



Egypt Toolkit

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The Egyptian Legal System

Egypt is a civil law country. Civil law systems differ from common law systems, such as the legal system of the United States, in the way courts apply the law. Civil code systems place a greater emphasis on the written law, while common law courts help shape the law through judicial opinions that must be applied in other cases. In civil law systems, courts also take a greater role in fact finding, often relying on an expert body to advise the court. The expert body will not involve itself in a matter without appropriate authorization in the applicable regulations or decree, and if such documents do not cover all the subject matter implicated by a controversy, a complainant's IP infringement case may come to a standstill.

Overview of Intellectual Property Rights in Egypt

Source and Scope of IP Laws:

Law 82 of 2002

The main source of IP laws is Law 82 for the Year 2002 (Law 82/2002). Law 82/2002 replaced a collection of laws dating back to 1939 with a comprehensive intellectual property code as part of an effort to bring Egypt into compliance with its obligations under different international agreements. The four "books" of the new code address patents, integrated circuit designs, undisclosed information, trademarks, geographical indications, trade statements, industrial designs, copyright and related rights, and plant variety protection.

Law 82/2002 generally attempts to mirror the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs).

An English translation of this law can be accessed at the World Intellectual Property Organization (WIPO) web site: http://www.wipo.int/clea/docs_new/pdf/en/eg/eg001en.pdf (link is external).

International Agreements

The WIPO web site contains a complete list of WIPO administered treaties that Egypt is a contracting party to:

http://www.wipo.int/treaties/en/ShowResults.jsp?search_what=C&country_id=53C2 (link is external)

In addition to Law 82/2002, international agreements to which Egypt is a party are considered to be Egyptian law.

Executive Regulations and Decrees

The Executive Regulations for Law 82/2002 were issued in Cabinet Decree No. (1366) of 2003 for Books 1, 2, and 4, and in and Prime Ministerial Decree No. (497) of 2005 for Book 3 of the law. The regulations have been amended twice, once by Prime Ministerial Decree No. 1241/2006 deleting some articles in the regulations to Book 4 and a second time by Prime Ministerial Decree No. 2202/2006 amending the Book 3 regulations. The Executive Regulations primarily address procedural issues not specified in the law itself.

Intellectual property issues are also addressed in border measures regulations implemented jointly by the Customs Authority and the Trade Agreements Sector of the Ministry of Trade and Industry, as well as in regulations implementing the Consumer Protection Law.

In addition, Egypt's intellectual property law is also implemented through a series of decrees that further clarify procedures and, in some instances, modify the application of the Regulations to improve implementation. The adoption of decrees to clarify the application of the intellectual property law remains an ongoing process.

The Judicial System

Egypt's civil law system limits the reach and influence of appellate court decisions. An exception to this general rule is the Court of Cassation, the highest court in Egypt. Court of Cassation decisions have the force of law and, as in common law courts, its decisions applying and interpreting the codified law are binding precedent on other cases involving similar issues. Decisions issued by the Cassation Court are published. No record is kept of decisions issued by the appeal and first instance courts.

Egypt's administrative court is called the State Council. The State Council has jurisdiction to decide any disputes involving an administrative body. For instance, the State Council is competent to consider claims related to decisions of the patent office, as well as decisions of the Commercial Registry Department in trademark and industrial design applications.

In April 2008, Law No. 120/2008 was passed, establishing the Economic Courts. These courts have jurisdiction to decide cases related to enumerated economic and commercial matters, including those involving intellectual property rights. The courts began operation on October 1, 2008.

Effect of Recent Changes in the Law:

The adoption of Law 82/2002 brought about a number of significant changes. It introduced for the first time a system of protection for integrated circuit topographies, geographical indications, and new plant varieties. It expanded trademark protection to include well-known marks and expanded patent protection to include pharmaceutical products. Under the earlier patent law, patent protection was available for chemical processes for foods and pharmaceuticals but not for the resulting products. It also expanded the protection for undisclosed information. Expanding the types of intellectual property that are protected in Egypt presents new challenges for the industrial property offices, enforcement officials, and courts, and persons seeking the benefits of this expansion in legal protection may experience delays as procedures are developed to address issues that are new to Egypt.

In addition to expanding the types of protection available in Egypt, Law 82/2002 strengthened the intellectual property system by mandating a full examination system for patents and industrial designs. Under the previous industrial designs law, the Industrial Designs Office lacked legal authority to refuse registration to any application, with the result that applications known to be legally insufficient were sometimes accorded registration.

Law 82/2002 also introduced specific provisions on enforcement, with an emphasis on conservatory measures such as seizure of goods to determine infringement and preserve evidence, and in some cases seizure of the implements of infringement and disposition of the infringing goods. In the past, injunctions have not been frequently granted in Egyptian courts, but judges have recently begun issuing injunctions in appropriate IP cases, and there have been a

number of cases in which the courts imposed maximum penalties in criminal cases and issued commercially appropriate damage awards in civil cases.

Enforcement is primarily addressed through the criminal law, with the possibility of a civil suit based on a showing of criminal infringement. Egypt promotes stronger enforcement by providing an intellectual property unit in its police force as well as teams of civil inspectors who are authorized to remove infringing goods from the market. However, despite recent improvements, civil enforcement remains a challenge for several reasons: civil recovery is available only when the more restrictive elements of criminal infringement can be shown; the hearing of a civil case is delayed until completion of the criminal case; there can be difficulties with obtaining service of process and enforcement of judgments; and pursuing a case through Egypt's overburdened court system can require many years before relief is finally obtained.

Border measures – that is, preventing the entry of infringing goods into Egypt – are not specifically addressed in Law 82/2002, however, regulations have been subsequently adopted to permit a complaint to be filed, but only where the intellectual property owner can supply specific information regarding a particular shipment, including its bill of lading number.

Copyright

Egypt protects the creative works of authors under copyright and protects performers, producers of phonograms, and broadcasting organizations under related rights.

Legislation and International Treaties

The laws governing copyright and related rights are provided for in Articles 138 –188 of Law 82 of 2002 (copyright law), Prime Ministerial Decree No. 497 of 2005, and Prime Ministerial Decree No. 2202 of 2006.

Egypt is a WTO member (1995) as well as being a member of the Berne Convention (1977) and the Phonograms Convention (1978).

What does Copyright protect?

Copyright protects all creative productions whatever their type or mode of expression. Examples include books, music, movies, computer software, architecture, and photographs.

What is not covered by Copyrights?

- Mere concepts, procedures, methods of work, modes of operation, connotations, principles, discoveries and data, even if they are expressed, explained, indicated or included in a copyrightable work.
- Official documents such as laws, judicial rulings, arbitration awards, and decisions of administrative committees having judicial competence.
- News on current events that are mere press information.

What are the author's rights?

The author, or his successor in interest, has the exclusive right to authorize or prevent any exploitation of his/her work. Examples of exploitation include:

- Reproduction
- Broadcasting and re-broadcasting
- Public performance
- Communication to the Public;
- Translation
- Adaptation
- Rental and lending
- Making it available to the public through the Internet, other communication networks, or any other means.

Additional rights are given in Articles 143 and 144 of Law 82/2002. Article 143, for example, lists perpetual “moral” rights such as the right of first publication.

Transfer of rights

Authors can assign any or all of their economic rights. The transfer must be certified in writing and contain a specific and detailed indication of which rights are to be transferred with the extent and purpose of the transfer as well as the duration and place of exploitation.

Any disposal of future works is considered null and void.

Term of Protection

Works are generally protected for the life of the author plus 50 years.

Copyright Registration

Registration of a copyrighted work is not necessary for successful enforcement of rights. Registration does however carry one major benefit. By lodging a copy of the copyrighted work with the authorities, one can establish a date of authorship. This is crucial in litigation where the copyright holder may have to prove that he was the first one to create the work in question. Under Egyptian evidentiary rules, having a government date of record is essential if a party wants to submit such evidence to the court.

Contact Information:

National Library and Archives
 Copyright Office
 Ramlet Bolak, Corniche El Nile, Cairo
 Tele: + 20 (2) 5750886-5751078
 Fax: + 20 (2) 5789547

Software Registration

Intellectual Property Protection Office
 Information Technology Industry Development Agency (ITIDA)
 Smart Village Building (B5) Cairo-Alexandria Desert Road
 Giza, Egypt 12577
 Tele: +20 (2) 3534 2000
 Fax: +20 (2) 3534 5102

Related Rights

Performers

Performers have the right to prevent any exploitation of their performances without their prior written authorization. Exclusive rights for performers include, for example:

Communication to the public and making available to the public, renting, or lending the original fixation or copies of their performances;

Fixation or public broadcasting of their live performances;

In addition, perpetual “moral” rights are given to performers and their universal successors in Article 155 of Law 82/2002.

Term of protection for Performers

Protection generally lasts for 50 years calculated from the date on which the performance or recording took place.

Producers of Phonograms

Producers of Phonograms have the right to prevent any exploitation of their recordings in any manner including:

- Reproduction
- Renting
- Broadcasting
- Making available through computers or any other means.

Term of protection for Producers of Phonograms

Protection generally lasts for 50 years calculated from the date the recording was made or made public, whichever comes first.

Broadcasting Organizations

Broadcasting organizations have the following exclusive rights:

Authorize the exploitation of their recordings

Prevent any communication to the public, without their prior written authorization, of their television recordings, including:

- Fixation
- Reproduction
- Sale
- Rental
- Rebroadcast
- Communication to the public by any means, including the removal or destruction of any technical protection of such programs or coding or other means.

Term of protection for Broadcasting Organizations

Protection generally lasts for 20 years calculated from the date on which the program was first broadcast.

Enforcement

According to the latest Copyright Regulations, the following ministries and government authorities are responsible for enforcement:

1. The Ministry of Culture, Central Department for Audio-visual Censorship for copyright and neighboring rights for music, films, possibly software and theater performances; the Ministry of Culture does not enforce literary works, databases and broadcasting rights.
2. The Ministry of Information for broadcasting rights.
3. The Ministry of Communications and Information Technology, Information Technology Industry Development Authority (ITIDA) for software and databases.
4. The Ministry of Trade for counterfeits.
5. The Cyber Investigation Unit of the Ministry of Interior Affairs for internet copyright infringement.
6. The Artistic Works Anti-Piracy Unit of the Ministry of Interior Affairs for artistic works.

The work of these ministries and government authorities overlaps in some cases.

A copyright holder can start with the Ministry of Justice and the Ministry of Interior, which have broad responsibility for prosecuting all crimes. The Ministry of Interior has been so far the main body responsible for IPR enforcement and has the ability to prosecute all types of IPR cases. The Ministry of Justice, on the other hand, may be the one ministry that has considerable expertise in IPR, copyright included, as they provide courts with experts who help judges on technical aspects of IPR cases.

Industrial Designs

Industrial Designs are protectable in Egypt through registration with the Industrial Designs Office in the Commercial Registry Department. The Locarno system of International Classification of Designs is effective in Egypt. Egypt is a member of the Hague Agreement. A registration is effective with novelty examination.

An industrial design registration is valid for ten years starting from the date of filing the application. A registration can be renewed once for five additional years. A registration of an industrial design is subject to cancellation in the event any interested party requests such a cancellation before the competent tribunal, on the grounds that the subject industrial design was not novel at the time of filing the relevant application. The registration, assignment and cancellation of industrial design registrations are published in the Official Gazette and entered in the register.

Opposition of an industrial design is permitted by Law 82 /2002 and can be submitted within sixty days from the publication date of the industrial design. The applicant shall be sent a copy of the opposition, and the applicant shall file a response to the opposition within 30 days of the receipt of the notification of opposition. Failure to reply to the opposition shall be treated as withdrawal of the application.

The Commercial Registry Department may, when public interest so requires and subject to the approval of ministerial committee established by a decision of Prime Minister upon submission of the competent minister, grant an exclusive license for the exploitation of the protected industrial design.

Any infringement or unauthorized use of a registered industrial design is punishable under the current law.

Requirements

Design Applications

1. A notarized power of attorney certified by an Egyptian Consulate.
2. Four representations (photographs or drawings) of the industrial design on good quality paper; size 33x21 cm.
3. An extract of the entry of the applicant company in the Commercial Register or a copy of the certificate of incorporation certified by an Egyptian Consulate; which includes the name, address, nationality, legal status and profession or nature of business of the applicant.
4. A certified copy of the priority document for a Convention application. All documents must be filed within six months from the filing date.

Assignment Applications

1. A notarized power of attorney signed by the assignee and certified by an Egyptian Consulate.
2. An extract of the entry of the assignee company in the commercial register or a certified copy of the certificate of incorporation which has been certified by an Egyptian Consulate.
3. A deed of assignment certified by an Egyptian Consulate including the transfer of the ownership of the establishment, which produces the goods for which the trademark is registered.
4. Name, address, nationality, legal status and profession or nature of business of the assignee. In addition to the above, for patent applications, the applicant company must submit an extract from the Commercial Register or the certificate of incorporation, certified by an Egyptian Consulate.

License Applications

1. A license agreement certified by an Egyptian Consulate.
2. A notarized power of attorney by the licensee and licensor certified by an Egyptian Consulate.
3. An extract of the entry of the licensee company in the commercial register, or a certified copy of the certificate of incorporation which has been certified by an Egyptian Consulate.
4. The name, address, nationality, and profession or nature of business of the licensee. For patent applications, the applicant company must submit an extract from the Commercial Register or the certificate of incorporation, certified by an Egyptian Consulate.

Change of Name/Address Applications

1. A notarized power of attorney certified by an Egyptian Consulate.
2. A certified certificate of the change of name or address. For patent applications, the applicant company must submit a certificate of the change of name or address certified by an Egyptian Consulate.

Industrial Designs: Frequently Asked Questions

1. Are industrial designs registrable in your country?

Yes. The industrial design must be novel and have industrial applicability. Designs whose shape is basically due to technical or functional requirements shall not be registered. Furthermore, designs that include emblems, religious symbols, seals or flags from Egypt or other countries, or the use of which may undermine public order or morality shall not be registered. Lastly, designs that are identical or closely resemble a registered trademark or a well-known mark shall not be registered.

2. Are there specific requirements for a design application as to the form of drawings and/or photographs, the size thereof and the number of views?

Yes. Four representations (photographs or drawings) of the design on good quality paper are required. The size must be 33x21 cm. The applicant or agent shall sign on the right bottom of the page.

3. What are the novelty requirements for a design application to be valid?

A design will not be considered novel if the design was disclosed to the public before the filing date of the application in Egypt, or if the application was filed in a foreign country within six months prior to the filing date in Egypt, and priority is claimed to the foreign application, before the foreign filing date.

4. Can convention priority be claimed in your country? (Paris Convention).

Yes. A copy of the priority application, certified by the industrial property authority of that country, must be submitted with the application or, upon written request, within a period not exceeding six months from the filing date of the application with the Industrial Design Office.

5. Does your country use the Locarno system of international classification?

Yes.

6. Are there any goods or services for which the industrial design can not be registered?

No, but if the industrial design is considered to contain religious content, state stamps or emblems of Egypt or another country, or to disturb public order or morals, then registration will be refused.

7. Is the assignment of the creator compulsory for a design application?

No.

8. Is there any deadline to apply for the publication of a secret filing of a design?

If an industrial design application is accepted, and meets the novelty and other requirements, it is published for opposition. No applications are kept secret if they are considered to meet the requirements for registration.

9. Is it possible to file more than one design in the same application?

More than one design or model can be filed in the same application so long as the number of designs does not exceed 50 and the designs form a homogeneous or coherent unit.

10. What is the term of protection of a design in your country? Can this term be extended

The original term of ten years may be extended for an additional five year period for a total of 15 years.

11. Is use required to maintain a registration of a design in your country?

No.

12. Are designs eligible for copyright protection as well?

Yes.

13. Are there provisions in your law to oppose a design registration?

Design application registrations are published, and there is a post publication opposition procedure that permits a third party to oppose the registration of a design.

14. Is it possible to apply for cancellation of a design filed in a secret form?

No.

15. Is Egypt a member of the Hague Agreement?

Yes.

Patents

Once an application for the grant of a patent is filed, it is examined with respect to compliance with the formalities and patentability provided under Law 82/2002. The Patent Office may require amendments necessary to bring the application into conformity with the law.

A patent application must be filed before the invention has become known through disclosure or use worldwide. Novelty is evaluated on the basis of the filing date in Egypt or the application's

priority document if applicable. The Patent Office currently receives many published patents worldwide and requires absolute novelty when examining the patent application.

Patent applications are examined for novelty, inventive step, and industrial applicability. Once the application is accepted it is automatically published in the Official Gazette. Any interested party may oppose the grant of a patent within 60 days as from the date of publication. The opposition notice is submitted to the competent committee.

It takes an average of three years from the filing date for a patent to be granted or finally refused. Annuities are to be paid every year as from the filing date of the application even before the patent is granted. However, according to the current patent law, there is a one-year grace period from the due date with a late fine to settle payment of an annuity.

An applicant is entitled to appeal the requirements and conditions of the Patent Office by means of submitting a petition to the competent committee within thirty days as from the receipt of the notice, served to him by the Patent Office. Approved applications are published in the Official Gazette and are rendered open for public inspection.

The patent term is 20 years starting from the date of filing the application. Annuities should be paid until the expiry of the patent protection period.

The rights to a patent may be assigned or transferred through succession. The assignment of patent applications and granted patents must be made in writing. An assignment shall have no effect against third parties unless it has been published in the Official Gazette and duly entered in the relevant records of the Patent Office.

Working of the patent is compulsory in Egypt. In the event that the owner of a patented invention does not satisfy the working requirements within three years as from the date of the grant, or within four years from the filing date, whichever of the two periods is longer, or if working ceases for one year without an acceptable reason, then the patent will be subject to compulsory licensing under the provisions of the law. If within two years as from the grant of the compulsory license, the licensee does not exploit the patented invention, any interested party may apply to the Patent Office demanding the cancellation of the subject patent for non-working.

The rights conferred by a patent lapse, with the end of the protection period as prescribed by the laws, abandoning of patent rights, final court decision to this effect, non-payment of a due annuity within one year after the respective due date or failing to respond to an official action. Infringement of the rights of a patentee is punishable under the provisions of Law 82/2002.

Egypt signed the TRIPS Agreement in 1995, therefore pharmaceutical and food products could be filed as “mailbox” applications during the transitional period ending on January 1, 2005. As of January 1, 2005, the Egyptian Patent Office opened the “mailbox” and began examination of these product applications.

Requirements

Patent Applications

1. A legalized power of attorney certified by an Egyptian Consulate.

2. A deed of assignment certified by an Egyptian Consulate (not required for PCT National phase applications).
3. The name, address, nationality, and profession or nature of business of the both the applicant(s) and the inventor(s).
4. The application's specification may be initially submitted in any language. The specification **MUST** be subdivided as follows: Prior Art; Drawbacks of the prior art; What is new about the invention (improvements); Detailed description; Mode of exploitation of the invention.
5. A summary of the invention (abstract) in English and Arabic (about 100 words).
6. One set of the formal engineering drawings, if drawings are present.
7. An extract of the entry of the applicant company in the commercial register, or a copy of the certificate of incorporation. The document in either form should be duly certified by an Egyptian Consulate (not required for PCT National phase applications).
8. A certified copy of the priority document must be submitted within three months in case priority is claimed.
9. Where the invention involves biological, plant or animal products, or traditional medicinal, agriculture, industrial or handicraft knowledge, or cultural or environmental heritage, the inventor should disclose the legitimate source thereof
10. Examination fees as appropriate.

Note: The Arabic translation of the specification must be submitted within six months of the filing date otherwise the application will lapse. The priority document must be filed within three months from the filing date to preserve priority rights.

Assignment Applications

1. A notarized power of attorney signed by the assignee and certified by an Egyptian Consulate.
2. An extract of the entry of the assignee company in the commercial register or a certified copy of the certificate of incorporation certified by an Egyptian Consulate.
3. A deed of assignment from the assignor(s) to the assignee(s) certified by an Egyptian Consulate.

License Applications

1. A license agreement certified by an Egyptian Consulate.
2. An extract of the entry of the licensee company in the commercial register or copy of the certificate of incorporation certified by an Egyptian Consulate.

Change of Name/Address Applications

1. A notarized power of attorney certified by an Egyptian Consulate.
2. A change of name and/or address certificate certified by an Egyptian Consulate.

Patents: Frequently Asked Questions

1. **Can a patent search be conducted?**

Yes.

2. **Can a patent application be filed without its complete documents?**
Yes.
3. **Can convention priority be claimed? Paris Convention?**
Yes.
4. **Can a patent be obtained for pharmaceutical products?**
Yes. Examination did not begin until January 1, 2005.
5. **What is the term of protection of a patent and from which date is it calculated? Can it be extended?**
20 years from the date of filing in Egypt - No.
6. **Is a secret form of filing a model/design permitted?**
No
7. **Is there a novelty requirement? Is it local or worldwide?**
Yes, worldwide.
8. **Are utility models granted protection in Egypt under the current law?**
Yes.
9. **Is the patent protection available for software alone, or must the software be coupled with computer hardware in order to permit patent application?**
No - Yes.
10. **Can the specifications or claims be amended?**
Yes.
11. **Could annuity payments be required before the granting of the patent?**
Yes.
12. **In what language should specifications and claims of the patent be filed?**
Arabic specification and abstract, as well as an English abstract.
13. **Is working of the invention required to keep protection in force and, if so, can the working requirements be satisfied by importation or nominal working?**

Non-use may lead to the granting of a compulsory license, and if nonuse continues after the grant of a compulsory license, the patent will lapse. Yes, importation meets the requirements of working, but nominal working may not meet the requirements of working if the nominal working is not sufficient to meet the needs of the market.

14. What are the conditions that might lead to a compulsory license?

Conditions that may lead to a compulsory license include

- Public noncommercial interests;
- Cases of emergency or circumstances of extreme emergency;
- Abuse of the rights conferred by the patent in a manner that is contrary to fair competition
- Support of vital economic interests of Egypt.

15. Must assignments be recorded within a certain period?

No.

16. Does the Patent Law provide for licenses or registered users?

Yes.

17. Does the Patent Office publish the patent applications in the Official Gazette?

Yes. Information about patent applications is published in the Official Gazette one year after the application's filing date.

18. Is pre-grant opposition permitted?

Yes, within 60 days of publication of the application in the Official Gazette, any concerned party may submit an opposition to the grant of the patent, with payment of the appropriate fee. For applications that have military, security, or health significance, opposition by the Minister of Defense, Military Production, Interior, or Health is also possible within 90 days of notification of the application by the Patent Office or within 90 days of application publication.

19. Is electronic application filing available?

No.

Contact Information:

Egyptian Patent Office
101 Kasr Al-Aini St., Cairo, Egypt
Tel.: +20 (2) 7921323; 7921324; 7921291
Fax: +20 (2) 7921325; 7921273

More information and application forms are available at:
<http://www.egypo.gov.eg/english/default.htm> (link is external)

Trademarks

Egypt is a party to the Madrid Protocol Concerning the International Registration of Marks. The international classification of goods and services for the purpose of the registration of marks (Nice Classification) is followed in Egypt, and the revision of class 42 with the creation of classes 43 to 45 has been adopted as of January 1, 2002.

Once a trademark application is filed, the trademark is examined as to its registrability. Applications filed in classes 02, 05, 08, 13, 14, 15, 23, 24, 25, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 can claim all the goods the classes cover, whereas the remaining classes must omit at least one good. Should the application lack any requirement as provided for in the law and its regulations, the examiner will reject the application. The applicant may appeal such a rejection within thirty days from the date of receiving the relevant official notification.

Trademark applications approved by the Registrar are published in the Official Gazette. There is a two-month period from the date of publication during which any interested party may file an opposition notice. An opposition to the registration of a published trademark may be prosecuted by either a trademark attorney or an applicant before the Registrar. The opposition case is referred to the competent tribunal if not settled by the Registrar or if either party objects to the decision issued by the Registrar. In the absence of opposition, a published trademark is registered and the registration certificate is issued.

A trademark registration is valid for ten years from the date of filing the trademark application. Thereafter, a trademark registration is renewable for periods of ten years upon application and payment of the prescribed renewal fees. The Trademark Office serves a written notice to the registered owner of a trademark at the address noted in the register. The notice, which is served during the month following the expiry of the validity term, indicates the date on which the renewal fees should have been paid and calls for payment during the grace period. If the registrant fails to apply for renewal during the six month grace period following the expiry of the stipulated protection period, the Trademark Office will ex officio cancel such registration, which will eventually be removed from the register.

The assignment of a trademark should be recorded with the Trademark Office. Unless it is published in the Official Gazette and entered in the records of the Trademark Office, an assignment shall not be effective vis-à-vis third parties. A trademark may be assigned with or without the establishment associated with that mark. Changes in the name and/or address of a registrant must be recorded.

Use of trademarks in Egypt is not compulsory for filing applications for registration or for maintaining trademark registrations in force. However, a trademark registration is vulnerable to cancellation for lack of use by a third party through a court proceeding. A cancellation action relies on establishing sufficient grounds that the trademark in question has not been used seriously for a period of five consecutive years. A trademark registration will be canceled unless the owner proves that non-use of the trademark was for reasonable cause of which the court approves. The Trademark Office or any concerned party is entitled to demand cancellation of any trademark registered in bad faith.

Any infringement or unauthorized use of a registered trademark is punishable under the provisions of the current Trademark Law.

Requirements

Trademark / Service Mark / Collective Mark / Certification Mark Applications

1. A notarized or legalized Power of Attorney certified by an Egyptian Consulate. (to be submitted with the filing of the application).
2. Ten prints of the trademark for each class.
3. A list of the goods and services to be covered by the application. Applications filed in Classes 02, 05, 08, 13, 14, 15, 23, 24, 25, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 can claim all the goods the classes cover, whereas the remaining classes must omit at least one good.
4. A certified extract of the entry of the applicant company in the commercial register or a certified copy of the certificate of incorporation, which includes the name, address, nationality, legal status and profession or nature of the business of the applicant, certified by an Egyptian Consulate.
5. A certified copy of the priority document must be submitted within six months of filing, if priority is claimed.

According to the new Egyptian regulations, documents mentioned in items 4 and 5 must be filed within six months from the filing date. If the documents are not filed by the due date, the above-captioned trademark application will lapse.

Renewal of Trademark / Service Mark / Collective and Certification Mark Registration

1. A notarized Power of Attorney certified by an Egyptian Consulate. The power must be available upon filing the renewal application.
2. An application for renewal.

Assignment Applications

1. A notarized Power of Attorney signed by the assignee and certified by an Egyptian Consulate (to be submitted with the filing of the application).
2. An extract of the entry of the assignee company in the commercial register or a certified copy of the certificate of incorporation certified by an Egyptian Consulate.
3. A deed of assignment duly signed by both parties and certified by an Egyptian Consulate.
4. A completed application form including name, address, nationality, legal status and profession or nature of business of the assignee.

License Applications

1. A license agreement certified by an Egyptian Consulate.
2. A notarized Power of Attorney by the licensee and licensor certified by an Egyptian Consulate (to be submitted with the filing of the application).
3. An extract of the entry of the licensee company in the commercial register, or a certified copy of the certificate of incorporation certified by an Egyptian Consulate.

4. A completed application form, including the name, address, nationality, and profession or nature of business of the licensee.

Change of Name / Address Applications

1. A notarized Power of Attorney certified by an Egyptian Consulate. (To be submitted with the filing of the application).
2. A certified certificate of the change of name or address.

Trademarks: Frequently Asked Questions

1. **How long does it take to conduct a trademark search?**

Seven working days on average.

2. **Does Egypt use the Nice international classification?**

Yes.

3. **Are there any goods or services for which the mark can not be registered?**

No.

4. **Can a trademark be registered in the name of more than one applicant (i.e. joint application) ?**

Yes.

5. **Can an application be filed without its complete documents? If yes, what is the deadline for filing the documents?**

Yes, 6 months. Application details required to receive a filing date: particulars of the applicant and the mark. Class and specification of goods, as well as a copy of the mark to be protected.

6. **Can one application cover more than one class of goods/services?**

No.

7. **May priority be claimed under the Paris Convention?**

Yes.

8. **What is the term of protection of a trademark? From what date is it calculated?**

10 years from the date of filing.

9. **Is marking compulsory and, if so, how should marking be made?**

No.

- 10. In case a trademark is not renewed in due time, and another company registers the same trademark, can the original owner oppose the registration or not?**

Yes, based on prior use.

- 11. If the trademark was filed incorrectly originally, what documentation would be required to amend the official register to show the correct details?**

Depends on the mistake.

- 12. Is use required to obtain a registration and is proof of use required for maintaining the registration in force?**

Use is not required to obtain a registration, but a registration is subject to cancellation by a third party if it has not been seriously used for a period of five years.

- 13. Is a registration subject to cancellation by a third party if the mark is not in use?**

A registration is subject to cancellation if it has not been seriously used for a period of five years.

- 14. Is use of the trademark on one item sufficient to maintain the protection for all the goods covered by the registration?**

Yes.

- 15. Can the assignment of an application be recorded?**

Yes.

- 16. Is recording a license agreement compulsory? What are the consequences of non-recordal?**

Not compulsory, but recommended to put others on notice. No consequences to non-recordal.

- 17. Can recordals such as change of name, address, merger, assignment, license, etc., be made against pending applications?**

Yes.

- 18. Can an assignment be made with or without the goodwill? What monetary consideration is to be mentioned as the value of the assignment? Is there any tax based on the value mentioned?**

Yes, either is acceptable. US \$ 1 is enough. No tax.

19. Can the trademark application be opposed and what is the opposition period?

Yes, two months from the date of publication in the official gazette

Contact Information:

Head of the Commercial Registry Office
and
Trademark Office
Makram Ebaid Street, Nasr City
Tele: +20 (2) 6720452; 2759812
Fax: +20 (2) 6720453

General IP Rights Enforcement Issues

An aggrieved party may pursue both criminal and civil actions against an IP infringer. All IP Rights recognized in Egypt are subject to criminal penalties including fines and/or imprisonment with increased fees and mandatory or longer imprisonment sentences for repeat offenders.

Criminal action against infringers

The IP Law allows IP owners whose rights have been infringed to file a complaint with the authorities. If the authorities find evidence of infringement, the matter is transferred to the district attorney, who will decide whether to press charges. Unlike in other legal systems, all incidents of IP infringement are deemed to be criminal misdemeanors that may be prosecuted following a complaint by the IP owner. If convicted, the accused faces:

- A monetary fine
- Imprisonment
- Confiscation of the goods
- Closure for up to six months
- Publication of the decision in the press.

A unique feature of Egyptian law is that the trademark owner can join the criminal proceedings as a civil claimant and may present evidence of harm.

Criminal actions are preferable to civil actions as they are quicker (lasting between six and 12 months) and have a stronger deterrent effect on potential offenders.

Criminal Action Roadmap for IPR infringement:

Items that IP owner needs to submit to most enforcement authorities:

1. Proof that the IPR is registered in Egypt. Usually, a copy of the IPR registration document is enough.
2. A formal complaint directed to the competent Ministry with as much information as possible about the nature, location, extent and identity of the parties involved in the infringing activity.
3. A power of attorney authenticated by the Notary Public, if the complainant is not the IP owner, i.e. his lawyer or agent.

4. One or more genuine samples of the infringed good. The enforcement authority usually sends their inspectors to collect a sample of the genuine good from the registered premises of the IP owner or of the IP owner's agents.

Enforcement Steps:

1. Submit complaint with supporting documents as provided above to the competent enforcement authority as specified below.
2. The authority will maintain an original sample of the product that is the subject of the complaint (encompassing the IP), and will also seize a sample of the complained against product from the premises specified in the complaint.
3. Both samples are sent to an expert body for a determination of infringement. Expert bodies are the Patent Office for patents, the Trademark Office for trademarks and industrial designs, the Ministry of Culture for copyrighted audio-visual, artistic and literary works, and the Ministry of Communications and Information Technology for copyrighted software. The expert body submits its findings on infringement to the authority.
4. If the findings confirm infringement of IP, the authority refers the matter to the District Attorney with recommendations to press charges.
5. If the District Attorney decides to press charges, the matter will be referred to the Misdemeanor Court to decide on the guilt of the accused. The IP owner can join the proceedings at this stage as a civil claimant aggrieved by the offence. The IP owner's involvement is usually very critical in explaining to the court the nature of IP infringement and strengthening the prosecutor's case.

Civil actions for compensation for IP infringement

Civil actions seeking damages for IP infringement are carried out under the general legal principle that a wrongdoer should compensate the aggrieved party for the actual losses, lost opportunities and moral harm sustained as a result of the wrongdoing. However, despite this clear procedure parties seeking civil damages face the following hurdles:

The Egyptian courts often refer IP matters to government experts, who then write their own analysis and make the appropriate recommendations to the court. This procedure delays the judicial process and is highly susceptible to influence. In addition, in many cases the court simply affirms the order recommended by the report.

Courts usually award very low damages compared to the sums requested.

- It may take up to four years for a decision to be rendered.
- It is very difficult to execute civil judgments relating to the confiscation or destruction of infringing goods, since the court bailiffs are often unable due to a lack of resources
- Civil actions are another area in need of urgent reform.

Motion to cancel IP registrations

To cancel an IP registration, an interested party must instigate an action in the administrative courts requesting cancellation on the basis of prior use or other legitimate grounds.

Administrative court cases proceed at a faster pace than civil court cases, but suffer from the same disadvantages. In a similar manner to civil courts, administrative courts must refer cases to

the State Commission for a report on the case. The State Commission is a fact-finding body that recommends to the court how the case should be decided – and the court usually follows its recommendation. However, the State Commission appears to have no expertise in IP law. In general, a business will monitor the Official Gazette for trademarks, patents and industrial designs similar to those it already owns and, where necessary, oppose an application within the statutory period of 60 days following publication. If the Trademark Office or Patent Office is convinced it should not continue with the registration, the matter may be resolved quickly.

Border Control

Article 51 of the TRIPs Agreement requires member countries to enable IP owners with valid grounds for suspecting the importation of infringing goods to lodge a complaint with the competent authorities. This is designed to enable the customs authorities to prevent the release of the goods onto the market. Member countries may also enable IP owners to suspend not only the import but also the export of infringing goods. Egypt has so far, enforced only the import related part of this provision. There have been some successful border seizures and destruction of counterfeits but cases like these are exceptional.

To successfully seize and destroy counterfeits at border points of entry, a motion should be submitted to the District Attorney of the concerned governorate requesting the shipment be kept at the port until there is a determination on the allegation that the shipment contains IP infringing goods. If successful, a complaint should be filed immediately with the competent enforcement authority with a copy to the concerned Customs Authority at the concerned port. The same documents and steps mentioned under the Criminal Action Roadmap above apply.

If the export authorities have reason to believe that the products being exported are counterfeit, they will try to obtain a declaration from the trademark owner that the exported products are genuine. The Ministry of Trade and Industry has issued regulation on the importation of counterfeit goods. The Customs Authority is currently revising its law to permit more authority in this area.

Integrated Circuits Layout

Legislation

The laws related to Integrated Circuits Layouts (“ICL”) are provided for in Law 82 of 2002, Articles 45 through 54 and Articles 61 through 64 of the Executive Regulations of August 2003, Book 1.

Coverage – What is covered by ICL?

ICL cover every three dimensional arrangement of an integrated circuit.

What is considered a new ICL?

An ICL is new if it comprises essential differences compared to ICLs previously known to the Egyptian public or abroad.

The fact that the components themselves are not new does not preclude a finding of novelty as long as the arrangement of the components and their relationship to each other is new.

ICL Registration

ICLs receive an initial ten years of protection, starting from the date of the application or the date when the circuit was first commercially exploited in Egypt or abroad, whichever date occurs first. The date of protection, in all cases, expires fifteen years from the date the ICL is first made (reduced to practice).

ICL Enforcement

The ICL holder has the right to prevent third parties from:

1. Copying the whole ICL or any part of it that is new.
2. Importing, selling or distributing the ICL for commercial purposes.

The above exclusive rights are exhausted as to the right of importation if the holder markets it in Egypt or abroad.

Excluded from protection are the following activities:

1. Copying, import, distribution or sale of an ICL that is part of a larger integrated circuit or product where the person doing such acts is unaware that the larger circuit or product comprises the protected ICL.
2. Personal, non-commercial use or use for testing, examination, analysis training or scientific research.
3. Creating the ICL through independent efforts.

Third parties may apply for a compulsory license.

Undisclosed Information

Legislation

Articles 55 through 62 of Law 82 of 2002 and Articles 65 through 68 of the Executive Regulations of August 2003.

Coverage – What does undisclosed information encompass?

Any information is capable of protection, provided it fulfills the following conditions:
The information is confidential in the sense that it is not generally known to those in the industrial art within the scope of which the information falls.

The information derives its commercial value from its confidentiality.

The owner of the information has in place measures for keeping the information confidential, i.e. access on a “need-to-know” basis and appropriate non-disclosure agreements with third parties. Protection of undisclosed data or information requested by the Health Authority for marketing approval of pharmaceutical or agrochemical products containing a new chemical entity is particularly addressed in Art. 56 of Law 82/2002.

Undisclosed Information Enforcement

Generally, the greatest challenge facing the owner of undisclosed information is proving that a third party misappropriated the owner’s information due to the very nature of the IP right. The initial burden of proof is on the owner of the information to make a showing that the information he or she seeks protection for meets the three conditions outlined above for protectable

information. The infringer then has to prove that he or she obtained the information in question by one of the following means:

1. The information was publicly available, i.e. it was obtained from libraries, internet, etc.
2. The information was obtained by reverse engineering.
3. The information was obtained by independent effort.

According to Article 56 of Law 82/2002, undisclosed information submitted to government authorities on request in order to market pharmaceutical or agricultural chemical products containing new chemical entities, is protected from disclosure and unfair commercial use for five years from the date of its submission.

Beginning January 1, 2007, a Ministry of Health Decree establishing a streamlined registration system for pharmaceuticals carrying a USFDA or EMEA approval went into effect. When fully implemented, this system will lessen running of the Article 56 protection period before approval to market a new pharmaceutical approved is granted.

Plant Varieties

Legislation

Articles 189 through 206 of Law 82 of 2002 and Articles 155 through 185 of the Executive Regulations of August 2003 (Cabinet Decree No. 1366).

What does Plant Variety Protection Cover?

Any plant varieties provided they meet the following conditions:

- The variety must be new, which means that it must not have been previously marketed in Egypt for longer than one year prior to the application date, or more than six years for trees or vines, or four years for other crops.
- The new plant must be distinct from other available varieties.
- The plants must be uniform.
- The trait or traits unique to the new variety must be stable so that the plant remains true to type after repeated cycles of propagation.

In addition, the breeder should propose a variety denomination.

Plant Variety Registration

The applicant can apply for a breeder's right certificate from the Plant Variety Protection Office at the Central Seed Testing and Certification Authority (CASC) of the Ministry of Agriculture. Protection can be obtained for a new plant variety regardless of how it has been obtained, e.g. through conventional breeding techniques or genetic engineering.

The protection period for a breeder's right certificate is twenty five years for trees and vines and twenty years for everything else. The protection period starts on the date of granting the certificate.

Plant Variety Protection Rights

Under Article 194 of the IPR law, the certificate holder has the exclusive right to commercial exploitation of the protected variety in any form. This includes the exclusive right to produce, propagate, circulate, sell, market, import, or export propagation material. Under Article 195 of the IPR law, exclusive rights do not extend to the following:

- Non-commercial activities and use of the product of harvest by farmers on their own holdings for private propagating purposes;
- Experiments and scientific research;
- Breeding, crossbreeding, and selection for the purpose of breeding new varieties
- Education and training.
- Use, commercial exploitation, and consumption of crop material.

Additional Considerations

Third parties may apply for compulsory licenses to the General Directorate of Plant Variety Protection Office of the Ministry of Agriculture.

According to Article 179 of the Executive Regulations, the breeder must disclose in his/her application for a breeder's right certificate, the genetic resources and traditional knowledge relied on to develop the new variety. Protection of a new variety requires that the breeder has acquired source material by legitimate means under Egyptian law. Article 200 of the IPR law outlines procedures for access to genetic resources for purposes of breeding new varieties, as well as the sharing of benefits arising from new varieties developed.

Plant Variety Protection: Frequently Asked Question

Is Egypt a member of UPOV?

No.

Contact Information

Plant Variety Protection Office
Central Seed Testing and Certification Authority (CASC)
8 Cairo University Street, Giza

Fax: +20 (2) 35725998

E-mail: secretariat@NOSPAM.casc-eg.com (link sends e-mail)

Website: www.casc-eg.com (link is external)

Conclusion

We strongly emphasize that the information provided above by no means constitutes legal advice and should not be a substitute for advice of counsel. Its intended purpose is to provide an overview of Egypt's IPR environment, available enforcement mechanisms, and Egyptian government offices sharing jurisdiction over IPR protection and enforcement. We recommend that U.S. companies seeking to do business in Egypt or facing IPR infringement issues retain qualified U.S. and/or Egyptian legal counsel and pursue their rights through Egypt's IPR enforcement regime.

This Toolkit has been prepared with the assistance of:

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Comments:

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