



Into IPR



6th Edition 2019



**The future will be for those
with ideas and innovations**

Sheikh Mohammed bin Rashid Al Maktoum



The protection of intellectual property rights is one of our priorities at the Ports, Customs and Free Zone Corporation (PCFC). We are dealing with the basic components of the trade and business sector in Dubai to diversify our national economy and make progress towards the establishment of the Dubai Silk Road. Our main concern is to protect society from the dangers of counterfeit goods, which can cause accidents and cost the community significant loss of life and property. Therefore, we are working to strengthen cooperation with traders and companies in this field to safeguard the interests of the business community. That's why we are committed to striking

the delicate balance between facilitating trade and protecting society. This is the mission Dubai Customs undertakes with utmost efficiency and quality through advancing the capabilities of its inspectors and providing customs centers with the latest in-house developed inspection and screening equipment driven by human creativity and innovation. The objective is to meet the vision of His Highness Sheikh Mohammed bin Rashid Al Maktoum, Vice President and Prime Minister of the UAE and Ruler of Dubai, to achieve people's happiness and wellbeing and ensure global leadership in all spheres.

HE Sultan Ahmed Bin Sulayem
Chairman, Ports, Customs and Free Zone Corporation (PCFC)

In support of the UAE's efforts to promote innovation and creativity across the board, Dubai Customs attaches great importance to the protection of intellectual property rights and firmly addresses attempts to infringe such rights by enhancing the capacity of customs intelligence, risk management, inspection systems and processes to clamp down on counterfeit products and prevent their illicit entry into the nation and the GCC or transit into other countries. Such capacity building includes furnishing all customs ports of entry with state-of-the-art inspection and screening technologies in addition to training customs inspectors and raising their capability to properly detect and seize counterfeit goods.

We are keen to reinforce cooperation with strategic partners from various federal and local government agencies to reach the best levels of coordination and engagement in the protection of intellectual property. Dubai Customs is also developing partnership with the private sector, particularly brand owners and their legal representatives, to combat the trafficking of counterfeit goods. We are as well working hand in hand with all relevant stakeholders to educate and raise awareness of the protection of intellectual property rights by ensuring the participation of all segments of the public, especially new generations, in addressing counterfeits and IP infringing products. Dubai Customs Intellectual Property Award for Schools and Universities is one of those leading initiatives aiming to raise awareness of the issue.

The protection of intellectual property rights is increasingly gaining importance as a strategic priority for Dubai Customs in line with Dubai's pivotal role as a global capital of economy that is steadily advancing towards enhancing the diversity of the Emirate's economic structure by facilitating legitimate trade and passenger traffic. As Dubai has commercial links with around 220 countries worldwide, the protection of intellectual property rights using the latest technologies, systems and procedures is one of the most important pillars of success for us.



HE Ahmed Mahboob Musabih
Director General of Dubai Customs

Vision, Mission, Goals & Values

Our Vision

The leading customs administration in the world supporting legitimate trade

Our Mission

Protecting the society and sustaining economic development through compliance and facilitation.

Our Goals

Provide an environment that supports the flow of international trade and passengers:

- Improve and facilitate services.
- Enhance business relationships with partners.

Promote security and combat illegitimate trade:

- Enable and enhance voluntary compliance.
- Build and strengthen innovative relationships and partnerships with clients.
- Support the protection of economy and society.

Improve and diversify revenues and sustain efficiency of revenue collection:

- Diversify sustainable sources of revenue.
- Increase efficiency of financial performance.

Building corporate capabilities and competitive advantage:

- Creating happiness for all stakeholders.
- Developing corporate governance and control systems.
- Institutionalizing strategic thinking and future planning.
- Building capacities and knowledge that create efficiency and excellence.

Leading Customs innovation globally:

- International recognition through participation and accomplishment of global awards.
- Increase the number of patents registered for Dubai Customs through focused efforts of innovation labs.

Our Values

Leadership:

Adopting global best practices in customs work that will sustain the reputation of Dubai as a global trading hub.

Happiness:

Working together towards creating happiness for our staff, clients, community and partners.

Loyalty:

Being proud of working for Dubai Customs and seeking to improve its performance, reputation and image.

Integrity:

Ensuring objectivity, fairness and transparency, and upholding public interest over personal interest.

Innovation and creativity:

Building a stimulating workplace environment and introducing collective ways of innovation that inspire creative ideas to promote global excellence and competitiveness.

Empowerment:

Empowering our employees to take initiative and give their best to ensure the nation's flag remains high.

Introduction

The intellectual property rights are an essential element in estimating the physical and moral status of countries, companies and individuals. Protection of these rights is no longer a goal to encourage creativity and enrich the different sciences and arts only, but has become one of the key levers of economy and culture in modern society as well. However, knowledge and technology gap between developed and developing countries cast confusion and apprehension in the minds of many people when talking about the legal protection of intellectual property rights.

Intellectual Property is not a new concept. It is believed that IP initially started in northern Italy during the Renaissance era. In 1474, Venice issued a law regulating patents protection that granted an exclusive right for the owner. The copyright dates back to 1440 A.D. when Johannes Gutenberg invented the printing press with replaceable/moveable wooden or metal letters.

Late in the 19th century, a number of countries felt the necessity of laying down laws regulating IPR. Globally, two conventions constituting the basis for IP system worldwide had been signed; Paris Convention for the Protection of Industrial Property (1883) Berne Convention for the Protection of Literary and Artistic Works (1886).

Intellectual Property is the product of the human intellect including creativity concepts, inventions, industrial models, trademarks, songs, literature, symbols, names, brands,.... etc. Intellectual Property Rights (IPR) do not differ from other property rights. They allow their owner to completely benefit from his/her product which was initially an idea that developed and crystallized.

IPR also entitle the owner to prevent others from using, dealing or tampering with his/her product without prior consent. He/she can in fact legally sue them and force them to stop the infringement and compensate for any damages.

Protection of IPR allows the innovator, brand owner, patent holder and copyright holder to benefit from his/her work, labor and investment, which does not mean monopoly of the intellect. Such rights are set out in the International Declaration of Human Rights,

which provides for the right to benefit from the protection of the moral and physical interests resulting from the right holder's work; literal or artistic product.

Intellectual property refers to creations of the mind: inventions, literary and artistic works, symbols, names, pictures, models and industrial designs.

Intellectual property is divided into two categories:

- Industrial Property, which includes: inventions (patents), trademarks, industrial designs and models and geographic indications of source.
- Copyright, which includes: literary and artistic works, namely novels, poems, plays, films, musicals, cartoons, paintings, photographs, statues and architectural designs.

Related Rights is a term in copyright law, used to include the rights of performers in their performances, the rights of producers of phonograms in their recordings and the rights of broadcasting organizations in the radio and television programs they air.

**Some important IP terms to
know about**

Trademark:

A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises. Trademarks are protected by intellectual property rights.

Geographical Indication:

A geographical indication (GI) is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin.

Appellation of Origin:

An appellation of origin is a special kind of geographical indication, used on products that have a specific quality that is exclusively or essentially due to the geographical environment in which the products are produced. The concept of geographical indication encompasses appellations of origin.

Industrial Designs:

In a legal sense, an industrial design constitutes the ornamental or aesthetic aspect of an article. An industrial design may consist of three dimensional features, such as the shape of an article, or two dimensional features, such as patterns, lines or color.

Integrated Circuit:

A product, whether in its final form or in an intermediate form, in which the elements, at least one of which is an active element, and some or all of the interconnections are integrally formed in and/or on a piece of material and which is intended to perform an electronic function

Utility Model:

Similar to patents, utility models protect new technical inventions through granting a limited exclusive right to prevent others from commercially exploiting the protected inventions without consents of the right holders. It is generally cheaper to obtain and maintain, has a shorter term, shorter grant lag, and less stringent patentability requirements.

Patent:

Patent is an exclusive right granted by law to an inventor or assignee to prevent others from commercially exploiting his/her patented invention without permission, for a limited period of time after which technical information about the invention must be disclosed to the public in a patent application.

Copyright:

Copyright (or author's right) is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture, and films, to computer programs, databases, advertisements, maps, and technical drawings.

Related Rights:

Related rights, also referred to as neighboring rights, protect the legal interests of certain persons and legal entities that contribute to making works available to the public. The rights of performers, phonogram producers and broadcasting organizations fall under related rights.

Unfair Competition:

Any act of competition contrary to honest practices in industrial or commercial matters.

Trade Secret:

A trade secret is an information of commercial value concerning production or sales operations which is not generally known. The owner of a trade secret must take reasonable measures to maintain its confidentiality.

Plant Varieties Rights:

Plant variety rights (PVR), also known as plant breeders' rights (PBR), are rights granted to the breeder of a new variety of plant that give the breeder exclusive control over the propagating material (including seed, cuttings, divisions, tissue culture) and harvested material (cut flowers, fruit, foliage) of a new variety for a number of years

World IP Day:

It is celebrated on the 26th of April every year.

Creativity: It is a process or method of creating new unprecedented things or a novel way of doing things. Creativity involves innovation and invention.

Innovation:

Is to come up with novel, innovative ideas or methods to existing products or services, in order to present them differently and in a way that meets market requirements.

Invention:

An invention is a unique or novel device, method, composition or process. The invention process is a process within an overall engineering and product development process. It may be an improvement upon a machine or product or a new process for creating an object or a result.

Types of Intellectual Property

1. Copyright

What is copyright?

Copyright is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture and films, to computer programs, databases, advertisements, maps and technical drawings.

What can be protected using copyright?

Exhaustive lists of works covered by copyright are usually not to be found in legislation. Nonetheless, broadly speaking, works commonly protected by copyright throughout the world include:

- Literary works such as novels, poems, plays, reference works, newspaper articles.
- Computer programs, databases.
- Films, musical compositions, and choreography.
- Artistic works such as paintings, drawings, photographs, and sculpture.
- Architecture classifications.
- Advertisements, maps, and technical drawings.

Copyright protection extends only to expressions, and not to ideas, procedures, methods of operation or mathematical concepts as such. Copyright may or may not be available for a number of objects such as titles, slogans, or logos, depending on whether they contain sufficient authorship.

What rights does copyright give me? What are my rights as author of a work?

There are two types of rights under copyright:

- Economic rights, which allow the rights owner to derive financial reward from the use of their works by others.
- Moral rights, which protect the non-economic interests of the author.

Most copyright laws state that the rights owner has the economic right to authorize or prevent certain uses in relation to a work or, in some cases, to receive remuneration for the use of their work (such as through collective management). The economic rights owner of a work can prohibit or authorize:

- Its reproduction in various forms, such as printed publication or sound recording.
- Its public performance, such as in a play or musical work.
- Its recording, for example, in the form of compact discs or DVDs.
- Its broadcasting, by radio, cable or satellite;
- Its translation into other languages; and
- Its adaptation, such as a novel into a film screenplay.

Examples of widely recognized moral rights include the right to claim authorship of a work and the right to oppose changes to a work that could harm the creator's reputation.

Can I register copyright?

In the majority of countries, and according to the Berne Convention, copyright protection is obtained automatically without the need for registration or other formalities.

Most countries nonetheless have a system in place to allow for the voluntary registration of works. Such voluntary registration systems can help solve disputes over ownership or creation, as well as facilitate financial transactions, sales, and the assignment and/or transfer of rights.

How long does copyright protection last?

Protection is generally granted for a period of 50 years after the creator's death.

Penalties established by the UAE legislator for the penal protection of copyright:

- Penal Protection of Copyright

The UAE legislator criminalized assault on copyrights and detailed some of the provisions of the punishable forms of assault. The legislator also prohibited counterfeit and considered any act of counterfeit as a crime punishable by law.

The counterfeit crime has the following pillars:

■ **Material element:** It is ascertained by the occurrence of counterfeit. One of the forms of the material element of counterfeit crime is the broadcast or publishing a copyright material by the offender without the approval of the author or making modifications in a way that affects the entire content or deviates it in the form or content approved by the author without having a permit or a written approval of the author or its successor. It is required that the material element has already taken place in content protected by law if assault has taken place against authors' rights inside the State, as stipulated in Article 44 of the Copyright Law and the relevant rights. However, in the event of laws conflict, the provisions of this law shall apply to content, performance, audio records, broadcast programs of foreigners, subject to reciprocity and without prejudice to the provisions of international agreements in force in the State.

■ **Mental element:** Requires criminal intent to do the counterfeit crime. Counterfeit crime is an intentional crime where the mental element takes the form of knowledge and will, and the general intent only is enough for its availability. The intent is supposed in the sense that if one of the criminal activities is ascertained, it will be a sufficient presumption of the availability of the criminal intent, in the sense that good faith is not assumed in counterfeit crimes.

The criminal intention in counterfeit crime, a deliberate crime in which the offender is fully aware of the time of its commission, however this presumption can be proven to be untrue. An offender (the accused) shall prove his goodwill in order to negate the intent, and therefore the elements of the crime against him cannot be ascertained and he shall be discharged of the crime. Sanctions stipulated in the copyright and the neighboring rights law.

The law divides penalties into three types:

■ Minor offence penalty

Article 37 prescribes a penalty of imprisonment for a minimum term of two months, and a fine of not less than AED 10,000 and not more than AED 50,000, or either of these

two penalties for anyone who commits, without written authorization from the author or holder of the related rights or successors thereof, any of the acts provided in the Article. Article 38 prescribes a sentence of imprisonment for a minimum term of three months, and a fine of not less than AED 50,000 and not more than AED 500,000 for anyone who commits any of the acts provided in the Article.

Article 39 prescribes a fine of AED 10,000 at least and AED 30,000 at most for any person who uses a software, application or database without a prior permit from the author or successors thereto.

Article 41 stipulates that any person who violates any other provision included in this Law or the regulations or orders issued in implementation thereof shall be sentenced to imprisonment for a term not exceeding six months, and a fine, or to either one of these two penalties.

■ Aggravated crime penalty

- a. Multiple works: Penalties provided for in Article 73 shall be multiplied in case of multiple works, performances, software, or recordings subject of the crime.
- b. Recidivism: The UAE law on copyrights and neighboring rights stiffens penalties in case of recidivism and repeat offences involving copyrights.

Article 37 stipulates that in the event of recidivism, the penalty shall be imprisonment for a minimum term of six months and a fine of not less than AED 50,000.

Article 38 provides that in case of repeat offences the penalty will be imprisonment for a minimum term of nine months and a fine of not less than AED 100,000.

The foregoing articles provides for special recidivism which requires that the new offence should be similar in nature to the first offence. Accordingly, if the offender commits a crime that is in no way similar to the first offence, he shall not be considered recidivist nor shall a similar offence be considered re-offence if more than five years have passed since the previous sentence.

■ Accessory penalties:

The UAE legislator in Articles 39 and 40 of the said Law provides for certain accessory forfeitures or penalties that the court may order in addition to the original penalties stipulated in Articles 37,38 and 39 of this Law, whether the offender is recidivist or not. These additional penalties include:

a. Confiscation and destruction (Article 40):

1. The court may order the confiscation and destruction of counterfeited copies subject of the offence or copies reproduced therefrom.
2. The court may order the confiscation of the equipment, and devices used in the perpetration of the offence, and which cannot be used for any other purpose.

However, Article 29 stipulates that buildings may neither be attached nor their destruction, alteration or confiscation be ordered, for the purpose of preserving the architectural rights of the author whose engineering designs, drawings or sketches have been unlawfully used; without prejudice to his right to a fair compensation.

b. Closing:

1. Article 39 stipulates that if the offence has been committed in the name or to the benefit of a juridical person, or a commercial or vocational establishment, the Court may decide closing it for a period not exceeding three months.
2. Article 40 also stipulates that the Court may order closing, for a period not exceeding six months, of the establishment in which the counterfeiting has been committed.

c. Publication of judgment:

Article 40 provides that the Court may order publication of the summary of the court ruling (judgment) in one or more daily newspapers on the expense of the condemned party.

2. Patents

What is a patent?

A patent is an exclusive right granted for an invention, which is a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem. To get a patent, technical information about the invention must be disclosed to the public in a patent application.

What kind of protection does a patent offer?

In principle, the patent owner has the exclusive right to prevent or stop others from commercially exploiting the patented invention. In other words, patent protection means that the invention cannot be commercially made, used, distributed, imported or sold by others without the patent owner's consent.

Is a patent valid in every country?

Patents are territorial rights. In general, the exclusive rights are only applicable in the country or region in which a patent has been filed and granted, in accordance with the law of that country or region.

How long does a patent last?

The protection is granted for a limited period, generally 20 years from the filing date of the application.

Penalties established by the UAE legislator for the penal protection of industrial property:

In line with the international conventions in the field of industrial property, especially the guidelines provided by TRIPS agreement in the field of procedures and criminal penalties of the protection and enforcement of industrial property rights, the provisions of the UAE legislator came in Federal Law No. 17 of 2002 concerning the regulation and protection

of industrial property including patents of inventions and industrial designs and drawings to agree to what has been decided in TRIPS agreement in terms of sanctions and criminal penalties which ensure the protection of rights holders and prevent the aggression against their rights by imprisonment or financial penalty, seizure, confiscation and destruction of counterfeit goods or any materials and machinery mainly used in the commission of the offense.

A. Original penalties

It is the sanction established by Article 62 of the Federal Law No. 17 of 2002, above-mentioned, which stipulates a penalty of imprisonment and a fine of not less than AED 5,000 and not more than AED 100,000 or either of the two penalties against anyone who provides documents or gives incorrect or false information to obtain a patent or a utility or practical knowledge certificate. This shall also be applicable to any party simulating an invention, a manufacture method, an element of practical knowledge, or intentionally transgresses any right protected by law, and the same penalty shall be applied if the matter is connected with an industrial drawing or design.

The counterfeit of an invention is manufacturing something that is protected during the effective period or certificate or the patent. Counterfeit is ascertained even if it is bad made. It is also ascertained even if the offender added modifications to the product as long as the similarity exists in core elements of the invention. Criminal intent is not required in the counterfeit crime because the estimated penalty is decided for the act without the need to knowledge, where third parties who would like to produce a certain product shall go to (1) official authorities to make sure that there are no prohibitive rights for third parties of manufacturing this product.

B. Consequential penalties:

Article 63 of the same law referred to these penalties complementary to the original penalties to allow the court to confiscate the impounded objects or those to be impounded at a later stage. The court may also order the destruction or impairment of the objects resulting from illegal activities, including machineries and tools adopted for infringement.

The court may also request that the ruling be published in the circular or in one of the local newspapers at the expense of the convict. In all cases, the court may apply the previous procedures in case of acquittal by the court.

Any aggression against any of the rights protected by the law may result in penal crimes and claims of the sole jurisdiction of the Public Prosecution to submit according to Article 7 of the Criminal Procedure Law. Article 65 of Law No. 17 of 2002 also stipulates that the employees of the industrial property administration shall have the right to enforce the provisions of this law and its executive regulations.

3. Trademarks

What is a trademark?

A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises. Trademarks are protected by intellectual property rights.

How can I protect my trademark?

At the national/regional level, trademark protection can be obtained through registration, by filing an application for registration with the national/regional trademark office and paying the required fees. At the international level, you have two options: either you can file a trademark application with the trademark office of each country in which you are seeking protection, or you can use WIPO's Madrid System.

What rights does trademark registration provide?

In principle, a trademark registration will confer an exclusive right to the use of the registered trademark. This implies that the trademark can be exclusively used by its owner, or licensed to another party for use in return for payment. Registration provides legal certainty and reinforces the position of the right holder, for example, in case of litigation.

How long does trademark protection last?

The term of trademark registration can vary, but is usually ten years. It can be renewed indefinitely on payment of additional fees. Trademark rights are private rights and protection is enforced through court orders.

What kinds of trademark can be registered?

A word or a combination of words, letters, and numerals can perfectly constitute a trademark. But trademarks may also consist of drawings, symbols, three-dimensional features such as the shape and packaging of goods, non-visible signs such as sounds or fragrances, or color shades used as distinguishing features – the possibilities are almost limitless

Penalties decreed by the UAE legislator for the penal protection of trademark:

1. Trademark protection

a. **Original penalties** : These are as established by Article 37 and Article 38 of the Federal Law No. 8 of 2002, where the legislator decided in Article 37 that the following crimes shall be punished by imprisonment and a fine not less than five thousand dirhams or either of the two penalties:

- Counterfeit and imitation of the trademark.
- Using a forged or imitated trademark.
- Using a registered trademark owned by others (or using it without right).
- Sale of products bearing counterfeit or imitated or usurped trademarks or offer them for sale or trade or possessing the same with the purpose of sale.

The legislator also decided in Article 38 of the same law imprisonment for a term not exceeding one year and a fine not less than five thousand dirhams and not more than ten thousand dirhams or either of the two penalties on the following crimes:

1. Using a trademark that is prohibited by law or unregistrable.
2. Deceiving the consumer or third parties by claiming that the trademark is registered.

b. Supplementary Penalties (Consequential):

Articles 39 and 43 of the UAE Federal Law on Trademarks allowed the court in any (commercial) penal or civil lawsuit to issue additional penalties and punishments in addition to the original sanctions stipulated by Articles 37 and 38 of the same law. Those additional penalties are as follows:

- 1- **Closure:** Article No. 39 of the Law stipulated that in the event of repetition, the established sanctions of the crime shall be issued, in addition to the closure of the shop or the project for a period that is not less than fifteen days and not more than six months.
- 2- **Confiscation:** The court may issue a judgment to confiscate the seized items or those to be seized later and items that may be confiscated as stipulated in Article No. 43, including tools and machineries used in counterfeiting or imitation.

Moreover, the court may order the confiscation of unseized goods if the court deems it appropriate when there is no prior prejudgment attachment. In addition, if the court considers that confiscation should include the machineries and tools used for counterfeit or imitation, confiscation shall be only for the tools and equipment that are used only in counterfeiting or imitation without the other. Furthermore, the competent court may order the confiscation even if the accused was acquitted for lack of criminal intent, because the lack of criminal intent does not deny the occurrence of counterfeit, imitation or illegal use, as long as it has been proven that there is a criminal act committed by the defendant and caused harm to the plaintiff. Therefore, such damage requires the removal of such act and compensate the plaintiff for incurred damage.

3- Destruction: In accordance with Article No. 43, the court may order to destroy illegal trademarks or, if necessary, order to destroy products, covers, package equipment and other things that hold such trademarks or hold illegal data. Moreover, the court may order all the previous penalties, even if the accused was acquitted as long as it has been proven that he has committed an error that requires compensation for the incurred damage.

4- Publication of the judgment: Article No. 43, at the last part thereof, allowed the court to order the publication of the judgment in Journals (Trademark Journals) issued by the Ministry of Economy or in one of the local newspapers published in UAE in Arabic at the expense of the sentenced.

The publication of the judgment is intended to expose the accused to the public and warn them of dealing with him. The publication is permissive for the court as it may refrain from publishing at the sole discretion of the trial judge.

4. Industrial Designs

What is an industrial design?

In a legal sense, an industrial design constitutes the ornamental or aesthetic aspect of an article.

An industrial design may consist of three dimensional features, such as the shape of an article, or two dimensional features, such as patterns, lines or color.

What kind of protection does an industrial design right offer?

In principle, the owner of a registered industrial design or of a design patent has the right to prevent third parties from making, selling or importing articles bearing or embodying a design which is a copy, or substantially a copy, of the protected design, when such acts are undertaken for commercial purposes.

What kind of products can benefit from industrial design protection?

Industrial designs are applied to a wide variety of products of industry and handicraft items: from packages and containers to furnishing and household goods, from lighting equipment to jewelry, and from electronic devices to textiles. Industrial designs may also be relevant to graphic symbols, graphical user interfaces (GUI), and logos.

How are industrial designs protected?

In most countries, an industrial design needs to be registered in order to be protected under industrial design law as a “registered design”. In some countries, industrial designs are protected under patent law as “design patents”.

Industrial design laws in some countries grant – without registration – time- and scope limited protection to so-called “unregistered industrial designs”.

Depending on the particular national law and the kind of design, industrial designs may also be protected as works of art under copyright law.

5. Geographical Indications

What is a geographical indication?

A geographical indication (GI) is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. In order to function as a GI, a sign must identify a product as originating in a given place. In addition, the qualities, characteristics or reputation of the product should be essentially due to the place of origin. Since the qualities depend on the geographical place of production, there is a clear link between the product and its original place of production.

What rights does a geographical indication provide?

A geographical indication right enables those who have the right to use the indication to prevent its use by a third party whose product does not conform to the applicable standards. For example, in the jurisdictions in which the Darjeeling geographical indication is protected, producers of Darjeeling tea can exclude use of the term “Darjeeling” for tea not grown in their tea gardens or not produced according to the standards set out in the code of practice

for the geographical indication.

However, a protected geographical indication does not enable the holder to prevent someone from making a product using the same techniques as those set out in the standards for that indication. Protection for a geographical indication is usually obtained by acquiring a right over the sign that constitutes the indication.

For what type of products can geographical indications be used?

Geographical indications are typically used for agricultural products, foodstuffs, wine and spirit drinks, handicrafts, and industrial products.

How are geographical indications protected?

There are three main ways to protect a geographical indication:

- so-called sui generis systems (i.e. special regimes of protection).
- using collective or certification marks.
- methods focusing on business practices, including administrative product approval schemes.

These approaches involve differences with respect to important questions, such as the conditions for protection or the scope of protection. On the other hand, two of the modes of protection — namely sui generis systems and collective or certification mark systems — share some common features, such as the fact that they set up rights for collective use by those who comply with defined standards.

Broadly speaking geographical indications are protected in different countries and regional systems through a wide variety of approaches and often using a combination of two or more of the approaches outlined above. These approaches have been developed in accordance with different legal traditions and within a framework of individual historical and economic conditions.

The Legal Protection of the Intellectual Property in UAE

The UAE has issued a package of new legislation to enforce legal protection for the intellectual property including:

- Federal Law No. 2 of 2002 on Copyrights and Neighboring Rights.
- Federal Law No. 17 of 2002 on Regulation and Protection of Industrial Property of Patents, Industrial Drawings, which was amended later by Law No.31 of 2006.
- Amendment of the former Federal Law No. 37 of 1992 on Trademarks and the amendment of the Law No. 19 of 2000, and then Law No. 8 of 2002.
- Federal Law No. 17 of 2009 on Protection of New Plants Varieties.

Moreover, the UAE has joined and ratified several international agreements in the field of Intellectual property, including for example:

- Federal Decree No. 21 of 1975 approved the UAE's joining to the World Intellectual Property Organization.
- Federal Decree No. 65 of 1981 approved the ratification of the UAE on the Constitution of the United Nations Industrial Development Organization.
- Federal Decree No. 84 of 1984 on the UAE joining to the Patent Cooperation Treaty.
- Federal Decree No. 20 of 1996 on UAE joining to the Paris Convention for the Protection of Industrial Property.
- Federal Decree No. 21 of 1997 on the agreement and protocol of the UAE joining to the World Trade Organization and the Document of Uruguay Round.

The UAE also joined and ratified several international agreements in the field of the Intellectual property, including for example:

As a result of the joining of the UAE to most of the agreements on the intellectual property rights, and having become a member of these international organizations and treaties, it has amended some laws and cancelled some others according to the following:

- Amendment of Federal Law No. 37 of 1992 on Trademark with law No. 19 of 2000 and Law No. 8 of 2002.
- Federal Law No. 40 of 1992 on the Protection of Intellectual Works and Copyright was cancelled by the Federal Law No. 7 of 2002 concerning the Copyrights and Neighboring Rights.
- Federal Law No. 17 of 2002 on the Regulation and Protection of Industrial Property of Patents, Industrial drawings and Designs cancelled Federal Law No. 44 of 1992 on Regulation and Protection of Industrial Property of Patents, Industrial Designs and Drawings.

Dubai Customs' Precautionary Measures to Protect Intellectual Property Rights:

Dubai Customs firmly believes in the intrinsic rights of producers, innovators and human intellects in various industrial, trading and literary fields. Intellectual property protection has long been a responsibility seriously taken by Dubai Customs. It is committed to strongly clumping down on fake and counterfeit products, as well as anything that would harm the local community's health and safety or derogate from the rights of manufacturers and trademark owners.

In order to ensure and sustain cross-border legitimate trade while enhancing Dubai's position as a major trading hub between East and West, Dubai Customs relies not only on rules enforcement but most importantly awareness. The scope of its awareness activities conducted to promote the culture of intellectual property protection is wide ranging, as it reaches out to all segments of society from school and university students through to general public in malls, clubs and parks. The more people are aware of the dangers of counterfeits on their wellbeing and national economy, the easier our task will be to combat this phenomenon and mitigate its negative impacts. Customs staff and inspectors are also at the heart of this approach where they receive specialized training and workshops at the hand of trademark owners themselves to develop their knowledge and ability to identify genuine products from fake ones, and sharpen their skills in detecting smuggling of counterfeited goods.

Dubai Customs is regularly engaged with the business community and other stakeholders to make sure Dubai offers a fake-free market environment for investors and consumers.

Historical background

IPR Department at Dubai Customs

The first function of its kind in the Middle East. Its importance comes from being a federal law enforcement body, such as laws pertaining to IPR protection and securing the 21 main land, sea and air entry and exit points.

The IPR Department commenced its operations on June 30, 2005, under a decision issued by the Director General of Dubai Customs. The IPR Department is based in the DC's headquarters.

It was established as an independent administrative unit at DC to keep pace with the state's policy as well as demonstrate DC's strong commitment to protect intellectual and industrial property rights, in fulfillment of international agreements and treaties, namely the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). The IPR Department applies the Common Customs Law of the GCC States 2003.

IPR Department Objectives

IPR Department Objectives:

- Enabling and promoting voluntary compliance.
- Reinforcing the protection of economy and society.
- International recognitions through presence in global awards.
- Enhancing research, development and innovation efforts to increase the number of corporate patents.

IPR Department's Duties and Responsibilities

The IPR Department undertakes the following functions:

- Implement federal and local agreements and laws that address IPR protection.
- Keep abreast of laws, resolutions and treaties and international classification of trademarks and all developments in the international arena.
- Create a database containing registered trademarks details that have been recorded for the purposes of customs control and protection, and to update the database with most recent measures taken by the manufacturers to distinguish between their authentic goods and counterfeit ones.
- Provide expert opinion and support customs cases by presenting reports affirming the occurrence of counterfeiting, in coordination with the competent agencies.
- Guide and supervise education and awareness of customs inspectors in particular and the consumer in general in respect to IPR protection.
- Strengthen the relations among trademark owners and to tighten control over goods being infringed in a manner that would positively support the global current economic scene.

Sections of IPR Department

I – Awareness & Education Section

Overview:

The Awareness & Education Section was established in 2009 following a recommendation at the conclusion of the 4th Global Conference on Combating Counterfeiting and Piracy (3 – 5 February 2008). The recommendation called for more awareness on IPR. A plan was put up in place for a number of lectures, visits to schools, colleges, government departments, summer clubs, non-profit organizations, and cruise ships, plus, of course, the internal awareness. The plan also saw the IPR Department support related events and activities which included sponsoring the first Children's International Film Festival which helped in spreading the knowledge and raising awareness around the necessity to respect the integrity of intellectual rights and promoted creativity among younger generations. On the other hand, Dubai Customs IP Award for Schools and Universities has helped disseminate the concept of intellectual property among school and university students, and is tasked with raising awareness of intellectual property and the harms associated with using counterfeit products. The Section targets inspectors, customs staff, community members, and school and university students.

Objectives:

- Strengthen the protection of economy and society.
- Ensure efficient knowledge transfer and awareness dissemination.
- Optimum use of available financial resources and rationalization of expenditure.
- Raise the effectiveness and efficiency of the participants and people targeted by events and lectures.
- Guidance and supervision to educate customs inspectors in particular, and the consumer in general.
- Follow the laws, resolutions, treaties, international brands classification, and all global updates in this regard.

How it works:

- Develop schedule of workshops and seminars throughout the year.
- Develop a mechanism to implement proposals and ideas concerning the protection of intellectual property rights.
- Prepare booklets on intellectual property and electronic newsletter that identifies the public about intellectual property rights and the role and functions of Dubai Customs in this regard. These booklets are distributed to internal and external community.
- Application of global best practices in the field of internal education for Dubai Customs personnel and society.
- Knowledge transfer and exchange of Dubai Customs experiences related to intellectual

- property rights to other ports and other customs administrations in UAE and the States of the region through special conferences and forums in the field of intellectual property.
- Prepare, implement and supervise Dubai Customs Intellectual Property Award for schools, universities and colleges.
- Coordination with internal and external entities to participate in and sponsor "Children's International Film Festival" for the first time at the level of government departments, consolidate and strengthen the concept of intellectual property rules.
- Impart a creative environment in the minds of future generations through coordination with external and internal entities for the participation of schools and universities in Intellectual Property Award for schools and universities.
- Future prospect in the field of intellectual property.

II – Trademarks & Commercial Agencies Registration Section

Overview:

The Section has been established after the issuance of Policy No. 11/DCP/2000 on Trademarks Recording for Customs purposes. The smart objectives of the section have been designed to be aligned to the strategic goal of Dubai Customs, namely to promote security and combat illegitimate trade. Procedures of the section are divided into three main categories: Trademark Recording for customs protection purposes, Commercial Agency Recording for customs protection purposes and Registration of knowledge assets in Dubai Customs.

Section Objectives:

- Protect consumer and society and maintain the integrity of society against the hazardous effects of counterfeits and forged products.
- Protect the rights of brand owners and creators against counterfeiting, forgery, piracy and commercial fraud.
- Attract brand owners to invest in the country.
- Support the national economy and trade by raising customs revenues through imposing administrative fees, fines and penalties on offenders and infringers of trademark owners' rights.
- Acquisition of local and international reputation as a safe hub for doing business and as a front against counterfeiting and fake products.
- Boost relationship between manufacturers "trademark owners" and Customs.
- Protect innovative employees' moral and material rights to encourage them to be more creative.

Trademark Registration:

Trademarks are an extremely important part of the company's assets. Recognizing the value and importance of trademarks protection for the success of a product in the market and for promoting Dubai's appeal for investment; Dubai Customs has exerted efforts to create an attractive and safe working environment for investors, brands' owners to ensure the protection of intellectual property rights of their trademarks by providing the service of "Trademark Registration" with Customs.

The mechanism of Trademark Registration and documents required for customs protection purposes (Office registration – Online registration via Dubai Customs website)

- Register trademarks during official working hours by the trademark owner or legal representative (Arabic language or duly translated).
- Fill in trademark registration application form and file in the application.
- Attach valid copies of trademark registration certificates that are supposed to be infringed, approved by the Department of Economic Development.
- Copy of the approved, translated, and duly authenticated legal agency.
- Open a file for trademark registration for each brand or class of brands.
- Pay administrative fees of two hundred twenty Dirhams (AED 220).
- Issue the certificate.

Registration of Intellectual Assets:

- Intellectual assets registration ensures protection of intellectual property rights for inventions and innovations of Dubai Customs personnel through registering them with the Ministry of Economy.
- Mechanism for registering knowledge assets :
- Apply for a literary/industrial property registration at the Department through:
 - Fill in the form according to the type of property.
 - Confirmation of receipt.
 - Acknowledgment of a formal concession and approved by the notary public.
 - Request for transfer of property.
 - File in application for registration at the Ministry of Economy, and paying the fees according to the type of application for registration
 - Dubai Customs shall bear all registration fees or other charges.
 - Knowledge assets shall become a property of Dubai Customs after official registration at the Ministry of Economy.

III – IP Dispute Resolution Section

Overview:

Since 2006, the IP Dispute Resolution Section has supported the resolution of disputes by providing expert opinion on disputes arising from claims filed by customers and importers during the internal dispute settlement process and issuing reports confirming or denying the occurrence of counterfeiting or infringement of commercial agencies in coordination with the competent authorities . The section verifies the validity and safety of suspicious shipments, responds to inquiries from customs departments and centers, and receives complaints from customers about violations of intellectual property rights and commercial agencies and the seizure of IP-infringing shipments with the concerned authorities. The section is also tasked with dispatching genuine samples and suspicious samples to the competent laboratories

for examination, and conducts development studies works to resolve intellectual property disputes.

Objectives:

- Enforcing protection of economy, community and foreign investments.
- Empowering and promoting voluntary commitment.
- Combating customs violations of IP law.
- Raising inspection efficiency in matters of intellectual property and commercial agencies.
- Following up on the latest laws, decisions, legislations, and international classification of trademarks.

How it works:

- The section receives complaints related to intellectual property and commercial agencies and checks authenticity of documents and verifies the complaint.
- Complaint fee of AED 2,020 shall be collected.
- AED 5,000 deposit shall be collected as guarantee, refundable if the complaint is proved valid.
- Additional charge of AED 520 for urgent complaint.
- Additional charge of AED 1020 for complaints submitted during official public holidays.
- Coordination with customs centers and relevant departments on inspection of containers subject of IP or commercial agency complaints and supervising the inspection process.
- Receiving cases files from customs centers.
- Checking and verifying seizure reports by customs centers for violating shipments.
- Receiving samples of suspect products.
- Writing reports on IPR violation cases.
- Taking images of suspected samples and attaching them to the report file.
- Referring genuine and suspicious samples to competent laboratory for comparison and technical opinion and receiving reports confirming or rejecting trademark violation.
- Receiving Customs Cases Department decisions relating to trademarks cases.
- Coordinating and supporting recycling of IP-infringing goods.
- Continuous support from IP liaison officers to all Customs centers.

IV- Intellectual Property and Work Relationship – Innovation by an employee during work relationship

- If someone appointed another person to disclose an innovation, all the rights from such innovation would go to the first person. Moreover, the employer shall have all rights resulting from innovations created by the employee during the work relation, when the innovation is in the scope of the contract or work relationship.
- The same applies to the employee whose work is basically dedicated to research and innovation, or temporarily undertakes such task while performing his original duty.

We will differentiate between three cases in this matter:

- **First Case:** If the employee came up with his innovation during work relationship as work

nature requires the dedication of all his efforts for invention and innovation (so, who shall have the right over the innovation?).

- **Second Case:** If the employee came up with his innovation during work relationship away from the obligations imposed by the work contract (so, who shall have the right over the innovation?).

- **Third Case:** Explicit agreement between the employee and the employer. It may happen that the employer stipulates in contracts concluded with his employees that all innovations invented by the employee during the work relationship shall be the property of the employer. (Does this condition relate to innovations of employees that do not have any work relationship?).

V- Persons not allowed to claim patents under law

- In accordance with Article No. 65 of the law, employees of the Department may submit applications under their own names or as agents for patents only after three years of leaving office.

The reason of this prohibition is that work nature of those employees makes them in continuous connection with patents applications and knowing their secrets. Accordingly, the legislator did not want those employees to exploit their knowledge secrets, trying to apply for getting patents for themselves and get personal benefits.

Content:

References:

- Judge / Mostafa Mahmoud AlSharqawy - Dubai Courts
- Official website of the World Intellectual Property Organization (WIPO)
- Basic Rules of Intellectual Property Rights - Dr. Mohammed Hassan Abdullah - Ajman University
- Emirates Intellectual Property Association
- Website of Ministry of Economy (Laws and Penalties)