

Middle East Intellectual Property Newsletter Vol. 107
Measures Against Fraudulent or Bad Faith Trademark Filings: United Arab Emirates and Saudi Arabia

Introduction:

This newsletter outlines the legal mechanisms available in the United Arab Emirates and the Kingdom of Saudi Arabia to address fraudulent or bad-faith trademark filings. It highlights how each jurisdiction treats such filings during examination and the remedies available to right holders after filing or registration. The overview sections provide procedural context necessary to understand how these measures operate in practice.

United Arab Emirates

1. Overview of the Trademark System

First-to-File Principle

The United Arab Emirates follows a first-to-file trademark system. Under Federal Decree-Law No. (36) of 2021 on Trademarks¹ ("UAE Trademarks Law"), trademark ownership is acquired through registration, and the registrant is deemed the lawful owner of the mark (Article 18(1)). Ownership may nevertheless be challenged where it is established that the trademark was registered in bad faith.

Multi-Class Applications

The UAE Trademarks Law allows multi-class trademark applications, enabling a single application to cover one or more classes of goods or services (Article 8).

Filing Routes

Trademark protection in the UAE may be obtained through:

- Direct national filing with the UAE Ministry of Economy in accordance with the UAE Trademarks Law (Articles 6 and 7), and
- International registration under the Madrid Protocol, following the UAE's accession.

There is no applicable regional trademark registration system in the UAE.

Duration of Trademark Rights

A registered trademark is protected for 10 years from the filing date and may be renewed indefinitely for successive 10-year periods (Article 21 of the UAE Trademarks Law).

Examination

The UAE Trademark Office conducts substantive examination of trademark applications (Article 12 of the UAE Trademarks Law). Examination covers:

- Absolute grounds for refusal, including lack of distinctiveness, misleading marks, and violations of public order or morals (Article 3), and
- Relative grounds, including conflicts with earlier registered trademarks and famous trademarks (Articles 3 and 4).

Treatment of Fraudulent or Bad-Faith Applications

¹ <https://uaelegislation.gov.ae/en/legislations/1535/download>

Article 12(3) of the Federal Decree Law No. (36) of 2021 (the "Trademark Law") stipulates that: "The Ministry shall decide on the registration application within a 90-day time limit of the date of the submission thereof, subject to meeting the conditions set out in this Decree Law and the Executive Regulations".

Article 5 of the Cabinet Resolution No. (57) of 2022² (the "Executive Regulations") lists the process of examining a trademark application and states:

1. The competent department shall examine the applications for registration and verify that they do not match or are similar to a trademark previously registered and that they do not violate the provisions of the Decree by Law and its Executive Regulations; and the Ministry shall issue its decision in this regard, by either accepting the application whenever it has satisfied the conditions and procedures stipulated in the Law and this resolution, or by rejecting the application when it doesn't comply with the conditions and procedures, or suspend the application's acceptance until certain conditions or modifications are completed.
2. The competent department shall notify the applicant of its decision, through modern electronic means, or request from him to fulfill the conditions or documents or to make the necessary amendments to accept the application.
3. In the event the applicant does not respond to the competent department's decision within (30) thirty days from the date he was notified of it, he shall be deemed to have waived his application.
4. In the event the application was accepted the applicant, or his representative, shall pay the determined publication fees.
5. In the event the decision rejected the registration of the trademark or accepted it under certain conditions or amendments, the applicant or the registered agent may object before the grievances committee within (30) thirty days from the date he is notified of it."

A review of the Trademark Law and the Executive Regulations shows that "bad faith" is not explicitly defined as a standalone ground for ex-officio refusal during the examination phase. The Ministry examines applications mainly against Article 3 of the Trademark Law, which lists signs that cannot be registered as trademarks. These include:

- 1- Marks that infringe on the rights of others (names, photos, logos) without consent (Article 3(7)).
- 2- Marks likely to mislead the public regarding the source or origin of goods (Article 3(9)).
- 3-Marks that constitute a translation or copy of a famous trademark (Article 3(13) & 3(14)).

If an examiner identifies that a mark copies a well-known mark or attempts to mislead the public, it may be refused under these provisions.

2. Trademark Search Methods

The UAE Ministry of Economy provides access to a public online trademark database pursuant to Article 54 of the UAE Trademarks Law.

- **Website:** UAE Ministry of Economy – Trademark Search Portal³
- **Information available:**
 - Application and registration status (pending, registered, refused, deregistered)
 - Application number and registration number
 - Mark representation
 - Class(es)

² <https://uaelegislation.gov.ae/en/legislations/1562/download>

³ <https://www.moet.gov.ae/en/publications1>

- Applicant name
- **Languages supported:** Arabic and English
- **Search capabilities:**
 - Keyword search
 - Class-based search
 - Applicant name search

3. Measures Upon Discovering That a Third Party Has Filed or Registered a Mark Identical or Similar to One's Own

(1) Submission of Information to the Trademark Office

The Trademark Law does not provide a formal procedural mechanism for third parties to submit "observations" to the examiner prior to the publication of the trademark. The primary statutory method for a third party to intervene is through the formal Opposition procedure after the mark has been accepted and published.

(2) Opposition Proceedings

Overview

Once a trademark application is accepted by the Ministry, it is published after payment of publication fees. Third parties may object to the registration during this publication period. The publication of the trademark and the opposition proceedings have been stipulated under Articles 15 and 16 of the Trademark Law which state:

"Article 15:

1. Should the Ministry approve the trademark, it shall, prior registering it, announce the trademark on the Ministry's Bulletin at the expenses of the registration applicant, in accordance with the procedure set out in the Executive Regulations of this Decree Law. The announcement shall indicate the deadline for filing any objection to the trademark registration.

2. Each interested party may, within 30 days of the date of publication, to submit an objection to the Ministry against the registration of the trademark in accordance with the procedures and means enshrined in the Executive Regulations hereof."

"Article 16: The Executive Regulations of the present Decree-Law shall define the procedures to be applied by the Ministry for deciding on the objections submitted to it. The provisions on the grievances and appeal set out in Article (13) hereof shall apply to the Ministry's decision to reject the objection. A grievance or appeal against the decision to reject the objection shall not result in suspending the procedures for registering the trademark, unless the competent court decides to suspend the implementation of the decision issued to register the trademark under consideration in the objection."

Moreover, Article (7) of the Executive Regulations also lists the opposition procedures as follows:

"1. Any interested party may submit a justified objection through the competent department's e-services to the registration of the trademark within a period of (30) thirty days from the date of its publication in the bulletin issued by the Ministry, after paying the prescribed fees.

2. The competent department shall notify the applicant with a copy of the objection within a period of (30) thirty days from its submission date.

3. The applicant shall submit to the competent department a written response to the objection within a period of (30) thirty days from the date he was notified of it, otherwise he shall be deemed to have waived his application.

4. The competent department shall schedule a hearing session for the submission of supporting documents and notification of both parties of the same whenever it deems fit.

5. *The party wishing to attend the hearing session shall pay the prescribed fee.*
6. *The competent department shall notify both parties of the reasoned decision it issues, and inclusive of what it deems as necessary restrictions and requirements.*
7. *The competent department's decision on the objection may be appealed before the Grievance Committee within a period of (30) thirty days from the date of its notification thereof."*

Competent Authority

UAE Ministry of Economy – Trademark Office

Persons Eligible to File

As per Article 15(2) of the Trademark Law and Article 7(1) of the Executive Regulations, any interested party may submit an opposition against a published trademark.

Time Limit

As per Article 15(2) of the Trademark Law, and Article 7(1), the opposition shall be submitted within 30 days from the date of the publication in the bulletin.

Grounds for Filings

The grounds for filing an opposition are the same as those listed for statutory refusal when a mark falls under prohibited categories in Article 3 (e.g., devoid of distinctiveness, contrary to public order, misleading to the public) and Article 4 (Infringement on Famous/well-known trademarks) of the Trademark Law. The main ground for opposing a published mark are prior rights acquired through registration or use, infringement on a famous/well-known trademark and bad faith filings (implied under the prohibition of misleading the public or infringing rights).

Appeal Mechanism

The Ministry's decision on the opposition can be appealed to the Trademarks Grievances Committee within 30 days of notification (Article 13). The Committee's decision can be appealed to the Federal Court of Appeal within 30 days (Article 13).

Other Relevant Notes

While bad faith is not expressly listed as a separate opposition ground, it may be argued indirectly through evidence of prior knowledge of earlier rights or imitation of well-known marks.

(3) Invalidation Proceedings

Overview

A request to cancel a registered trademark can be filed if the registration was granted unlawfully in violation to the Trademark Law or infringes on a well-known trademark. While bad faith is not explicitly listed as a ground for invalidation, it can be used a supportive argument to avoid the 5 year limit for invalidating a mark based on prior rights or based on infringement of a famous mark. Additionally, prohibition of registration of misleading marks might be interpreted as prohibition of registration of bad faith filings.

Competent Authority

Ministry of Economy or the Competent Civil Court (depending on the nature of the dispute and stage). Article 24 empowers the Ministry to cancel registrations.

Persons Eligible to File

UAE Ministry of Economy – Trademark Office or any interested party

Time Limit

Generally, within 5 years of registration (Article 18(2)). There is no time limit if the registration was obtained in bad faith (Article 18(1) and Article 24(2)).

Grounds for Filings

The mark should not have been registered based on Article 3 and Article 18 (absolute grounds or prior rights acquired through registration or use). Bad faith registration (specifically cited in Article 18 as an exception to the 5-year rule).

Appeal Mechanism

Decisions by the Ministry regarding cancellation are subject to appeal before the Grievances Committee and subsequently the Federal Court of Appeal (Article 24(7)).

(4) Non-Use Cancellation Proceedings

Overview

A trademark may be cancelled if it has not been used for a continuous period of five years.

Competent Authority

UAE Ministry of Economy – Trademark Office

Persons Eligible to File

Any interested party

Time Limit

After 5 consecutive years of non-use. Failure to use the trademark for 5 consecutive years without a legitimate justification (Article 24(3)).

Other Relevant Notes

Non-use cancellation is often pursued in parallel with invalidation actions in cases involving abusive registrations. Subject to appeal before the Grievances Committee and subsequently the Federal Court of Appeal

(5) Other Procedures for Revoking or Extinguishing Rights

Overview

The Trademarks Grievances Committee is a specialized judicial body within the Ministry designated to hear appeals against Ministry decisions (including refusals, oppositions, and cancellations).

Competent Authority

Trademarks Grievances Committee (chaired by a Judge).

Legal Basis

Article 14 of Federal Decree-Law No. (36) of 2021.

Other Relevant Notes

This Committee serves as the mandatory first tier of appeal before a matter can be taken to the Federal Court of Appeal.

Saudi Arabia

1. Overview of the Trademark System

First-to-File Principle

Saudi Arabia follows a first-to-file trademark system under the Trademark Law of the States of the Cooperation Council for the Arab States of the Gulf, as implemented in the Kingdom by Royal Decree No. M/51 of 25 May 2014⁴ (“GCC Trademark Law”). Trademark ownership is acquired through registration, and the registrant is deemed the lawful owner of the mark where registration is effected in good faith (Article 7(1)).

Where a trademark is registered in bad faith, ownership may be challenged notwithstanding registration or use.

Multi-Class Applications

The GCC Trademark Law does not permit multi-class trademark applications, allowing a single application to cover one class only.

Filing Routes

Trademark protection in Saudi Arabia may be obtained through:

- Direct national filing with the Saudi Authority for Intellectual Property (SAIP), in accordance with the GCC Trademark Law (Articles 5 and 8).

Despite that Saudi Arabia joined Madrid Protocol, until today, there is no regional trademark registration system and no filing route under the Madrid Protocol applicable in Saudi Arabia.

Duration of Trademark Rights

A registered trademark is protected for 10 Hijri years from the filing date (approx. 9 years and 8 months in Gregorian calendar) and may be renewed for successive 10-year periods (Article 20).

Examination

SAIP conducts substantive examination of trademark applications. Examination covers:

- Absolute grounds for refusal, including lack of distinctiveness, misleading marks, and violations of public policy or morals (Article 3), and
- Relative grounds, including conflicts with prior filed or registered trademarks and famous trademarks (Articles 3 and 4).

Treatment of Fraudulent or Bad-Faith Applications

Although the GCC Trademark Law does not define “bad faith” as a standalone concept, it addresses fraudulent or bad-faith filings through several provisions.

Under Article 7(1), ownership acquired through registration is protected only where the trademark is registered in good faith. In addition, applications involving imitation, translation, or reproduction of prior or famous trademarks may be refused during examination pursuant to Articles 3 and 4. Bad faith may also be raised in cancellation proceedings and before the competent courts on the grounds of Art. 22 of the GCC Trademark law.

2. Trademark Search Methods

⁴ <https://laws.boe.gov.sa/Files/Download/?attId=ca43dc49-dc74-4135-812b-adbb0123a629>

Saudi Arabia provides access to a public online trademark database administered by the Saudi Authority for Intellectual Property.

- **Website:** SAIP Trademark Search Portal⁵
- **Information available:**
 - Application and registration status (pending, registered, refused, cancelled)
 - Application number and registration number
 - Mark representation
 - Class(es)
 - Applicant name
- **Languages supported:** Arabic and English
- **Search capabilities:**
 - Keyword search
 - Class-based search
 - Applicant name search

3. Measures Upon Discovering That a Third Party Has Filed or Registered a Mark Identical or Similar to One's Own

(1) Submission of Information to the Trademark Office

The GCC Trademark Law does not provide a formal third-party observation mechanism during the examination stage. Challenges to fraudulent or bad-faith filings must therefore be pursued through opposition or post-registration procedures.

(2) Opposition Proceedings

Overview

Trademark applications accepted for registration are published and subject to opposition.

Competent Authority

Saudi Authority for Intellectual Property (SAIP)

Persons Eligible to File

Any concerned or interested party

Time Limit

Oppositions must be filed within 60 days from the publication date (Article 14(2)).

Grounds for Filing

- Conflict with earlier filed or registered trademarks
- Likelihood of confusion
- Infringement of famous trademarks (Articles 3 and 4)

⁵ <https://ipgazette.saip.gov.sa/publication>

Appeal Mechanism

Decisions may be appealed before the competent court within 30 days from notification (Article 15(3)).

Other Relevant Notes

Bad faith is not expressly listed as a separate opposition ground but may be argued indirectly through evidence of prior knowledge of earlier rights, imitation of well-known marks, or abusive filing behavior.

(3) Invalidation Proceedings

Overview

A registered trademark may be invalidated if it is found to have been registered unlawfully.

Competent Authority

Saudi Commercial Court

Persons Eligible to File

Any interested party or the competent authority

Time Limit

Invalidation actions may be filed within five years from the registration date, unless bad faith is established (Articles 7(1) and 22).

Grounds for Filing

- Registration contrary to Articles 3 or 4
- Registration obtained in bad faith

Appeal Mechanism

Judgments are subject to appeal in accordance with the Commercial Law within 30 days from the First Instance Court written decision.

(4) Non-Use Cancellation Proceedings

Overview

A trademark may be cancelled if it has not been genuinely used.

Competent Authority

Saudi Commercial Court

Persons Eligible to File

Any interested party

Time Limit

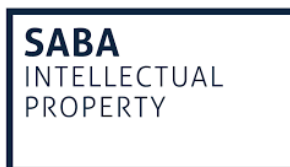
Non-use for five consecutive years without valid justification (Article 24).

(5) Other Procedures for Revoking or Extinguishing Rights

In addition to civil remedies, the GCC Trademark Law criminalizes certain bad-faith conduct. Under Article 42(A)(2), affixing or using another party's trademark in bad faith constitutes a criminal offense, punishable by imprisonment and/or fines.

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