



Introduction

The registration of Trade Marks in Egypt started decades ago before the mixed courts which were the competent authority for receiving and prosecuting the applications before the enactment of the Trade Marks Act of 57 of 1939 which was based on the English Law.

With the coming of the TRIPS Agreement into existence, the need arose to enter some changes to the Law in order to conform to the provisions and obligations set forth in that agreement. The Intellectual Property Law which came to light in 2002 comprising Trademarks, Industrial designs, Patents, undisclosed information, integrated circuits, protection of plant varieties and copyrights.

The said Law though, in essence, has the same features of the old one, contained some amendments which harmonize between the intents of the foreign investors and the interest of the country. Examples of such amendments are shown below:

- The new Law no longer requires the assignment of a mark together with the business.
- The use of a mark by a licensee who is not recorded as the registered user in respect of a mark shall be considered a use which protects the mark from being challenged on the basis of non-use by a non recorded licensee, as long as the licensee is a related company.
- The new Law stipulated for the protection of geographical indications.
- A simple translation of documents is only required; a certified translation will be required in cases of assignment, license, merger or security interest.
- The right of the owner of a Trade Mark is exhausted once his products have been put in the market by him or with his consent.



1-What are the procedures for the registration of a Trade Mark?

Once the application is filed, it will be examined as to the formalities, i.e. either presenting the documents required for filing, the payment of the application fees and the payment of a delay fine for presenting the documents.

After the application passes the formal examination, the Trade Mark Office will start the substance examination as to the inherent registrability of the mark and whether it conflicts with any prior rights. The Official decision will then be issued according to the findings of the examination report.

If the mark is accepted, it will be published in the Official Trade Mark Gazette, and after the lapse of the opposition period, the Certificate of registration will be due for issuance.

In case the mark is rejected, an appeal may be filed within 30 days. Said appeal is to be examined by a special Committee and the applicant will be called upon to attend a session with the Committee to defend his mark. The decision of the Committee is administratively final, but can only be appealed before the Administrative Court (Conseil d'Etat).

2-What can be registered as a Trade Mark?

The Trade Mark can be any sign which may distinguish the goods/services of one undertaking from those of others in the same course of Trade. It can be signatures, words, numerals, seals, designs, symbols, combination of colours. In general this list is not exhaustive.

The following Trade Marks are also registrable in Egypt

- Collective marks.
- Certification marks (subject to certain procedures).
- Series of marks.

3-What are the documents required for filing the application?

1. A Power of Attorney signed by the Applicant and legalized up to the Egyptian Consul (as per the specimen enclosed in annex A)
2. A Legalized Certificate of Inc. of the applicant issued by the Secretary of State of the State of Inc. or a Legalized Extract from the Commercial Register
3. Priority document (if any) .
4. The said documents may either be filed together with the application or within six months from the date of filing.



5. 10 prints of the mark.

4-Can a Priority of a Trade Mark be claimed?

Since Egypt is a member in Paris Convention, claiming a priority is available.

5-How are the goods/services classified?

Although Egypt is not a member in NICE Agreement, the international classification of goods and services is followed.

There are no restrictions as to the registration of alcoholic drinks.

6-Is search available before filing?

The availability search is possible and advisable before filing the application.

The search will only take a few days to be completed.

7-Is multi-class application acceptable?

The new Trade Marks law provides for the possibility of filing a multi-class application, but the Trade Mark Office does not accept such applications until now for administrative reasons.

8-Does the Law provide for opposition?

The Trade Marks Act provides for the possibility of filing an opposition against the registration of a mark upon advertisement of same in the Trade Marks Gazette. The opposition should be filed within 2 months from the issuance of the relevant gazette.

The successful opposition should be based on a prior application/registration in Egypt. The prior use of the mark may only be good grounds in courts, but not in the Trade Mark Office.

9-What are the use requirements?

Use is not a prerequisite for filing the application nor for renewal.

It is not administratively possible to cancel a registration for non-use as long as the renewal fees are timely paid.

A mark may be challenged on the basis of non-use if its owners have not made a serious use of same for any five consecutive years during the



lifetime of the registration. Such application for cancellation should be filed with the competent Court of justice.

There is no time-limit for raising a court action for the cancellation of a mark which has been registered in bad faith.

10-What legal effect does a Trade Mark registration confers?

The registration of a Trade Mark confers on its owners the right to prevent others from using the same or similar mark in the same channels of Trade.

11-Is there any special protection for well-know marks?

Besides the protection afforded for the well know marks in Article 6 bis of Paris Convention in respect of same or similar goods/services, the Egyptian Law stipulated that a mark identical with or very similar to a well known mark will be rejected even it is used or intended to be used for dissimilar goods.

However, the following requirements should be met:

- The mark is registered in one of the countries member in the WTO.
- The use of the other mark would make the consumers believe that there is a relationship between the owners of the well know mark and the user of the other mark.
- The use of such mark would cause damage to the owners of the well known mark.

12-Is Assignment recordal necessary?

The recordal of an assignment of a mark is advisable to enable the Assignee to enjoy the rights assigned to him. The recordal of the assignment will enable the assignee to act against an infringer. A Monetary penalty is imposed for a delay of more than three months in recording the assignment.

The monetary consideration paid in return to the assignment may be nominal e.g.\$10.00

The Assignment of pending applications is possible.

The documents required for the recordal of assignment are:

- The Legalized Deed of Assignment signed by both parties i.e. the Assignor and the Assignee.
- The Legalized Power of Attorney from the Assignee



- The Legalized Certificate of Incorporation or the Legalized Extract from the Commercial Register of the Assignee.

13-Is license recordal necessary?

The licensee of a mark may either be an Egyptian or a foreign company. The local presence is not necessary for the grant of a license.

The recordal of a license is advisable in order to be valid against a third party as far as the use requirements are concerned.

The rights of the licensee can not be assigned to another party unless otherwise agreed.

The license should be effected for a definite period of time which may be renewed indefinitely.

The documents required for the recordal of the License are:

- The Legalized License Agreement signed by both parties i.e. the Licensor and the Licensee.
- The Legalized Power of Attorney from the Licensee
- The Legalized Certificate of Inc. or the Legalized Extract from the Commercial Register of the Licensee

The License should be recorded within 3 months from the date of execution, otherwise, a fine (nominal sum) will be added to the official fees.

Compulsory license does not exist as regards Trade Marks in Egypt.

The License should only be recorded in respect of registered Trade Marks and not mere applications.

14-What are the requirements for the renewal of a Trade Mark?

The protection period of a mark is 10 years starting from the date of filing the application.

An application for renewal may be filed during the last year of protection. After the expiry date, the mark may still be renewed with fine within a period of six months.

The new Trade Marks Act provides for the re-instating of a registration which has become abandoned for non renewal subject to payment of relatively high official fees

15-What are the penalties for Trade Mark Infringement?



There are two remedies available in case of infringement:

1-The civil proceedings which are summarized in filing an application before the Court of urgent matters to obtain a court order for the attachment of the infringing products, to be followed by raising a civil action to discuss the merits of the case.

2-Criminal proceedings by way of reporting the infringement to the Trade Fraud Office and following up the matter until it is referred to the criminal court which has the right to order the imprisonment or fine of not exceeding (L.E.20.000) or both.

16-What are the International Agreements to which Egypt acceded?

Egypt is a country member in the following agreements/conventions:

- Paris convention for the protection of industrial property
- Madrid Agreement concerning the International registration of Trade Marks
- Madrid Agreement for the repression of false or deceptive indications of source on goods
- Trade Mark Law Treaty
- Hague Agreement concerning the International deposit of Industrial designs
- Berne Convention for the protection of literary and artistic works.
- Patent Cooperation Treaty.



CLASSIFICATION OF GOODS AND SERVICES

Goods

Class 1. Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

Class 2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

Class 3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

Class 4. Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles, wicks.

Class 5. Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

Class 6. Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of cannon metal not included in other classes; ores.

Class 7. Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements; incubators for eggs.

Class 8. Hand tools and implements (hand operated); cutlery; side arms; razors.

Class 9. Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating



machines, data processing equipment and computers; fire-extinguishing apparatus.

Class 10. Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopedic articles; suture materials.

Class 11. Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

Class 12. Vehicles; apparatus for locomotion by land, air or water. Class 13. Firearms; ammunition and projectiles; explosives; fireworks.

Class 14. Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewelry, precious stones; horological and chronometric instruments.

Class 15. Musical instruments.

Class 16. Paper, cardboard and goods made from these materials, not included To 4 r classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks.

Class 17. Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

Class 18. Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and traveling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.

Class 19. Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

Class 20. Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.



Class 21. Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steel wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

Class 22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

Class 23. Yarns and threads, for textile use.

Class 24. Textiles and textile goods, not included in other classes; bed and table covers.

Class 25. Clothing, footwear, headgear.

Class 26. Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

Class 27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

Class 28. Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

Class 29. Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats.

Class 30. Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice.

Class 31. Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.

Class 3Z. Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

Class 33. Alcoholic beverages (except beers)

Class 34. Tobacco; smokers' articles; matches.



Services

Class 35. Advertising; business management; business administration; office functions.

Class 36. Insurance; financial affairs; monetary affairs; real estate affairs.

Class 37. Building construction; repair; installation services.

Class 38. Telecommunications.

Class 39. Transport; packaging and storage of goods; travel arrangement.

Class 40. Treatment of materials.

Class 41. Education; providing of training; entertainment; sporting and cultural activities.

Class 42. Providing of food and drink; temporary accommodation; medical, hygienic and beauty care; veterinary and agricultural services; legal services; scientific and industrial research; computer programming; services that cannot be placed in other classes .