

Frequently Asked Questions (FAQ) Intellectual Property (IP)



What is a Trademark?

A trademark is a sign capable of distinguishing the goods or services produced or provided by an enterprise from those of other enterprises. Therefore, any distinctive words, letters, numerals, drawings, pictures, shapes, colours, logotype, labels or combination used to distinguish goods or services may be considered a trademark. In some countries advertising slogans are also considered trademarks. Moreover, many countries allow for the registration of single colours, three dimensional signs (shape of products or packaging), sounds and smells.

What is the History of Trademark Regulations in the UAE?

The Government of the United Arab Emirates issued a new trademark law that came into force on 15th January 1993, and the implementing regulations were enforced on February 2nd, 1993. The Law covers the seven Emirates of Dubai, Abu-Dhabi, Sharjah, Ras Al-Khaimah, Ajman, Fujairah and Umm Al-Quwain. The United Arab Emirates is a member to the Paris Convention for the Protection of Industrial Property. In respect of trademark registration, the international classification of goods and services (Nice Classification, 8th edition) is followed in United Arab Emirates and the revision of class 42 with the creation of classes 43 to 45 has been adopted as of January 1st, 2002.

What Can You Register Under a Trademark?

- The professionals at Farahat & Co. are much more concerned to protect their clients' interests from infringing marks. Now Farahat & Co. can help you to register your Trademark.
- Inter alias, the following shall be considered as trademarks:
- Language terms that have no meaning in relation to the goods or services with which they are associated and which are meant to distinguish the goods/services in question from others.
- Language terms which have by virtue of their use over time, attained distinctiveness and distinguish ability in connection with the goods or services with which they are associated.
Space
 - Names
 - Signatures
 - Letters
 - Numbers
 - Drawings
 - Symbols
 - Addresses
 - Hallmarks
 - Stamps
 - Pictures
 - Vignettes

- Notices
- Packages
- Combinations of any of the above items; and
- A sound accompanying mark

What is the Function of the Trademark?

The main function of a trademark is to enable consumers to identify product (goods or services) of a particular Company in order to distinguish it from other identical or similar products provided by competitors. Consumers often develop an emotional attachment to certain trademarks, based on a set of desired qualities of features embodied in the products bearing such trademarks. Therefore, trademarks are considered to be valuable assets for most companies. Estimates of the value of some of the world's most famous trademarks

such as Coca Cola or IBM exceed 50 billion dollars each. This is because consumers value trademark, their reputation, their image and a set of desired qualities they associate with the mark, and are willing to pay more for a product bearing a mark that they recognize and which meets their expectations. Therefore, the ownership of a trademark with a good image and reputation provides a company with a competitive edge.

The Importance of Protecting your Company's Trademark(s)

While most businesses realize the importance of using trademarks to differentiate their products from those of their competitors, not all realize the importance of protecting them through registration. Registration of trademark gives your company the exclusive right to prevent others from marketing identical or similar products under the same or a confusing similar mark.

If a competitor adopts a similar or identical trademark, customers could be misled into buying the

Competitor's products thinking it is your company's product. This could not only decrease your company's profits and confuse your customers, but may also damage the reputation and image of your company, particularly if the rival product is of inferior quality. In addition, a registered trademark may be licensed to other companies, thus providing an additional source of revenue for your company, or may be the basis for a franchising agreement. Therefore, a registered trade mark can achieve the following

Benefits:

- Enables consumers to distinguish between products.
- Enables companies to differentiate their products.
- It may be used as a marketing tool and the basis for building a brand image and reputation.
- It may be licensed and provide a direct source of revenue through royalties.
- It is considered a crucial component of franchising agreement.
- May be valuable business assets.
- Encourage companies to invest in maintaining or improving product quality.

Is the Registration of the Trade Name Sufficient for Protection?

Some people believe that it is sufficient to register their business and its trade name at the business registry to protect their business. They believe that this name would also be automatically protected as a trademark. In fact, this belief is a common misconception. Therefore, it is important to understand the difference between trade names and trademarks. A trade name is the full name of your business, "Safeer International Limited" and it identifies your company. It often ends with Ltd, Inc. or other similar abbreviations that denote the legal character of the Company. A trademark, however, is the sign that distinguishes the product(s) of your company. Companies may use a specific trademark to identify all of their products, a particular range of products or one specific type of product. Some companies may also use their trade names or a part of it, as a trademark and should, in this case, register it as a trademark.

What are the Important Elements in Selecting or Creating a Trademark?

Selecting or creating an appropriate trademark is a critical step, as it is an important element of the marketing strategy of your business. So, what is an appropriate trademark for your product(s)?

The following five point checklist may be useful:

Five Point Checklist for Selecting your Trademark

- Check that your trademark of choice meets all the legal requirements for registration.
- Do a trademark search to make sure that it is not identical or confusingly similar to existing trademarks.
- Make sure the trademark is easy to read, write, spell and remember and is suitable to all types of advertising media.
- Make sure the mark does not have any undesired connotations in your language or in any of the languages of potential export markets.
- Check that the corresponding domain name (i.e., internet address) is available for registration.

What is the Importance of Protecting your Trademark Abroad?

All the main reasons for registering your trademark in your home country also apply to the commercialisation of your products in foreign markets. It is, therefore, highly advisable to register your trademark abroad if you are currently engaged in export operations or intend to do so in the near future. Exporting goods bearing a distinctive trademark will enable your export products to be recognized to foreign markets, allowing your company to build a reputation and image among foreign consumers that then may result in higher profits for your company.

What are well-known Marks?

Well-known marks "are marks that are considered to be well-known by the competent authority of the country where protection for the mark is sought. Well known marks generally

benefit from stronger protection. For example, well-known marks may be protected even if they are not registered (or have not even been used) in a given territory. In addition, while marks are generally protected against confusingly similar marks only if used for identical or similar products, well-known marks are protected against confusingly similar marks for even dissimilar products, if certain conditions are met. The main purpose of this stronger protection is to prevent companies from free-riding on the reputation of a well-known mark and/or causing damage to its reputation or goodwill.

What is a Domain Name and how does it Relate to a Trademark?

An important problem concerns the conflict between trademarks and domain names. Domain names are Internet address, and are commonly used to find 'websites'. For example, the domain name 'montad.net, is used to locate the montad website at www.montad.net. Over time, domain names have come to constitute business identifiers, thus often coming into conflict with trademarks.

Therefore, it is important to choose a domain name which is not the trademark of another company, particularly a well known trademark.

This is because many national laws, or courts, treat registration of the trademark of another company or person as a domain name as trademark infringement, popularly known as cyber-squatting. If this happens, then your business may not only have to transfer or cancel the domain name, but it may also have to pay damages or a heavy fine.

Which Trademarks are Disqualified for Registration?

1. The mark, which is devoid of any distinctive character or property, or the mark, which consists of mere denominations called by the tradition on goods, products or services, or familiar drawings and ordinary pictures of goods and products.
2. Any mark violating the public morals or desecrating the public order.
3. The public emblems, flags and other symbols pertaining to the State, Arab or international organizations or any institutions thereof, or any foreign country unless having an authorization there from, or any imitation of such emblems, flags or symbols.
4. Symbols of the Red Crescent or the Red Cross and other similar symbols as well as the Marks, which are imitations thereof.
5. Marks, which are identical or similar to the symbols of pure religious nature.
6. Geographical names where the use thereof may cause confusion as to the origin or source of the goods, products or services.
7. The names, surname, photograph or emblem of a third party, unless he or his heirs. prior consent to use has been obtained.
8. Particulars pertaining to titles of honour which registration applicant cannot prove that he is lawfully entitled thereof.

9. Marks which may mislead the public or which contain false data as to the origin or the source of products or services, or about their other characteristics, as well as marks containing an imaginary, imitated or forged trade name.
10. Marks owned by natural or legal persons, dealing with whom is prohibited.
11. Mark, the registration of which for some classes of products or services may diminish the value of other products or services distinguished by such mark.
12. Marks containing the following words or phrases: .Privilege., .Privileged., .Registered., .Registered drawings. .Copyright. or .Imitation is forgery. or similar words and phrases.
13. National and foreign decorations and metal and paper currencies.
14. A trademark considered as a translation of a famous mark or another previously registered trademark if the registration of that mark will result in confusing the consumer public as to the goods distinguished by the mark or other similar goods.