remains the same.

7.19 Sanctions

Penal measures can be taken against a person who infringes any of the author's rights. Article 37 of the Law states that imprisonment for no fewer than two months and/or a fine of between AED10,000 and AED50,000 can be ordered. If the work is produced or imported with the intention of communicating it to the public, including broadcasting it, then the penalty is a jail term of no less than three months and/or a fine of between AED50,000 and AED500,000, as per Article (38) of the Copyright Law.

7.20 Party Responsible for Paying Fees

Court fees are paid by the losing party, but the Court fees are minimal, averaging AED2,500. Attorney fees are covered by each of the respective parties.

7.21 Average Duration of Proceedings

The length of the proceedings depends on the complexity of the matter and the review of the evidence, and on the responses filed by each of the parties. On average, proceedings before the Court of First Instance can take anywhere between 8 and 12 months.

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7.22 Decisions Enforced

Enforcement depends on the decision issued. If it requires the infringer to destroy the copyrighted material, the plaintiff and a court bailiff can attend and monitor the destruction of the copyrighted material. If, however, the copyrighted material is contained online and the court issues a decision to shut down the .ae website, then the claiming party can request the assistance of the Telecommunication Regulatory Authority in enforcing and verifying that the infringer has complied.

7.23 Administrative or Criminal Means

An administrative complaint can be filed with the Department of Economic Development or the Copyright Office. A UAE copyright registration is required in order to effectively file a complaint. As a next step, the complaint will need to be filed, and should provide exact details of how the copyright is being infringed.

With the Department of Economic Development, and when the infringement is clear, the officials will conduct a raid on the infringing target and seize the infringing goods. Fines will be imposed immediately, and infringing goods would be destructed.

If the complaint is filed with the Copyright Office, after examination of the complaint, the matter will be referred to the Public Prosecutor to conduct a raid and the matter will become a criminal complaint.

7.24 Customs Seizure of Counterfeits and Parallel Imports

Although Customs recordal is available in the UAE and more particularly in the Emirates of Abu Dhabi, Dubai, Sharjah, Ajman and Ras Al-Khaimah, the Customs authority is more accustomed to recordation and customs enforcement vis-a-vis trade-marks.

7.25 Special Provisions

A claim for copyright infringement is filed before the Court of First Instance, the decision from which can be appealed before the Court of Appeal and all the way up to the Court of Cassation (Court of last instance). There are no specialised courts for copyright claims.

7.26 Full or Factual Review

An appeal before the Court of Appeal will imply a full review of the facts of the case. However, appeals at the cassation court are limited to a legal rather than factual review, unless of course new evidence or facts are made available that were not available in the first instance.

7.27 Providing the Court with All Necessary Evidence

The parties are allowed to provide the Court of Appeal with any and all evidence they deem necessary.

7.28 Alternative Dispute Resolution

Alternative dispute resolution is neither a common nor compulsory element for settling a copyright case.