

Trademark Law of Egypt.

Law No. 82 of 2002

Pertaining to the Protection of Intellectual Property Rights

The People's Assembly has passed the following law, and it is hereby promulgated:

Article One

The protection of intellectual property rights shall be governed by the attached law.

Article Two

The following laws shall hereby be repealed

- A)** Law # 57 of 1939 pertaining to Trademarks and Commercial Data.
- B)** Law # 132 of 1949 pertaining to Patents of Invention and Industrial Drawings and Designs; with the exception of the provisions of patents of inventions regarding foodstuff - related chemicals and pharmaceutical chemicals, which shall be repealed as of January 1st, 2005

C) Law # 354 of 1954 pertaining to Copyright Protection.

Any provisions that contradict with the provisions of the attached law shall be hereby repealed.

Article Three

Upon recommendation of the competent Ministers, the Cabinet shall issue the implementing regulations, within a term not exceeding one month as from the date of enactment of the law herein.

The competent Ministers shall issue, according to their jurisdiction, the decisions required for implementing the provisions of the attached law.

The Ministers, according to their jurisdiction, shall adopt measures necessary to protect the public health and nutrition; or to promote sectors of vital importance to the socio-economic and technological development; within the limits specified by the provisions of the attached law.

The Ministers, according to their jurisdiction, may undertake the procedures necessary, within the limits of the law herein, to prevent the misuse of intellectual property rights by right holders or to resort to practices, which unreasonably restrain trade or adversely affect the international transfer of technology, in accordance with the attached law.

Article Four

This law shall be published in the Official Gazette and shall come into force as from the date following the publication date.

However provisions for patents of inventions concerning foodstuff - related- chemicals, pharmaceutical chemicals and microorganisms and products that were not previously subject to protection, before the issuance of the law herein, shall come into force as from January 1st, 2005; without prejudice to articles 44 and 45 of the attached law.

The law herein shall hold the seal of the State, and shall come into force as one of the laws thereof.

Issued in the Presidency of the Republic on Rabia'a 1st 21, 1423 H

(concurrent with June 2; 2002 A.D.)

The section included below contains the part about trademarks within the above law.

Trademarks, Commercial Data, and Geographical Indications

Article 63:

Trademark is any sign capable of distinguishing the product or services of one undertaking from those of other undertakings, including, distinctive names, signatures, words, letters, numerals, drawings, symbols, signboards of shops, fiscal and official stamps, pictures, protruded engravings, and combination of colors in a specific and distinctive form; as well as any combination of such elements if being employed or needed to be employed for distinguishing products of an industrial process, agricultural or forestay exploitation, earth extracts, or any commodity; for indicating the origin, kind, category, guarantee or method of preparation of products or commodities; or for indicating the performance of one of the services.

In all cases, the trademark shall be visually perceptible.

Article 64:

Commercial Registration Department shall be the competent authority for recording trademarks in the register of Trademarks, pursuant to the provisions of the law herein and the executive regulations thereof, subject to articles 3 and 4 of the decision issuing law # 115 of 1958 regarding correspondences and signboards; wherein stipulating that the Arabic language shall be used.

Article 65:

The registrant of a trademark shall be deemed the proprietor thereof, so long as such registration is associated with five- year- usage subsequent to registration; unless, the priority of usage has been proven for others.

The party, who has prior use of the mark, may appeal for the invalidation of registration, within the said five - year - term.

Nevertheless, the appeal for the invalidation of registration, without being bound by any time period, so long as such registration was associated with mala fide.

Article 66:

Without prejudice to the provisions of international conventions applicable in A.R.E., any natural or juridical person, either Egyptian or foreigner belonging or having the actual and effective place of business in one of the states or entities that are member of the World Trade Organization, or that treat Egypt on reciprocal basis, shall have the right to apply to the Registration Department in A.R.E for registration of a trademark and shall be entitled to any of the resulting rights pursuant to the provisions of the law herein. With regard to the rights provided for in the present chapter, any advantage, favor, privilege or immunity granted to nationals of any State, under any other law, shall be accorded immediately to all nationals of all member States of the World Trade Organization. Exempted from this obligation are any advantage, favor, privilege or immunity originating from the following:

- (1) International agreements on Judicial assistance or law enforcement of a general nature;
- (2) Intellectual property rights - related agreements, which were applicable before January 1st, 1995

Article 67:

The following shall not be registered as trademark or an element thereof:

- 1-** Marks devoid of any distinctive characteristic or formed of signs or data, which are merely nomenclatures given by the established usage of the products, drawings, or the natural figures thereto;
- 2-** Marks that contravene public order or morals;
- 3-** General emblems, flags and other symbols of the State or other States, regional or international organizations, as well as any imitation there for;
- 4-** Marks that are identical or similar to symbols of pure religious nature;
- 5-** Red cross or red crescent symbols or other similar symbols; as well as marks that are imitation thereto;
- 6-** Photographs or emblems of third parties, unless with prior consent there from;
- 7-** Information regarding degrees of honor, which the applicant for registration does not prove its being conferred thereupon; and
- 8-** Marks and geographical indications that may mislead public, or cause confusion thereto, or that include untrue information about the source or other characteristics of the products, either products or services; as well as marks that include data about imaginary, imitated or counterfeit trade name.

Article 68:

The owner of a trademark, which is well known in Egypt and worldwide, shall enjoy the protection prescribed in the law herein; even if such mark has not been registered in A.R.E.

The Department shall undertake, ex officio, to refuse or to cancel the application for registration of a trademark that is identical to a well-known mark, which includes the use of a mark for distinguishing products that are similar to those distinguished by the well-known mark; unless such application has been submitted by the owner of the well-known mark.

The preceding provision shall apply to applications for registration, which include products, not identical to that distinguished by the well-known mark; in the following cases: i) the well-known mark is registered in one of the member states of the World Trade Organization and in A.R.E.; ii) the use of such mark in relation to the above non-identical product, may make others believe that there is a connection between such product and the owner of the well-known mark; and iii) the interests of the owner of the well-known mark are likely to be damaged by such use.

Article 69:

Collective marks shall be used for distinguishing a product produced by a group of persons belonging to a particular entity, even if such entity does not possess an industrial or commercial establishment. The registration of such marks shall be applied for, through the representative of such entity.

Article 70:

The competent Minister may - for the purposes of public welfare -authorize natural or juridical persons, who inspect or examine products, to register marks designated for indicating such inspection or examination, regarding the origin, elements, method of production, characteristics, essence or any other features characterizing such products, has been conducted thereon. Such mark may not be disposed of unless by special authorization from the competent Minister.

Article 71:

The right of the trademark owner to prevent third parties from importing, using, selling or distributing goods distinguished by such mark shall be exhausted, if such owner marketed or licensed third parties to market such goods in any State.

Article 72:

The Trademark that is affixed on products exhibited in one of the national or international exhibitions shall be granted temporary protection. Such protection shall not result in extending the period prescribed in article (75) of the law herein.

The competent Minister shall designate such exhibitions, pursuant to decision issued by the same. The executive regulations implementing the law herein shall determine the terms, conditions and procedures required to grant such protection.

Article 73:

Application for registration of a trademark shall be submitted to the Commercial Registration Department, in accordance with the conditions and terms prescribed by the executive regulations implementing the law herein. Such executive regulations shall determine the categories of the fees due on the application and all relevant procedures regarding the mark. The total fees in this regard shall not exceed five thousand Pounds.

Article 74:

The Trademark shall be registered for one or more classes or types of products, produced or intended to be produced by the applicant, pursuant to the conditions and terms defined by the executive regulations implementing the law herein.

The use of the mark shall be restricted to the class (s) or type (s) in respect of which the mark has been registered.

Provisions of article (91) of the law herein shall apply to the classes in respect of which the mark has not been seriously used.

Article 75:

In accordance with the terms and conditions stipulated by the law herein and the executive regulations thereof; if an application for registration of a mark that has been filed in one of the member States or entities of the World Trade Organization, or one of the States or entities that treat A.R.E. on reciprocal basis, the applicant or his successor in title may submit to the Department in A.R.E., within six months from the date of applying for registration, a similar application relating to the same mark and including the same products that were included in the previous application.

In such case the priority shall be determined according to the date of submitting the first application in the foreign country.

Article 76:

If two or more parties apply simultaneously for registration of the same mark or marks that are identical or similar in respect of one class of the products, the registration procedures shall be stayed, until one of the parties presents waivers from its contestants or a final judgment issued in its favor.

Article 77:

The commercial Registration Department may, based on a justified decision, request the applicant for the registration of a trademark to make the necessary amendments on the subject mark for defining and clarifying same, in order to avoid confusion with another previously registered trademark or a prior application for trademark.

The applicant shall be notified of such decision, via registered mail with return receipt requested,

within thirty days from the date of issuance thereof.

The Department may reject the application if the applicant did not make the amendments requested by the Department within six months as from the date of notification.

Article 78:

The applicant may petition against the decision issued by the Department, referred to in article (77) of the law herein , within thirty days from the date of being notified in this respect. The petition shall be examined by one or more committees to be formed by a decision from the competent Minister. Such committee shall consist of three members, one of whom shall be a member of the State's Council. The executive regulations implementing the law herein shall set forth the rules governing the formation of the committee and the procedures of submitting, examining and issuing a decision on the petitions.

Article 79:

Without prejudice to the right of the interested party to lodge an appeal, pursuant to the law; if the committee referred to in the preceding article, has upheld the decision of rejecting the application for registration of Trademark for being similar to another previously registered in respect of the same products or the same class, such mark may not be registered in favor of the applicant, unless pursuant to a final court judgment.

Article 80:

The Department shall publish the decision of acceptance of the application for registration of the mark in the Trademark, Industrial Designs and Models Gazette, in the manner prescribed by the executive regulations implementing the law herein.

Any interested party may oppose against the registration of the mark through a written notification directed to the Department, including the reasons for the opposition, within sixty days from the date of publication, pursuant to the conditions set forth by the executive regulations implementing the law herein. The Department shall serve a copy of the notification concerning the opposition to the applicant, within thirty days from the date of receiving the notification.

The applicant for registration shall submit to the Department, a justified written reply to such opposition, within thirty days from the date of receiving the notification; otherwise the applicant shall be deemed to have abandoned the application.

The executive regulations implementing the law herein shall set forth the rules and procedures regulating the above.

Article 81:

The Department shall issue a justified decision on the opposition, either accepting or rejecting the registration, after hearing both parties to the dispute. The Department may incorporate in the decision of approving the registration an order for the applicant to carry out the prerequisites that are deemed necessary by the Department, in order to proceed with the registration of the mark.

Article 82:

The decision of the Department hereinabove mentioned in article (81) of the law herein may be challenged before the Administrative Court of Jurisdiction, pursuant to the procedures and dates provided for in the State's Council law.

Article 83:

The mark shall be registered, pursuant to a decision from the Department. Such decision shall be published in the Trademark, Industrial Designs and Models Gazette, in the manner stated in the executive regulations implementing the law herein.

Registration shall be effective from the date of submitting the application.

Article 84:

The Department shall grant the owner of the registered mark a certificate pertaining to the data published about the mark in the above-mentioned Gazette.

Article 85:

The owner of the registered mark may submit in writing an application to the Department, for inserting any amendment to the mark, which does not substantially affect the essence of the mark. The owner may as well apply for inserting any amendment, through cancellation and not addition, to the products covered by the mark.

The decision of accepting or rejecting the application for amendment shall be issued pursuant to the provisions stipulated for the decisions approving the original applications for registration. In this respect, provisions stipulated for oppositions, petitions, appeals and publications shall apply to such decisions.

Article 86:

Any person may request to peruse the registered marks, or to obtain extracts or copies of the register thereof, pursuant to the rules and procedures defined by the executive regulations implementing the law herein; and in return for a fee prescribed by such regulations, not exceeding one hundred pounds.

Article 87:

A Trademark may be assigned, subjected to rights in rem or seized independently of the place of business or the commercial establishment, pursuant to the rules and procedures prescribed by the executive regulations implementing the law herein.

Article 88:

Assignment of the place of business or the commercial establishment shall include the marks registered in the name of the owner, if such marks are closely associated with the place of business or the commercial establishment, unless otherwise agreed upon.

If the assignment of the place of business or the commercial establishment does not include the trademark, the owner of the mark may use it for the same type of products, or the class (s) in respect of which the mark has been registered, unless otherwise agreed upon.

Article 89:

Assignment, usufruct or mortgage of a mark may not be enforceable against third parties, unless after being recorded in the register and published in the manner prescribed by the executive regulations implementing the law herein.

Article 90:

The protection period resulting from registering a mark shall be ten years, and shall extend for a similar period or periods, upon request of the owner thereof, during the last year of each protection period, and in return for the same fee due on the first application for registration.

After not more than six months calculated from the end of such period, the owner may apply for renewal of the protection period, in return for the prescribed fee and an additional fee determined by the executive regulations implementing the law herein, not exceeding five hundred pounds; otherwise the Department shall cancel the mark.

Article 91:

The court of jurisdiction may, upon request of any interested party, decide to cancel the mark pursuant to a final judgment, if it is established to the court that the mark has not been seriously used for five consecutive years, without reasonable justification.

Article 92:

A cancelled Trademark may be re-registered for the benefit of its owner only, within three years calculated from the date of cancellation, pursuant to the conditions and in accordance with the same procedures stipulated for registration; and in return for a fee to be prescribed by the executive regulations implementing the law herein, not exceeding one thousand pounds.

After the lapse of the said period, such mark may be registered for the benefit of its owner and for third parties, in respect of the same products, pursuant to the conditions and in accordance with the same procedures and fees prescribed for the first registration.

Nevertheless, if cancellation has taken place in implementation of a final judgment stipulating the non-eligibility for registration of the mark, such mark may be registered for the benefit of third parties immediately upon cancellation.

Article 93:

A decision of extending, renewing or canceling registration or otherwise of re-registration after cancellation shall be published in the Trademarks and Industrial Designs and Models Gazette, in the manner prescribed by the executive regulations implementing the law herein.

Article 94:

The Department and any interested party may resort to the relevant court of jurisdiction, in cases other than those stipulated in article (85) of the law herein, requesting the addition of any unintentionally omitted entry, or the deletion or amendment of any entry that has been unlawfully recorded in the register, or that is not identical to reality.

Article 95:

The owner of the mark may grant license to one or more natural or juridical persons to use the mark for some or all of the products in respect of which the mark has been registered. Such licensing shall not prevent the owner of the mark from using same; unless otherwise agreed upon.

The owner of the mark may not terminate or decide not to renew the license agreement; unless for a lawful reason.

Article 96:

For the recordation of a license agreement in the trademark register, the signatures therein shall be authenticated or legalized. The license shall not be enforceable against others, unless after registration and publication in the manner defined by the executive regulations implementing the law herein.

Article 97:

The licensee may not assign the license agreement unless with the assignment of the place of business or the commercial establishment in which the mark is used to distinguish the products thereof; unless otherwise agreed upon.

The mortgage or usufruct of a license agreement shall not be enforceable against third parties, unless after recordation and publication in the manner prescribed by the executive regulations implementing the law herein.

Article 98:

The license agreement may not include any terms that unnecessarily restrict the licensee, in order to maintain the rights resulting from the registration of a mark.

Nevertheless, the license agreement may include the following terms:

- 1- Limitation of the duration of the license granted for the use of the mark.
- 2- Reasonable terms that secure the right of the trademark owner to practice quality control on the products distinguished by the licensed mark; in a manner that does not contravene the freedom of the licensee in management and operation.
- 3- Obligation imposed upon the licensee to abstain from carrying out any act that might lead to depreciation of the products distinguished by the mark.

Article 99:

The owner of the mark or the licensee may request the cancellation of the recordation of the license agreement. The other party shall be notified by the Department with such request. Cancellation shall take place in the cases and in accordance with and procedures prescribed by the executive regulations implementing the law herein.

Article 100:

Any illustration directly or indirectly relating to the following, shall be deemed, in the application of the provisions of the law herein, commercial data:

- 1- The number, quantity, size, measure, capacity or weight of the products;
- 2- The place or country in which the products are manufactured or produced;
- 3- The method of manufacturing or producing such products;
- 4- The elements and components contained in the composition of such products;
- 5- Name or title of the manufacturer or producer;
- 6- The existence of patents or other industrial property rights, or any industrial or commercial privileges, rewards or advantages; and
- 7- Name or shape by which some products are generally known.

Article 101:

The commercial data shall be true, in all aspects, whether being affixed on the same products itself or the, packages, invoices, letter heads, advertising materials, or other means used for displaying products to the public, or otherwise affixed on or at the shops or warehouses, or on the signboards thereof.

Article 102:

Any kind of medals, diplomas, rewards or degrees of honor may not be mentioned except for products on which such privileges apply, and for trade names, persons, or the successors in title thereof, upon whom such privileges were conferred. The above shall include correct data concerning the granting date, kind and event as well as the grantor.

Any person who has jointly exhibited products may not use for the products solely owned by him, the advantages granted to the products that were jointly exhibited; unless such owner clearly illustrates the source and kind of such advantages.

Article 103 :

If the amount, size, measure, capacity, weight, source, or elements of composition of the products are among the factors contributing to the evaluation thereof, the sale, offer for sale or importation of such products may be prohibited, upon a decision of the competent Minister, unless such products bear such data.

The competent Minister may issue a decision of determining the manner of affixing such data on the products in the Arabic language, and the alternative procedures, when necessary.

Article 104:

Geographical indications identify a good as originating in a territory or a region in a Member State of the World Trade Organization or a State that deals with A.R.E on reciprocal basis, where a given quality, reputation or other characteristics of such goods, which affect the sales promotion thereof are essentially attributable to its geographical origin.

Such indications shall be protected, provided that they have acquired protection in the country of origin.

Article 105:

Any person belonging to a region well - reputed for producing a particular kind of goods may not affix on products, in which he trades, geographical indications suggesting that such products originate in the well - reputed region, in a manner that misleads public.

Article 106:

No means may be used in the designation or presentation of a product that indicates or suggests that the product in question originates in a geographical area other than the true place of origin in a manner, which misleads the public.

Article 107:

The producer of a product in a region well - reputed for producing such product, may not affix a geographical indication on the similar products produced by him in other localities, in a manner, which suggests that such similar products originate in such well - reputed region.

Article 108:

Geographical names may be attributed to some products, where such names have substantially become, in the commercial usage, an indication of the product itself and not the geographical origin thereof.

Article 109:

A trademark that contains a geographical indication may be registered, with the proviso that the products are continuously produced by the applicant in the well - reputed geographical territory.

Article 110:

A trademark that contains a geographical indication may not be registered, if the use thereof is of such a nature as to mislead the public as to the true place of origin.

Article 111:

A trademark which contains a geographical indication may be registered, if the right to such mark has been acquired through using such mark, in bona fide, before the coming into force of the law herein, or before granting protection to the geographical indication in the country of origin.

Article 112:

Any interested party may bring an action before the competent Court of First Instance, via the conventional channels, requesting to prevent the usage of a geographical indication not included in a registered trademark, if such use is of such a nature as to mislead the public as to the true origin of the good.

The competent Court of First Instance shall be the Court in which jurisdiction the geographical indication is used.

Article 113:

Without prejudice to any severer penalty provided for in any other law, the following shall be penalized by imprisonment for a period not less than two months and a fine not less than five thousand pounds and not exceeding twenty thousand pounds, or either of the two penalties:

1- Any person forging a trademark that has been lawfully registered or counterfeited such mark in a manner that misleads public.

- 2- Any person using in mala fide a forged or counterfeit mark.
- 3- Any person affixing, in mala fide, on his products a trademark owned by third parties.
- 4- Any person who knowingly sells, offers for sale or circulation or acquires for the purpose of sale or circulation products that bear a forged, counterfeit or unlawfully affixed trademark.

In case of recurrence, the penalty shall be imprisonment for a period not less than two months and a fine not less than ten thousand pounds and not exceeding fifty thousand pounds.

In all cases, the court shall decide to confiscate the products subject of the crime or the amounts of money or articles obtained there from, as well as the implements that have been used in the commission of such crime.

On issuing a court ruling of incrimination, the court may decide to close the establishment that has been exploited by the adjudged party in committing the crime for a period not exceeding six months. Such closure shall be obligatory in case of recurrence.

Article 114:

Without prejudice to any severer penalty provided for in any other law, a penalty of not more than six - month - imprisonment and a fine not less than two thousand pounds and not more than ten thousand pounds, or either of both penalties, shall be imposed upon the following:

- 1- Any person affixing commercial data contrary to reality, on his products, shops, and warehouses or on the signboards thereof, or on the packages, invoices, letterheads, media means or other means used in displaying the products to the public.
- 2- Any person unlawfully citing data, on his marks or commercial papers, which suggests that the mark has been registered.
- 3- Any person using an unregistered mark in the cases stipulated in paragraphs 2, 3, 5, 7, and 8 of article 67 of the law herein.
- 4- Any person citing any kind of medals, diplomas, rewards or degrees of honor on products not relating thereto or attributing same to trade names or persons who did not acquire same.
- 5- Any person who has jointly displayed products and used for his own products the advantages that have been granted to the jointly displayed - products; unless such person clearly illustrates the source and kind of such advantages.
- 6- Any person affixing geographical indications, on the products in which he trades, in a region well - reputed for producing a particular good, if such affixation is of such a nature as to mislead the public by suggesting that the goods originates in such region.
- 7- Any person using any means for designating or displaying a good, in a manner that misleads the public, by suggesting that such good originates in a well - reputed geographical territory other than the true place of origin thereof.
- 8- Any producer of a good in a region well - reputed for producing such good affixing a geographical indication on the similar goods produced by him in other territories in a manner that falsely represents that the goods originates in the said region.

In case of recurrence, the penalty shall be imprisonment for not less than one month, and a fine not less than four thousand pounds and not exceeding twenty thousand pounds.

Article 115:

The Head of the relevant court of jurisdiction may order, upon request of any interested party, and pursuant to an order to be issued in a memorandum, that one or more of the relevant provisional measures, be undertaken; and in particular:

- 1- Proving the infringement on the protected right.
- 2- Making a stock taking report and preparing a detailed description of the machines and implements, which are / were used in the committing of the crime; and the products, goods, signboards of shops, packages, invoices, letter heads, advertising materials, or the other means which bear the infringing trademark, data or geographical indication; as well as the imported products upon the arrival thereof.
- 3- Sequestration of the items mentioned in clause (2) hereinabove.

The Head of the Court may order, in all cases, to delegate one or more experts for assisting the process server who is charged with execution, and may order the applicant to post a suitable guarantee. The applicant may refer the dispute to the Court of Jurisdiction within fifteen days from the date of issuing the order; otherwise the order shall be deemed null and void.

Article 116:

The adjudged party may petition against such order to the head of the court who has issued such order, within thirty days from the date of issuance or proclamation thereof, as necessary. The Head of the court may uphold or cancel the order, in whole or in part.

Article 117:

The Court may issue a ruling, in any civil or penal action, of selling the articles that have been / will be sequestered and of deducting the price thereof from compensations or fines; or order to dispose of such articles in any other manner as deemed appropriate by the Court.

The Court shall order to destroy the infringing marks and may, if necessary, order to destroy the products, goods, signboards, packages, invoices, letter heads, advertising materials or any other means bearing such mark, data or geographical indications, in a manner that contravenes the provisions included in this chapter. The Court may order, as well, to destroy the machines and implements that have been used in committing the crime.

The Court may further order to publish the court ruling in one or more newspapers at the expense of the adjudged party.

The Court may issue one or more of the above mentioned orders, even in case of acquittal.

Article 118:

The Minister of Justice shall issue, upon agreement with the competent Minister, a decree determining the competent law officers entitled to implement the provisions of this chapter.