

Trademark Laws

**Legislative Decree No.10 for the year 1991
With Respect to Trademarks
Official Gazette No. 1961, dated 26.6.1991**

We, Isa Bin Sulman Al Khalifa, Amir of the State of Bahrain,

**having examined the Constitution,
and Amiri Order No. 4 of 1975,**

and the Regulations with respect to Industrial Patents, Designs and Trademarks of 1955, as amended by Legislative Decree No. 22 of 1977,

and Legislative Decree No. 7 of 1987 with respect to promulgating the Law of Commerce,

and upon the submission of the Minister for Commerce and Agriculture,

and with the approval of the Council of the Ministers,

HEREBY ENACTED THE FOLLOWING LAW:

Article 1

A trademark shall mean everything that takes a distinctive form such as names, words, signatures, characters, numbers, drawings, codes, seals, pictures, inscriptions, or any other sign or a group of signs if used or intended to display the mark thereon belongs to the owner of the mark due to its brand, production, invention, trading therein or to indicate the performance of certain services.

Article 2

1. A register shall be maintained at the Commercial Registry at the Directorate of Commerce and Companies' Affairs to be called "Trade Marks Register" wherein the registration application shall be recorded under serial numbers according to the deposit dates of the marks, owners' names, addresses, description of their goods, products or services and whatever action affecting such marks as ownership transfer, assignment, permission for use, mortgage or any other amendments.

2. An applicant for a licence shall be given a receipt which shall contain the following details:

- a) Applicant's serial number.
- b) Applicant's name.
- c) Date and time of deposit.

3. Every interested party shall have access to this Register and obtain a certified copy thereof after payment of the prescribed fee.

Article 3

Everyone who owns a trademark and wishes to use it may request its registration in accordance with the provisions of this Law.

Article 4

The following categories shall have the right to register their trademarks:

1. Every natural or corporate person who owns a factory, a producer, a merchant, a craftsmen or owner of a service project and has a Bahraini nationality.
2. Foreigners residing in the State and authorized to engage in commercial, industrial or vocational business activities.
3. Foreigners who are nationals of a country which treats the State of Bahrain on a reciprocal basis in registering trademarks.
4. Public interests.

Article 5

No trademark shall be considered as such nor shall it be registered if it has any of the following descriptions:

1. The mark which is free of any distinctive feature, consisting of signs or details which are only the customary names that are given by custom and usage to goods, products and services, or familiar drawings and ordinary pictures of goods and products.
2. Every expression, drawing or sign which is immoral or contrary to public order.
3. Public slogans, flags, military emblems and other insignia belonging to the State, Arab or international organizations or one of their agencies or belonging to a country that treats the State on a reciprocal basis or any imitation of such slogans.
4. Signs which are identical to the sign of the Red Cross or the Red Crescent and other signs that are imitations thereof.
5. Marks identical or similar to symbols of a purely religious nature.
6. Geographical names if their use is likely to cause confusion regarding the source or origin of the goods, products or services.
7. Name of a third party, surname, photograph or logo, unless he or his heirs agree in advance to the use thereof.
8. Details of honorary or academic degrees which the applicant for registration does not prove that he is legally entitled thereto.
9. Marks which are likely to mislead the public, or contain a false indication or source or origin of the products, services or other descriptions and other marks which contain a false, imitated or forged commercial name.
10. Marks owned by natural or corporate persons with whom dealing is banned pursuant to a decision issued in this respect by the Ministry of Commerce and Agriculture.
11. Signs that are identical or similar to a mark previously registered by others for products, services or signs the registration of which for other products or services may cause diminishing the value of the products or services distinguished by the previous mark.

Article 6

An application for registering the mark shall be submitted to the Commercial Registry at the Directorate of Commerce and Companies' Affairs to register the trademark on the form designated for this purpose by the person concerned or whoever acts on his behalf.

Article 7

The application for registration shall contain the following details:

1. Applicant's name, surname, address, occupation and the commercial name, if any. If the application has a company, he shall mention its name and address.
2. Applicant's nationality and residential address.
3. A drawing of the mark required to be registered in the space designated therefor in the registration form, in addition to eight copies of the mark to be presented on a foolscap sheet of paper.
4. A non-returnable mark printing block.
5. Details of the goods, products or services required to register the mark therein.
6. Location of the business premises or business venture in which the mark is used or intended to be used for distinguishing its goods, products or services.
7. The elected domicile in the State of Bahrain to which all the correspondence and documents relating to the registration should be sent.
8. Signatures of the person concerned or whoever is acting on his behalf. If the applicant is a company or a society, the document shall be signed by the authorized signatories on its behalf.
9. All the documents and details which the Commercial Registry deems necessary to be presented to support the application.

Article 8

Any person who registers a trademark shall be considered the sole owner thereof unless otherwise proved. It shall be inadmissible to dispute the ownership of the mark if used by the person who registered it for a period of at least five years from the date of registration without filing a case against him regarding its validity.

Article 9

Registration of a trademark may take place for one or more categories of products, goods or services to be determined by an Order of the Minister for Commerce and Agriculture. Furthermore, it is not allowed for an application to contain more than one category.

Article 10

A single application may be filed to register a group of identical marks having substantially similar elements, if their differences relate to elements which do not affect the fundamental features of such marks such as the mark's colours, product details or related services, provided that such products or services belong to the same category.

Article 11

If two persons or more submit an application at the same time to register the same mark or marks which are similar or identical for one category of products or services, applications shall be suspended until an assignment is presented and signed by the parties to the dispute and approved by the relevant authority in favour of either one or until a final judgement is passed in respect of such dispute.

Article 12

1. The Commercial Registry may impose the necessary restrictions and alterations it deems fit to determine and clarify the trademark so that it will not be confused with another mark previously registered or for any other reason it deems necessary.
2. If the Commercial Registry rejects the registration of a trademark for some reason or suspends it due to certain restrictions or alterations, the applicant or whoever is acting on his behalf shall be notified by a registered letter of the reasons for its decision and details of the facts relating thereto.
3. In all cases, the Commercial Registry shall decide over the registration application within thirty days whenever the terms and conditions laid down in this law and the implementing regulations issued in this respect are fulfilled.

Article 13

The lapse of this period without adopting a decision concerning the application shall be considered as an implicit rejection thereof.

1. Every decision adapted by the Commercial Registry with respect to rejection or suspension of a registration, the applicant may appeal against it within thirty days from the date of notifying him or the date considered as an implicit rejection by not replying, before a committee to be formed by an Order of the Minister for Commerce and Agriculture, which shall include in its members a representative from the Ministry of State for Legal Affairs.

The applicant may challenge the decision before the High Civil Court within sixty days from the date of notifying him of the Committee's decision.

2. If the applicant does not challenge the decision within the specified time limits or fails to carry out the restrictions imposed by the relevant authority within such time limit he shall be considered to have waived his application.

Article 14

1. If the Commercial Registry accepts the trademark, it shall be publish it in the Official Gazette together with any alterations that may take place on the mark after registration.

The publication shall contain the following details:

- a) Applicant name, address and nationality.
- b) An identical picture of the mark.
- c) Applicant's serial number.
- d) Details of the goods, services or products for which the registration of the mark is required.
- e) Name of the authorized agent in Bahrain.

2. Every interested person shall, within sixty days from the date of publication, submit to the Commercial Registry a notification letter of his objection to the registration of the mark indicating the reasons for the objection. The Commercial Registry shall furnish the applicant with a copy of the notice within notice within thirty days from the date of submission. The applicant shall submit to the Commercial Registry within thirty days from the date of notifying him a written reply to the objection to be referred to the Committee referred to in Article 13 otherwise the applicant shall be deemed to have waived his application.

Article 15

1. Before the Committee referred to in Article 13 adopts a decision regarding the objection referred thereto, it shall hear the statements of the two parties, or either party, if so requested.
2. The Committee shall adopt a decision for acceptance or rejection of the registration and in the former case it shall impose the restrictions it deems fit.
3. Every interested party shall be entitled to contest the Committee's decision before the High Civil Court within 30 days from the date of giving him notice thereof.

Article 16

1. If a mark is registered the effective date of registration shall be the date of submitting the application and the owner of the mark shall be given after completing the registration a certificate which shall include the following details:
 - a) Mark's serial number.
 - b) Date of submitting the application, registration and expiry date of the protection period.
 - c) Name of the mark's owner, surname, place of residence and nationality.
 - d) An identical picture of the mark.
 - e) Details of the products, goods or services for which the mark is intended to be registered along with the details of its category.
2. The owner of a registered mark has the right to bar third parties from using his mark or using any similar sign that may mislead the public with regard to similar products or services.

Article 17

The owner of a mark previously registered may submit at any time an application to the Commercial Registry to make any additions or alterations to his mark which do not affect its fundamental nature. The Commercial Registry shall issue a resolution in this respect in accordance with the stipulations laid down for the special resolutions of original registration applications. The resolution shall be challenged by the same methods.

Article 18

1. The protection period arising from registering the trademark shall be ten years and the rightful owner may apply for the continuation of protection for further periods if he submits a renewal application during the last year according to the terms and conditions set forth in Article 7 of this law.

2. Six months prior to the expiry of the protection period, the Commercial Registry, shall give a notice to the owner of the mark or whoever is acting on his behalf by a registered letter notifying him of the expiry date of the mark's protection period. The notice shall be sent using the form prescribed for such purpose to the address recorded in the Register, and if 3 months lapse following the expiry of the protection period and the owner of the mark fails to submit an application for renewal, the Commercial Registry shall cancel the mark from the Register of its own initiative.

3. The renewal shall take place without any new examination and without any consideration of any objection from third parties

Article 19

1. The Commercial Registry and every interested party shall have the right to request a judgement for striking off the trademark which was unlawfully registered and the Commercial Registry shall strike off the registration whenever a final court judgement is presented thereto.

2. The Commercial Registry shall strike off the marks owned by natural or corporate persons with whom dealing is banned according to a resolution issued in this respect by the Minister of Commerce and Agriculture.

3. The Court shall, upon a request from any concerned party, order the striking off of registration if it is proved thereto that the mark has not been seriously used for five consecutive years, unless the owner of the mark presents a justification for not using it.

Article 20

If the registration of a trademark is struck off, the cancellation shall be published in the Official Gazette. The publication shall include the following details:

1. Mark's registration serial number.
2. Owner's name.
3. Official Gazette number in which the registration was published.
4. Reason and date of striking off.

Article 21

If the registration of a mark is struck off, it shall not be permitted to be re-registered in favour of third parties for the same products or services or for similar services or products except after the lapse of three years from the date of striking off.

Article 22

1. It shall not be permitted to transfer the ownership, mortgage or place an attachment over a trademark except with the business premises or the exploitation project for which the mark is used for distinguishing its products or services, unless otherwise agreed.
2. In all cases the transfer of ownership of the trademark or mortgage thereof shall not be effective towards third parties except after an entry thereof is made in the Trademarks Registry and published in the Official Gazette.

Article 23

1. The ownership transfer of the business premises or the exploitation project shall include the registered mark in the name of ownership transfer or may be considered as relating to the business premises or project unless otherwise agreed.
2. If transfer of ownership of the business premises or the project has been effected without transferring ownership of the same mark, the owner may continue to manufacture the same products or to render the same services for which the mark was registered therefor or for trading therein unless otherwise agreed upon.

Article 24

The owner of the mark may license any natural or corporate person to use it for all or some of the products or services for which the mark was registered. The owner has the right to license other persons to use the same mark as well as using it himself, unless otherwise agreed upon. The license period shall not exceed the period prescribed for the protection of the mark.

Article 25

It shall not be permitted to impose upon the license's beneficiary any restrictions arising from the rights which are vested by the registration of the mark or are unnecessary to maintain such rights. The license contract may include the following restrictions:

1. Determination of the scope and extent of the area or period of using the mark.
2. Conditions necessitated by the effective control over the quality of products or services.
3. The obligations imposed on the license's beneficiary for refraining from any acts that result in prejudicing the trademark.

Article 26

1. The licence contract shall be in writing and attested by a competent government authority.
2. The licence shall be registered in the Trademarks Register. The licence shall have no effect towards third parties unless after being registered in this Register and published in the Official Gazette.

Article 27

The licence's registration shall be struck off upon a request from the mark's owner or licence's beneficiary after presenting proof of the termination or cancellation of the licence contract.

The Commercial Registry shall notify the other party of the request for striking off the registration of the licence who may in this case object thereto in accordance with the procedures and stipulated conditions in Articles 13 and 15 of this Law.

Article 28

The Minister of Commerce and Agriculture may permit the registration of a collective mark for natural or corporate persons responsible for supervising specific products or services, examine them as regards their source, ingredients, method of manufacture, performance, description or any other characteristics. Registering such mark shall have all the effects provided for in this Law.

The transfer of a collective mark shall not be permitted except by a special licence issued by the Minister for Commerce and Agriculture.

Article 29

An order of the Minister for Commerce and Agriculture shall determine the terms and conditions of registering collective marks and the documents to be presented for registration thereof.

Article 30

It shall not be permitted to re-register a collective mark by favour of third parties in respect of identical or similar products, goods and services.

Article 31

Without prejudice to any severe punishment stipulated in another law, a punishment of imprisonment for a period of no more than a year or a fine of no more than Bahraini Dinars one hundred shall be inflicted upon:

1. Everyone who forges a mark which has been registered according to the Law, or imitates it in such a manner that misleads the public or everyone who uses in bad faith a forged or imitated mark.
2. Everyone who displays in bad faith on his products or uses regarding his services a mark that is owned by others.
3. Everyone who sells, displays for sale, trades in or possesses with the intent of selling products by a forged, imitated or displayed mark or used without any right with his knowledge of such fact and everyone who offers services under this mark.
4. Everyone who uses a mark which has not been registered in the cases provided for in Article 5 (paragraph 2 - 11).
5. Everyone who unlawfully inscribes on his mark or commercial documents anything that leads to believe that the mark has been registered.

Article 32

In case of recurrence, the perpetrator of the offense shall be liable for a punishment of no more than double the maximum limit of the prescribed punishment for the crime, closing the business premises or project for a period of no less than 15 days and no more than 6 months with the publication of the judgement at the expense of the offender in accordance with the procedures to be determined by an Order of the Minister for Commerce and Agriculture.

In implementing the provisions of this Law, an offender accused of recurrence is considered as such person who is convicted by a final judgement of imprisonment for a period of six months or more in offences provided for in the previous Article and then commits another similar offense before the lapse of five years from the expiry date of such punishment as from the date of its lapse by prescription.

Article 33

1. The owner of a mark may at any time seek the issue of an order from the competent court to take the necessary precautionary measures in respect of machines and items used or being used in committing the offenses stipulated in Article 31 of this Law in addition to the products, goods, covers, papers and others on which the forged, imitated or used mark was unlawfully displayed with his knowledge.

2. It shall be allowed to levy a distress upon importing the goods which are subject to the previous restriction upon their arrival from abroad.

Article 34

The officers designated by the Minister of Commerce and Agriculture shall have the power to ascertain the implementation of the provisions of this Law and the Ministerial Orders for implementing it. For this purpose, they shall issue statements to offenders who violate the provisions of this Law and refer them to the Public Prosecutor.

Article 35

The Minister for Commerce and Agriculture shall issue the implementing Regulations with respect to the detailed provisions relating to the enforcement of this Law and in particular the following:

1. Organization of the control of registering the trademarks and maintaining the records thereof.
2. Classifying the products, goods and services for registration purposes into categories regarding their types in accordance with the international classification.
3. Outlining details of the special scale of fees for registration, renewal, altering details, obtaining extracts of copies, handling certificates and determining the procedures provided for in this Law whenever necessary. The approval of the Council of Ministers for the determination of such fees or altering them shall be a must.

Article 36

All provisions relating to trademarks which appeared in the Regulations with respect to Industrial Patents, Designs and Trademarks of the year 1955, as amended by Legislative Decree No. 22 of 1977, shall be revoked.

Article 37

The Ministers, each in their respective capacity, shall implement this Law which shall come into force three months after the date of its publication in the Official Gazette.

Signed: Isa bin Sulman Al Khalifa
Amir of the State of Bahrain

Issued at Riffa Palace
On: 13th Thilhija, 1411 Hijra
Corresponding to 25th June, 1991 A. D.

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Abdul-Aziz Bu Taflika