

MONTHLY NEWSLETTER

FOR CLIENT USE ONLY

Vol. XX, No. 7

July 15, 2002

Recent Legal Developments
in the
United Arab Emirates
and
Highlights from
Bahrain, Egypt, Iran, Kuwait,
Oman, Pakistan, Qatar and Saudi Arabia

CONTENTS

UNITED ARAB EMIRATES

1. Copyright Law
2. Trademark Law
3. Patent Applications

BAHRAIN

1. Commercial Companies Law

UNITED ARAB EMIRATES

1. Copyright Law

A new Copyright Law has been enacted as Federal Law No. 7 of 2002, repealing the previous Copyright Law, Federal Law No. 40 of 1992, as well as inconsistent provisions of earlier regulations.

The new Copyright Law is the product of a prolonged dialog between the U.A.E. and international organizations such as the World Intellectual Property Organization ("WIPO") and the World Trade Organization ("WTO"). It grants protections to authors of creative works that are now in greater harmony with international standards.

The Copyright Law consists of eight chapters and protects copyrights and neighboring rights from infringement. The ten categories of protected works that were defined by Federal Law No. 40 of 1992 (see the June 1992 edition of this Newsletter) have now been expanded to twelve categories, which are books and other written works; computer programs; lectures, speeches, and sermons; drama, musical drama and pantomime works; musical works; audio, visual and audiovisual works; architectural and engineering design works; drawings, sculptures and engravings; photographic works; works of applied or plastic arts; diagrams, geographical maps, sketches, plans, and three-dimensional geography, topography or architectural works; and derivative works of art. The express protection extended to neighboring rights is new; holders of such rights include performers, producers of audio recordings, and broadcasting authorities.

Protection does not extend to ideas, procedures, work methods, mathematical concepts, and abstract principles or facts, although protection shall apply to original expressions of such materials. Protection likewise does not extend to official documents such as laws and court judgements, news and current events, and works that have passed into the public domain, although original compilations or arrangements of these materials are protected.

Federal Law No. 40 of 1992 provided that copyright protection would extend to "works of non-nationals of the United Arab Emirates published for the first time within the United Arab Emirates." Although this provision was never

applied to deny protection to foreign works published outside the U.A.E., the clause was a matter of concern to WIPO and the WTO and has been omitted from the new Copyright Law.

As before, the Copyright Law recognizes that authors have both moral rights and rights of commercial exploitation, but the new Law provides more detail. Moral rights are held by the author and his successors and cannot be disposed of or lost by passage of time; they now not only include the right to have authorship acknowledged, but also expressly include the right to publish a work for the first time, the right to object to any alteration of the work that may distort or deform the work or discredit the author, and the right to remove the work from circulation. Regarding the right to object to alteration, changes to a work in the field of translation are not deemed abusive unless the translator fails to indicate where changes and deletions occurred or knowingly discredits the author. Regarding the right to remove a work from circulation, the author must demonstrate valid grounds to a court, and the court may grant the relief sought on condition that the author first compensate any holder of rights of commercial exploitation. The moral rights of holders of neighboring rights are also acknowledged.

The rights of commercial exploitation include the rights of reproduction, representation, broadcast, public performance, translation, arrangement, adaptation, rent, and any manner of distribution, including electronic distribution. A holder of copyright or neighboring rights may transfer his rights of commercial exploitation to a third party pursuant to a written agreement.

The new Copyright Law grants lengthier periods of protection than before. The period of protection for authors is the life of the author plus fifty years, except for creators of applied arts, who enjoy protection for twenty-five years from the date of publication. Performers and producers of audio recordings enjoy a fifty year period of protection from the date of performance or publication. Broadcasters enjoy a period of protection of twenty years from the date the work is broadcast.

The new Copyright Law continues to provide for the registration and deposit of works with a copyright bureau in the Federal Ministry of Information and Culture. Failure to deposit a work shall not prejudice the author's rights.

Rights of fair use are significantly reduced under the new Copyright Law. It is now required that any person who wishes to reproduce or translate a work must obtain the permission of the Ministry of Information and Culture. This may be done only after three years have passed following the date of the work's publication, and may be done for educational purposes only.

The Copyright Law imposes sanctions on offenders. Depending on the violation, fines of up to Dh 500,000 may be imposed, along with imprisonment, confiscation of materials, closure of premises, and publication of the court judgement in the press.

2. Trademark Law

Amendments to the Trademark Law of the U.A.E. have now been enacted pursuant to Federal Law No. 8 of 2002. In contrast with the major re-working of the Copyright Law discussed in the previous article, the amendments to the Trademark Law are relatively minor in scope. The Law as enacted is the same as the draft law that was reported earlier (see the February 2002 edition of this Newsletter).

3. Patent Applications

The first nine patents have been granted under the U.A.E. Patent Law, Federal Law No. 44 of 1992 (see the June 1992 edition of this Newsletter). The granting of these patents was facilitated by the cooperation agreement concluded two years ago between the U.A.E. Federal Ministry of Finance and Industry and the Austrian Patent Office (see the January 2001 edition of this Newsletter). Eight of the patents granted had been applied for in 1994, and the ninth had been applied for this year.

The patents have been granted to nationals of the U.A.E. and several other countries, including corporations and natural persons. The patented inventions have applications in airconditioning, communications technology, construction, financial services, pharmaceuticals and shipping.

BAHRAIN

Contributed by Hassan Radhi Law Office
Manama, Bahrain

1. Commercial Companies Law

On January 1, 2002, the new Commercial Companies Law (Legislative Decree No. 21 of 2001) came into effect in Bahrain, replacing the old Commercial Companies Law.

The old Law had provisions for incorporation of companies known as "exempt companies" and "brass-plate exempt companies." An exempt company was exempt from certain provisions of the Commercial Companies Law and had as its main purpose the conduct of business outside Bahrain. The Ministry of Commerce and Industry had the discretion to accept or reject an application for the incorporation of an exempt company. The conduct by an exempt company of insurance, banking or investment of assets on behalf of third parties also required the approval of the Ministry of Commerce and Industry. The consent of the Bahrain Monetary Agency was also required for the conduct of banking, investment and other financial services.

The old Law also permitted the incorporation of "brass-plate exempt companies." Such companies could be incorporated with a minimum capital of BD 2,500, a nominal registration fee and a security deposit. Such a company was not required to have a physical office or presence in Bahrain, and it was sufficient to have a registered office in the office of an auditor or lawyer.

The new Law discontinued both the exempt company and brass-plate exempt company. However, the exempt company concept was reintroduced by virtue of Ministerial Resolution No. 21 of 2002. Such exempt companies must be closed joint stock companies with a minimum of two shareholders. Although the new Law stipulates a minimum share capital of BD 250,000 for a closed joint stock company, an exempt company may have a share capital of BD 100,000 if engaged in insurance activities and BD 20,000 if engaged in other activities. Such exempt companies must engage solely in activities outside Bahrain and may not offer their shares for public subscription.

The new Law continues six corporate forms that were available previously, which are the general partnership, the limited partnership, the limited share partnership, the consortium, the joint stock company and the limited liability company. The new Law also permits the incorporation of three new types of companies. A "one person company" is wholly owned by a single natural person or corporate entity. The minimum capital is BD 50,000, and the owner's liability is limited to the capital.

A "holding company" may be incorporated for the purpose of holding majority shares in Bahraini or foreign joint stock companies and limited liability companies. A holding company may be incorporated as a joint stock company, a limited liability company or a one person company.

The new Law also provides for the incorporation of "companies with foreign capital." The Minister of Commerce and Industry, with the agreement of the Minister concerned with the proposed activity, may approve the incorporation of a company partly or wholly owned by non-Bahrainis. A company with foreign capital may state its capital in a non-Bahraini currency, although the capital must be evaluated in Bahraini Dinars. An order of the Minister of Commerce and Industry shall define such a company's permissible business activities. The Minister may exempt such companies from the minimum share capital requirements and may permit the convening of Board and General Assembly meetings outside Bahrain.

Edited by Amjad A. Khan, Esq.
Charles S. Laubach, Esq.
Afridi & Angell

Afridi & Angell 2002