

Change in Saudi Trade Mark Legislation

Board of Grievances Allows Use of Pictures of Living Creatures as Trademarks

The Cases Examination Panel of the Board of Grievances approved the abandonment of procedures applied by the Board denying registration of pictures of living creatures as trademarks. A responsible source of the Board told *Al-Eqtisadiyah* that the President of the Board notified all members of the Board in all provinces not to accept actions involving registration of the pictures of living creatures as trademarks unless the same is contrary to morality.

The foregoing resolution was adopted at a meeting of the Examination Panel attended by 11 assistant deputies, 10 counsels and the panel secretary. It was decided that actions brought by the Commission for Propagation of Virtue and Prevention of Vice in the matter of trademarks be accepted only if such trademarks are contrary to morality. The source went on to say that the Cases Examination Panel resolved to abandon the procedures the Board has been applying regarding the registration of pictures. The resolution was based on the following ground:

“The difference of opinion regarding picturing is known. The fact that a trademark is denied registration will not prevent it from entering the country. Further, if a mark is not given protection by way of registrations, the way will be paved to third parties to copy the same by using similar pictures. As a result, fraud will spread and the pictures will become more abundant thereby causing corruption to the country and the people.”

The resolution is further based on the use by the Prophet (PBUH) and his companions of the Roman Dinars and the Persian Dirhams containing pictures of their kings, in the absence of any other currencies. The pictures on such monies are considered as trademarks in order that they may not be exposed to fraud, forgery and copying. According to the Board, trademarks are means taken by tradesmen to promote their goods and to ensure that the purchasing public not be misled. Further, it is a fundamental principle that a judgment shall be based on the existence or the non-existence of cause and that once cause is nonexistent, effect will be nonexistent, too.

Considering that pictures in general are among the ordeals which are prevailing and that it is hard to take precautions against them at the present time given the fact that pictures help to identify persons and currencies. On the other hand, pictures contained in trademarks in respect of which actions were brought before the Board are not used for the purpose of sanctification or glorification but are, in general, pictures of parts of living creatures or caricatures which in fact do not reflect the true nature of a living being and they are not contrary to morality.

The source concluded that the economic interests have become recently so diverse that Saudi Arabia decided to join the World Trade Organisation and sign agreements including TRIPS regarding protection of intellectual property rights including protection of trademarks registered in any member country to the effect that a trademark, once registered in any country, must be protected by any other member country.

As you would expect, there's a lot of information out on the web these days. The UK Patent Office has a website at www.patent.gov.uk which offers answers to a lot of frequently asked questions.

A few examples follow:

What is a Trade Mark?

A trade mark is any sign which can distinguish the goods and services of one trader from those of another. A sign includes, for example, words, logos, pictures, or a combination of these.

Basically, a trade mark is a badge of origin, used so that customers can recognise the product of a particular trader.

To be registrable your trade mark must be:

- distinctive for the goods or services which you are applying to register it for,
- and**
- not deceptive, or contrary to law or morality,
- and**
- not similar or identical to any earlier marks for the same or similar goods or services.

If I have a registered trade mark, does that automatically entitle me to use that mark as my domain name?

Not necessarily. Because the same mark may be registered by different proprietors for different goods or services, someone else may also have legitimately registered the mark as their domain name.

Seek advice from Nominet UK (www.nic.uk), who also offer a Dispute Resolution Service

What can I do if someone has registered a domain name which I think should belong to me?

We suggest you take appropriately qualified legal advice. There are dispute resolution procedures operated, for example, by the World Intellectual Property Organization (WIPO)

(<http://www.arbitrator.wipo.int/center/index.html>).

And if you have a registered trade mark you may have legal remedies against someone who has registered the domain name simply for the purpose of profiting by its sale to the rightful trade mark owner.

An English Translation of an article from *Al-Eqtisadiyah*, a daily newspaper published in Arabic in Saudi Arabia

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Information Booklets can be downloaded

