

Unofficial translation

Draft Law No. ()
on Trademarks and Geographical Indications

Chapter One

Definitions

Article (1)

This Law shall be called the Law of Trademarks and Geographical Indications.

Article (2)

For the purposes of implementing the provisions of this Law, the following words and phrases shall, unless the context otherwise requires, have the meanings indicated next to each of them.

Ministry: the Ministry of Industry and Trade

Minister: the Minister of Industry and Trade

Regulation: the Implementing Regulation of this Law

Department: the general department in charge of the protection of trademarks and geographical indications at the Ministry

Registrar: Director General of the competent department

Court: The competent commercial court

Article (3)

A trademark is whatever takes a distinguishable shape that can be recognized with the eyes, including names, words, letters, numbers, signatures, drawings, symbols, stamps, pictures, inscriptions, colors or

any collection thereof, if they are used or meant to be used for distinguishing goods, services, or a commercial, industrial, agricultural, handicraft, or service establishment.

Article (4)

The following may not be considered a trademark and may not be registered:

1. A mark free from any distinguishing features,
2. Marks which are contrary to morals or public order,
3. Marks which are identical or similar to religious symbols.
4. Marks that contain signs, data, imposed by the nature or function of the goods and services or due to a signifier that has become a recognized name for the products and services.
- 5.

and services themselves or to the goods and services closely related thereto, or if they are so similar as to cause confusion or become misleading.

- b. Marks identical or similar to unregistered marks used by others in the Republic of Yemen in respect of goods and services that are so similar as to become misleading or confusing.

Article (6).

A mark may not be registered which is identical or similar or a translation of a famous mark in the Republic on similar or identical products or services even if such famous trademark is not registered thereof.

The same provision is applicable to a famous mark, which is registered in Yemen in relation to products and services which are not similar or identical for which the trademark has been made. And the use of the trademark will cause others to believe that there is a connection between the products

1. A trademark application shall be submitted to the Department in accordance with the terms, procedures and fees specified by the Regulation, and the application should particularly contain the following:

Name, nationality and address of the applicant

If the opposition period specified in Article (14) expires and no opposition is filed against the trademark application, the applicant must complete the registration procedures within six months, otherwise he shall be considered to have assigned his application.

Article (18).

A registry shall be established at the Department referred to as (the Trademark Registry) in which all data related to the trademark shall be recorded, as well as any subsequent changes, assignments, transfers, mortgages, licensing, renewal, deletion, or any other procedures specified by the law.

Article (19).

Trademark details shall be recorded in the Trademark Registry, and the registration shall become effective from the date of paying the application deposit fee. The trademark owner shall subsequently be furnished with a Registration Certificate containing details specified by the law, in particular the following:

Name, nationality, and address of the trademark owner

The date of filing the application and registration date.

Trademark registration number.

A list of goods and services for which the trademark is assigned, together with the class number in which such goods and services are classified.

An identical copy of the trademark.

Article (20).

The registration shall be publicized in accordance to the Regulation.

Article (21).

The owner of the trademark shall submit an application to the Department to record any changes that might occur to his name, nationality, or address in accordance with procedures specified by the Regulation.

Article (22)

Any interested party may request extracts from the recorded data or information from the Trademark Registry after paying the prescribed fee.

Part Three

Effects of the registration

Article (23)

Registration of the trademark will have the following effect.

- a. Protection of the trademark for a period for ten years starting from the date of payment of the deposit. Registration of the trademark may be renewed at the request of its owner for similar consecutive terms.
- b. Grants the owner the right to use the trademark and prevent others from using it without his consent.

Article (24).

The trademark owner right to prevent others from importing, using, selling, or distributing products bearing the trademark shall be exhausted if he markets such products in any country or if such products have been marketed with his permission.

Part Four

Renewal

Article (25)

The trademark owner is given an additional grace period within a year of the expiry of the former protection period against the payment of an additional fee determined by the Regulation. If renewal is not completed within the prescribed additional period, the Department shall cancel the trademark registration from the Registry. The renewal or cancellation referred to in this article shall be publicized in accordance with the Regulation.

Part Five

- c. The licensee may not assign the license to others or grant sub-licenses unless the license contract otherwise provides.

Article (28)

A contract license for a trademark should contain the following:

- a. The geographical area for marketing goods and services bearing such trademarks.
- b. The length of the trademark license term.
- c. Obligating the licensee to refrain from any act that may lessen the value of the product or service distinguished by the trademark.
- d. Reasonable conditions that give the trademark owner the right to monitor the quality of the goods distinguished by the mark without interfering in management or operations.
- e. Obligating the licensee to refrain from all acts that lead to the misuse of the trademark.

Article (29)

A trademark owner or licensee shall submit to the Department an application for the registration of a

cancellation application in accordance with the conditions and procedures specified by the Regulation.

c. The license cancellation shall be published by the means specified by the Regulation.

Chapter Six

Cancellation and invalidity

Article (31)

a. The owner of a trademark may request the Registrar to cancel the registration of the trademark from the Trade Registry, either for all goods and services in respect of which the trademark is registered or for a part thereof, and the cancellation of the application shall be submitted in accordance with the condition and procedures specified by the Regulation.

b.

Geographical indications specify the origin of any goods in a territory or region in a member state of the World Trade Organization, or a state which treats Yemen on reciprocal bases where a quality, fame and other features which influence the promotion thereof are mainly attributed to its geographical origin. Protection of the geographical indication herein is contingent upon the protection of the same in the country of origin.

Article (39)

A trademark containing a geographical indication may not be registered if the use thereof may mislead the public regarding the real origin of the good.

Article (40)

A trademark containing a geographical indication may be registered if the right to such trademark has been acquired for its use with good faith before the effective date of this law, or before such a geographical indication had been granted protection in the country of origin.

Article (41)

c. The court shall notify the applicant of the customs release suspension and the defendant on the

b. The court may, if deemed necessary, order the infringer to inform the right owner of the identity of the other parties engaged in the production and distribution of goods bearing counterfeit trademarks and their channels of distribution unless such action is not compatible with the seriousness of the infringement. The competent authority, if necessary and once the final judgment on the case has been issued, notify the right holder of the names, addresses of the consignor, importer, consignee, and the quantity of the infringing goods.

Article (47)

Small quantities of non-commercial goods which come with passengers' personal baggage or which are sent in small parcels by post shall be excluded from the provisions provided for Articles (45-46) of this law

Chapter Four

Penalties

Article (48)

Without prejudice to more severe penalties provided for by any other law, a punishment for a period not exceeding two years imprisonment and a fine not exceeding One Million Rials, or either of the two penalties may be imposed on anyone who:

- a. Imitates or counterfeits a trademark in bad faith.
- b. Uses an imitated or counterfeit trademark that belongs to another owner.
- c. Uses a registered trademark owned by others in bad faith.
- d. Provides services under the trademark which he has imitated or counterfeited.
- e. Knowingly sells, offer for sale, or own for the purpose of sale any products bearing an imitated or counterfeited, trademark or a trademark illegally placed. If the act is repeated, the perpetrator shall be punished with imprisonment of not more than two years and a fine of not more than two

million Rials, in addition to the closure of the business establishment for a period of not more than Three months. The judgment shall be published at the expense of the convict.

Article (49)

the consent of the Minister. The registration of such a collective mark will carry all the effects provided for under this law.

Article (52)

Trademarks placed on products that are displayed in national or international exhibitions shall enjoy temporary protection. Such protection shall not extend beyond the term provided for in Article (23) of this law. The Implementing Regulation of this Law shall specify the terms and procedures for granting such protection.

Article (53)

Without prejudice to the provisions of international agreements applied in the Republic, every natural person or legal entity whether Yemeni or foreigner who have a real and effective business establishment in the Republic or in any of the countries or entities which are related to the Republic through an international agreement or which treat the Republic on reciprocal bases, shall have the right to apply for registration of a trademark in accordance with the provisions of this law.

Article (54)

The priority right for the registration of a trademark shall be granted to who deposits the application at the Department within Six months from the day that follows the date the application for registration was deposited in a member country to the Paris convention on Protection of Industrial Property. In such a case, the registration date in the Republic shall(o)-1.6(5t)-5.h

- a. Employees of the Department who are appointed by the Minister have the capacity of Investigation Officers.
- b. Competent authorities and official employees assigned to implement the provisions provided for in this law shall be exempted from being subject to criminal procedures as a result of performing activities within the context of law enforcement, if the court is satisfied that such actions are committed in good faith.

Article (56)

The Implementing Regulation of this law shall be issued by virtue of an order by the Prime Minister upon submission by the Minister.

Article (57)

The Implementation Regulation of this law shall be issued by the Prime Minister

Article (58)

An order with respect to specifying the fees for services and procedures provided for under this law shall be issued by the Prime Minister upon submission of the Minister, and a 20% of the fees shall be allocated as technical support for the modernization of the competent department.

Article (59)

An order shall be issued by the Prime Minister upon submission by the Minister, and in coordination with other competent authorities on rules regulating the protection of local geographical indications.

Article (60)

This law shall be published in the official gazette and shall come into effective from the first day following the termination of the transition period granted to Yemen in accordance with the provisions of the World Intellectual Property Agreement except fo

effect from the day that follows the publication of this law. Provisions related to trademarks provided under Republican Decree by law No. 19 of 1994 on Intellectual Property Right, and any other provision that conflict the provisions of this law shall be deemed null and void.