

Federal Decree-Law no. (36) of 2021

Issued on 20/09/2021

Corresponding to 13/Safar/1443H.

ON TRADEMARKS**Abrogating:****Federal Law no. (37) of 1992.**

We, Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates,

- Pursuant to the perusal of the Constitution;
 - Federal Law no. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments;
 - Federal Law no. (5) of 1985 promulgating the Civil Transactions Law and its amendments;
 - Federal Law no. (11) of 1992 promulgating the Civil Procedure Law and its amendments;
 - Federal Law no. (35) of 1992 promulgating the Criminal Procedure Law and its amendments;
 - Federal Law no. (37) of 1992 on Trademarks and its amendments;
 - Federal Law no. (18) of 1993 promulgating the Commercial Transactions Law and its amendments;
 - Federal Law no. (1) of 2006 on Electronic Commerce and Transactions and its amendments;
 - Federal Law no. (19) of 2016 on Anti-Commercial Fraud;
 - Federal Decree no. (67) of 2021 on the State's accession to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks;
 - Federal Decree-Law no. (31) of 2021 promulgating the Crimes and Penalties Law;
 - Federal Decree-Law no. (32) of 2021 on Commercial Companies; and
- Based on what was presented by the Minister of Economy and approved by the Council of Ministers,
- Issue the following Decree-Law:

Chapter 1**Definitions and General Provisions****Article 1**

In implementing the provisions of this Decree-Law, the following terms and expressions shall have the meanings assigned against each of them, unless the context requires otherwise:

State: The United Arab Emirates.

Ministry: The Ministry of Economy.

Minister: The Minister of Economy.

Grievances Committee: The Trademarks Grievances Committee, established by a decision of the Minister in accordance with the provisions of Article (14) of this Decree-Law.

Competent Court: The Federal Court of Appeal.

Civil Court: The Federal or Local Court of First Instance, as the case may be.

Hologram Marks: A photographic recording of a field of light, used to display a three-dimensional photo of the object taken in a holographic manner. The photographed mark shall be a single view of the sign in which the entire trace of the hologram appears, or several views of the hologram from different angles when needed.

Collective Trademark: The mark used to distinguish the goods or services of establishments belonging to members of a specific entity enjoying a juristic personality.

Geographical Indications: Any indication showing that a good has originated in the territory of a member country of the World Trade Organisation or in a region, location, or place of that region if the good's quality, reputation, or other characteristics are primarily due to its geographical origin.

Register: The Trademarks Register.

Drawing: Any design including a group of visuals (any artwork).

Symbol: Any one visual Drawing.

Engravings: Salient marks.

Pictures: Pictures of a person, whether that of the project owner or any other person.

Ministry's Bulletin: The Trademark Bulletin issued by the Ministry. This bulletin may be electronically published on the Ministry's website.

Article 2

A Trademark is everything that takes a distinctive shape of names, words, signatures, letters, Symbols, numbers, addresses, seals, Drawings, Pictures, Engravings, packaging, graphic elements, forms, colour or colours or a combination thereof, a sign or a group of signs, including three-dimensional marks, Hologram Marks, or any other mark used or intended to be used to distinguish the goods or services of a facility from the goods or services of other facilities, or to indicate the performance of a service, or to conduct monitoring or examination of goods or services.. A distinctive sound or smell may be considered as a Trademark.

Article 3

The following shall not be considered or registered as a Trademark or a part thereof:

1- A mark having no property or distinctive character or made of data being only the name given by custom to goods and services or the familiar Drawings and ordinary Pictures of goods and services.

2- Expressions, Drawings, or marks breaching the public morals or violating the public order.

3- Public emblems, flags, military and honour emblems, national and foreign decorations, coins, banknotes, and other Symbols of the State, or other countries, or Arab or international organisations or one of their institutions, or any imitation thereof.

4- Symbols of the Red Crescent or Red Cross and such other similar logos and the marks being an imitation thereof.

5- Marks that are identical or similar to Symbols having a religious nature.

6- Geographical names and data if their use would create confusion as to the origin or source of the goods or services.

7- The name, nickname, Picture or logo or surname of a third party unless he or his heirs approve its use beforehand.

8- Particulars of honorary degrees or academic degrees to which a registration applicant does not prove his legal entitlement.

9- Marks that are liable to mislead the public or contain false information as to the origin or source of the goods or services, or as to their other characteristics, as well as Trademarks that contain a trade name owned by others.

10- Marks owned by physical or juristic persons with whom dealing is prohibited in accordance with the legislation in force in the State.

11- A Trademark that is identical or similar to another Trademark previously filed or registered by a third party for the same goods or services or related goods or services if the use of the Trademark to be registered would create the impression that they are linked with the goods or services of the registered Trademark owner or leads to harming his interests.

12- Marks whose registration for some goods or services results in reducing the value of the goods or services distinguished by a previous Trademark.

13- Marks that constitute copies, imitations, translations, localisations, or any audio translation of a well-known Trademark or part thereof owned by others, for use in distinguishing goods or services identical or similar to those that use a well-known Trademark to distinguish them.

14- Marks that constitute copies, imitation, translation, localisation, or any audio translation of a well-known Trademark owned by others, or an essential part thereof, for use in distinguishing goods or services that are not identical or similar to those distinguished by the well-known Trademark, if such use indicates that there is a link between those goods or services and the well-known Trademark and if the registration of such a Trademark is likely to harm the interests of the owner of the well-known Trademark.

15- Marks that include the following terms or expressions: Concession, Concessionaire, Registered, Registered Drawing, Copyright, or other similar terms and expressions.

16- Any three-dimensional mark consisting of a shape resulting from the nature of the goods specified in the registration application or necessary to achieve a technical result; without any substantive elements that distinguish it from others.

Article 4- Registering a well-known Trademark

1- A well-known Trademark whose reputation has exceeded the borders of the country in which it was registered to other countries, may not be registered for identical or similar goods or services unless an application is submitted to that effect by the owner of the well-known Trademark or with his approval.

2- In order to determine whether a Trademark is well-known, the extent to which it is known to the concerned public as a result of its promotion, the period of its registration, its use, the number of countries in which it is registered or well-known, its value, or the extent of its impact on the promotion of goods or services that use the well-known Trademark to distinguish them, shall be taken into account.

3- Well-known Trademarks may not be registered to distinguish goods or services that are not identical or similar to those distinguished by these Trademarks in the following two cases:

a- If the use of the Trademark indicates the presence of a connection between the goods or services required to be distinguished and the goods or services of the owner of the well-known Trademark.

b- If the use of the Trademark would harm the interests of the owner of the well-known Trademark.

Chapter 2

Trademark Registration and Cancellation

Article 5- Trademarks Register

A register called "Trademarks Register" shall be prepared in the Ministry wherein shall be recorded all the Trademarks, names, addresses and type of activities of their owners, the descriptions of their goods or services and any transfer, assignment, transfer of ownership, mortgage or licence for use concerning such Trademarks as well as any other changes therein.

Each person may request a copy of the data recorded in the Register after paying the prescribed fees.

Article 6- The right to register a Trademark

Any physical or juristic person shall have the right to register his/its Trademark, in accordance with the provisions of this Decree-Law.

Article 7- Trademark registration application

An application for registering a Trademark shall be submitted to the Ministry in accordance with the conditions, controls, and procedures specified in the Implementing Regulation of this Decree-Law.

Article 8- Registering a Trademark for more than one category

1- A Trademark may be registered for one or more categories by filing an application for one of the categories of the goods or services in accordance with what is specified in the Implementing Regulation of this Decree-Law.

2- Goods or services shall not be considered similar to each other for the mere reason that they are listed in the same category, nor shall they be considered different from each other for the mere reason that they are listed in different categories of the same classification specified by the Ministry.

Article 9- Registration of a group of identical Trademarks

One application may be filed to register a group of Trademarks if they are identical as to their essential elements and differ only in ways that do not affect their character such as colour of the marks or the details of the goods or services related thereto, provided that these goods or services belong to the same category.

Article 10- Registration of a single Trademark by two or more persons

In case of two or more persons simultaneously apply for the registration of the same Trademark or similar Trademarks for the same category of goods or services, the registration applications shall be suspended until one of the disputing parties submits a waiver of his application in favour of the other party or until a final judgment is rendered by the Competent Court in the dispute.

Article 11- Right of priority in Trademark registration

If the Trademark applicant or his successor wishes to enjoy the priority right to register the Trademark based on a previous application filed in a member state of the Paris Convention on Industrial Property or a multilateral international agreement to which the State or one of the countries of the Cooperation Council for the Arab States of the Gulf is a party, or a bilateral international agreement to which the State is a party, he shall attach to his application a copy of the previous application and an acknowledgment stating the date of the previous application, its number and the country in which it was filed, within six (6) months of the date on which he filed the registration application on account of which he claims the priority right, otherwise his right to the claim shall be forfeited.

Article 12- Some Controls and Procedures for the registration of Trademarks

1- The Ministry may impose the restrictions and amendments it deems necessary to identify the Trademark and prevent its confusion with another Trademark that has been previously registered or an application for its registration has been previously filed.

2- If the registration applicant fails to respond to the Ministry within (30) thirty days from the date of his notification of the restrictions or amendments set by the Ministry to identify the Trademark and prevent its confusion with another Trademark, he shall be deemed as having waived his application.

3- The Ministry shall decide on the registration application within (90) ninety days from the date of its filing, provided that it fulfils the conditions stipulated in this Decree-Law and its Implementing Regulation.

4- If the Ministry refuses to register a Trademark for any reason whatsoever or if the registration thereof is subject to the imposition of certain restrictions or amendments, it shall notify the applicant or his representative in writing of the reasons for its decision. Such notification may be made by modern electronic means.

5- The Implementing Regulation of this Decree-Law shall specify the procedures and other controls for registering Trademarks.

Article 13- Grievance against the rejection or suspension of registration

1- The registration applicant or the owner of the Trademark or his representative may file a grievance with the Grievance Committee against the Ministry's decision rejecting or suspending the registration within (30) thirty days from the date of being notified thereof, and he may file an appeal against the decision of the Grievance Committee before the Competent Court within (30) thirty days from the date of his notification thereof.

2- If the registration applicant does not file a grievance against the decision rejecting his application within the time limit stipulated in the preceding clause, or fails to fulfil the conditions to which his application is subject within the time limit stipulated in clause (1) of this article, he shall be deemed as having waived his application.

3- In all cases, the lawsuit filed to cancel the Ministry's decision rejecting or suspending the registration of the Trademark shall not be accepted unless a grievance has been previously filed against it.

Article 14- Grievances Committee

1- A committee called "Trademarks Grievances Committee" shall be established at the Ministry under the chairmanship of a specialised judge nominated by the Minister of Justice with the membership of two specialists chosen by the Minister. This committee is responsible for adjudicating grievances submitted by the concerned parties against the decisions issued by the Ministry in implementation of the provisions of this Decree-Law and its Implementing Regulation and the decisions issued in implementation thereof.

2- The Minister shall issue a decision nominating the members of the Grievance Committee, its functioning system, and the procedures for filing grievances before it.

Article 15- Publication of the Trademark

1- If the Ministry accepts the registration of the Trademark, it shall, prior to its registration, publish it in the Ministry's Bulletin at the expense of the registration applicant in accordance with the procedures specified by the Implementing Regulation of this Decree-Law, provided that the last date for filing an objection against the registration of the Trademark is stated in this Bulletin.

2- Any interested party may, within (30) thirty days from the date of publication, file an objection with the Ministry against the registration of the Trademark, in accordance with the procedures and means specified by the Implementing Regulation of this Decree-Law.

Article 16- Procedures for deciding on objection applications filed with the Ministry

The Implementing Regulation of this Decree-Law shall define the procedures followed by the Ministry to decide on applications for objections submitted thereto.

The provisions relating to grievance and appeal stipulated in Article (13) of this Decree-Law shall be applied to the Ministry's decision rejecting the objection.

A grievance or an appeal against the decision rejecting the objection shall not result in the discontinuation of the Trademark registration procedures, unless the Competent Court decides to stay the execution of the decision issued to register the Trademark, subject-matter of the objection.

Article 17- Trademark registration certificate

1- Registration of a Trademark shall be effective from the date of filing the application for registration, and the Trademark owner shall be given a certificate containing the following data:

- a- The Trademark registration number.
- b- The priority number and date, and the state in which the application was filed, if any.
- c- The date of submitting the application, the date of registration of the Trademark, and the date of expiry of the protection period.
- d- The name, surname, place of residence, and nationality of the Trademark owner.
- e- A copy of the Trademark.
- f- Details of the goods or services and the category for which the Trademark is registered.

2- The owner of a registered Trademark shall have the right to prevent third parties from using it or using any Trademark similar or identical thereto, without his consent, including any Geographical Indication in the field of commerce, to distinguish goods or services related to those for which the Trademark was registered, whenever such use may cause confusion among the public if the same or similar Trademark is used to distinguish goods or services similar to those for which the Trademark was registered.

Article 18- Trademark ownership and dispute

1- Whoever registers a Trademark shall be deemed its sole owner. The ownership of such Trademark may not be disputed when its registration and use are continuous for at least (5) years from the date of its registration without an action being lodged against it, unless it is proven that the person who registered it is mala fide.

2- The first person to use the Trademark registered in his name with the Ministry may request the Ministry to cancel this registration within (5) five years from the date of registration, unless he expressly or implicitly consents to the use of the Trademark by the person in whose name it is registered.

Article 19- Trademark modifications

1- The owner of a previously registered Trademark may, at any time, apply to the Ministry for introducing any addition or modification to the form of the Trademark, goods, or services provided that this does not significantly affect the substance of the Trademark. The Ministry's decision in this regard shall be issued according to the procedures prescribed in the Implementing Regulation of this Decree-Law.

2- The Ministry's decision rejecting the addition or modification shall be governed by the provisions related to grievance and appeal stipulated in Article (13) of this Decree-Law.

Article 20- Amendment to the Register

1- The Ministry may, on its own or at the request of the concerned party, add any statement that has been omitted to the register, or delete or amend any statement contained in the Register if it has been unlawfully entered or is inconsistent with the truth.

2- The Ministry's decision to amend a statement or delete it from the Register shall be governed by the provisions related to grievance and appeal stipulated in Article (13) of this Decree-Law.

Article 21- Trademark protection period and extension thereof

1- The period of protection resulting from the registration of a Trademark is (10) ten years starting from the date of filing the application. If the right holder wishes to renew the protection for similar periods, he may file an application to renew the Trademark registration with the Ministry during the periods, and in accordance with the conditions and procedures specified by the Implementing Regulation of this Decree-Law.

2- The Trademark registration shall be renewed without further examination, and it shall be published in the Ministry's Bulletin.

Article 22- Procedures and fees for the registration renewal application

1- The Implementing Regulation of this Decree-Law shall determine the time limit during which the Trademark owner shall file an application for renewal of the protection period with the Ministry and specify the procedures and fees for such renewal.

2- If the time limit prescribed by the Implementing Regulation of this Decree-Law to renew the protection period lapses without the Trademark owner filing an application for renewal of the protection period, the Trademark shall be considered cancelled from the Register as of the date of expiry of the protection period.

Article 23- Temporary protection of Trademarks placed on goods and services displayed in exhibitions

Trademarks placed on goods or used on services on display at official or officially recognised international exhibitions that are held inside the State, shall enjoy, during the period of their display, a temporary protection if they meet the conditions for registering Trademarks and the rules and procedures for granting temporary protection specified by the Implementing Regulation of this Decree-Law.

Article 24- Cancellation of the Trademark

1- The Trademark owner may request the Ministry to remove the Trademark from the Register, for all or part of the goods or services for which the Trademark was registered.

2- The owner of a well-known Trademark whose reputation exceeds the borders of the country and is similar to a Trademark registered with the Ministry may request the Ministry to cancel the Trademark registered therewith within (5) five years from the date of its registration, unless it is proven that the person who registered it is mala fide.

3- Any interested party may request the Ministry to cancel the Trademark that has not been used for (5) five consecutive years, unless there are emergency circumstances that prevented the use of the Trademark.

4- The Ministry may, on its own or at the request of the interested parties, cancel the Trademark that is registered in violation of the provisions of this Decree-Law, or in the cases specified by its Implementing Regulation.

5- If the Trademark is licensed to be used in accordance with a contract that has been entered or notated in the Trademarks Register, the Ministry may cancel this Trademark at the request of its owner, unless the contract stipulates the consent of the beneficiary to the cancellation, without prejudice to the text of Article (31) of this Decree-Law.

6- The Implementing Regulation of this Decree-Law shall specify the conditions, terms, and procedures for filing the applications referred to in this article and the mechanism for deciding thereon.

7- The Ministry's decision to cancel the Trademark or reject the application for cancellation shall be governed by the provisions related to grievance and appeal stipulated in Article (13) of this Decree-Law.

Article 25- Publishing the cancellation and renewal of the Trademark

The cancellation and renewal of the Trademark shall be published in the Ministry's Bulletin and by any publication mean specified by the Implementing Regulation of this Decree-Law.

Article 26- Amendments to the Register

The Competent Court may, at the request of the interested party, order the addition of any statement that has been omitted to the Register, or the deletion or amendment of any statement contained in the Register, if it has been unlawfully entered or is inconsistent with the truth. Also, the Ministry may do so on its own.

Article 27- Re-registration of the Trademark

If a Trademark is removed from the register, it may not be re-registered for the benefit of others for the same goods or services or for similar goods or services except after the lapse of (3) three years from the date of cancellation, unless the cancellation was made based on a judgment of the Competent Court, and the judgment provides for a shorter period for the re-registration of the Trademark.

Chapter 3

Assignment, Transfer of Ownership and Mortgage of the Trademark

Article 28

1- The Trademark registration application may be assigned, and the ownership of the registered Trademark may be transferred, with or without consideration. Also, the Trademark may be mortgaged or attached with the commercial shop or exploitation project in which the Trademark is used to distinguish its goods or services unless otherwise agreed upon.

2- The Trademark ownership is transferred by inheritance, will, gift, or any other legal form.

3- In all cases, the transfer of the Trademark's ownership, mortgage or attachment thereof shall not be enforceable against third parties unless it has been entered into the Register and announced by any means of publication, in accordance with the procedures and conditions specified in the Implementing Regulation of this Decree-Law.

Article 29

1- The transfer of ownership of the commercial shop or the exploitation project includes the Trademarks registered in the name of the owner of the shop or the project, whenever they are closely related to the commercial shop or the exploitation project, unless otherwise agreed upon.

2- If the ownership of the commercial shop or the exploitation project is transferred without the Trademark itself, the transferor of ownership may continue to manufacture the same goods or provide the same services for which the Trademark was registered, or trade therein, unless otherwise agreed upon.

Chapter 4

Contracts Licensing the Use of the Trademark

Article 30

1- The owner of the Trademark may use it himself, and he may also license one physical or juristic person or more to use the Trademark for all or some of the goods or services for which it is registered, unless otherwise agreed upon, and in accordance with the procedures and controls stipulated in the Implementing Regulation of this Decree-Law.

2- The duration of the licence may not exceed the period prescribed for the Trademark protection in accordance with the provisions of this Decree-Law.

Article 31- Conditions of the contract licensing the use of the Trademark

The contract licensing the use of the Trademark shall be made in writing and documented, and it is not required that a notation or registration thereof be made in the Register. The Implementing Regulation of this Decree-Law shall specify the controls for notation or registration in the Register in the event that any of the concerned parties so requests.

Article 32- Deleting the licence entry from the Register

The registration of the licence shall be deleted from the Register at the request of the Trademark owner, the licensee, or a representative of either of them, after submitting evidence as to the expiration or termination of the licensing contract. The Ministry shall notify the other party of the application submitted to delete the licence, and this party may object to the application for deletion, in accordance with the procedures and conditions stipulated in the Implementing Regulation of this Decree-Law.

Article 33- Restrictions on the licence for the Trademark use

Restrictions may not be imposed on the beneficiary of the licence to use the Trademark that do not result from the rights conferred by the Trademark registration or are not necessary to preserve these rights. However, the licence contract may include the following restrictions:

- 1- Determining the scope of the territory or the term of use of the Trademark.
- 2- The requirements for effective quality control of goods or services.
- 3- The obligations imposed on the beneficiary of the licence to refrain from any actions that may result in abusing the Trademark.

Article 34

The beneficiary of the licence to use the Trademark may not assign it to others or grant sub-licences unless otherwise agreed upon with the Trademark owner.

Chapter 5

Collective Trademarks, Control Marks,

Insignia of Public Interest and Professional Organisations

Article 35- Collective Trademarks

1- The Implementing Regulation of this Decree-Law shall specify the conditions and controls for registering and using Collective Trademarks.

2- The Collective Trademark may not be re-registered for the benefit of third parties in the event of its cancellation for identical or similar goods or services.

3- The Ministry may, at the request of the interested party, cancel the registration of a Collective Trademark if it is proven to the Ministry that the owner who registered it is using it himself, or that he is using it or allowing it to be used in violation of the conditions specified in the Implementing Regulation of this Decree-Law, or is using it in a way that is likely to mislead the public as to the origin of the good or any common characteristic of the goods or services in respect of which the Collective Trademark is registered.

Article 36- Trademark registration for monitoring or inspection purposes

1- Juristic persons who are in charge of monitoring or inspecting some goods or services in terms of their source, components, method of manufacture, quality, substance or any other characteristic, may request the Ministry to register a Trademark for them so as to indicate the monitoring or inspection procedure, in accordance with the conditions and controls specified by the Implementing Regulation of this Decree-Law. In all cases, the owner of the registered Trademark shall notify the Ministry of any changes in these requirements.

2- The registration of this Trademark shall have all the effects stipulated in this Decree-Law, and it is not permissible to re-register the said Trademark in the event that it has been cancelled or not renewed, for similar or identical goods or services.

Article 37- Registration of the Trademark for non-commercial purposes

1- A Trademark may be registered for non-commercial purposes, such as emblems used by public interest or professional institutions to distinguish their services or badges for their members, in accordance with the conditions and controls specified in the Implementing Regulation of this Decree-Law.

2- The registration of this Trademark shall have all the effects stipulated in this Decree-Law, and it is not permissible to re-register the said Trademark in the event that it has been cancelled or not renewed, for similar or identical goods or services.

Chapter 6

Geographical Indications

Article 38- Types of Geographical Indications

The registration of Geographical Indications as a Trademark shall be in accordance with the provisions of this Decree-Law and its Implementing Regulation.

A Geographical Indication may be a sign or a group of signs in any form whatsoever such as words, including geographical or personal names, letters, numbers, holographic elements, colour or colours.

Article 39- Prohibitions

Every physical or juristic person is prohibited from doing the following:

1- Using any means in naming any commodity or displaying it in a way that suggests that its geographical origin is not the real one, leading to confusing the public as to this origin.

2- Using a Geographical Indication in a way that is considered unfair competition in accordance with the Paris Convention for the Protection of Industrial Property or in accordance with the international laws and agreements in force in the State.

Article 40- Protection of Geographical Indications

Geographical Indications shall enjoy the protection stipulated in this Decree-Law as long as these indications are protected in the country of origin.

Article 41

All Geographical Indications with similar names shall enjoy the protection stipulated in this Decree-Law, provided that their products are treated fairly, and the consumers thereof are not misled.

Article 42- Register of Geographical Indications

The Ministry shall prepare a register called the Geographical Indications Register in which the Geographical Indications whose registration is accepted along with all the data related thereto and the actions made in their respect shall be recorded in accordance with the provisions of this Decree-Law.

Article 43- Cases of non-registration of the Geographical Indication

A Geographical Indication shall not enjoy the protection prescribed for a Trademark, and it may not be registered in any of the following cases:

1- If the Geographical Indication is likely to cause confusion with a Trademark that is the subject-matter of an application for registration under consideration in good faith.

2- If the Geographical Indication is likely to cause confusion with a pre-existing Trademark and rights have been acquired in respect thereof through its bona fide use in the State.

3- If the registration of the Geographical Indication as a Trademark is not permissible according to the provisions of this Decree-Law.

Article 44- Applicability of provisions to Geographical Indications

Without prejudice to the provisions of bilateral and international agreements in force in the State, the provisions related to Trademarks and those stipulated in this Decree-Law and its Implementing Regulation regarding the following shall apply to Geographical Indications:

1- Submission of a registration application.

2- Examination of the registration application and acceptance or rejection of the application.

- 3- Objection to registration.
- 4- Deletion and cancellation of the registration.
- 5- Transfer of ownership of the Geographical Indication and licensing its use and attaching it.
- 6- Compensation for the infringement of rights established under the provisions of this Decree-Law.

Chapter 7

Customs Clearance

Article 45

1- Subject to the legislation in force in the State, the customs authorities, on their own or at the request of the right holder or his representative, may order by a reasoned decision not to clear customs - for a maximum period of twenty (20) days - in respect of any items in violation of the provisions of this Decree-Law.

2- The customs authorities may not prevent the right holder from inspecting the items ordered not to be cleared by customs.

3- The Implementing Regulation of this Decree-Law shall specify the conditions, controls, and procedures related to inspection and the filing of an application to stop the customs clearance and decide thereon.

Article 46- Exceptions

The following are excluded from the provisions of Article (45) of this Decree-Law:

1- Small quantities of a non-commercial nature of goods that are placed in the personal baggage of travellers or are sent in small parcels.

2- Goods offered for trade in the markets of the exporting country by the owner of the Trademark or with his consent.

Article 47- Provisional measures upon infringement of rights

1- The right holder may, in case of infringement or in order to avoid an imminent infringement of any of the rights established under the provisions of this Decree-Law, obtain an order on a petition from the Magistrate of Summary Justice at the Civil Court with jurisdiction over the origin of the dispute, so as to take one or more appropriate provisional measures, including the following:

a- Making a detailed description of the infringement, the goods that are the subject-matter of this infringement, and the materials, tools and equipment used or that may be used therein.

b- Imposing seizure on the materials, tools and equipment referred to in the preceding paragraph of this clause, and the proceeds resulting from the infringement.

c- Preventing the goods that are the subject matter of the infringement from entering commercial channels and preventing their export, including imported goods forthwith after their customs clearance.

d- Preserving any evidence related to the subject matter of the infringement.

2- The Magistrate of Summary Justice may instruct the petitioner to submit whatever evidence in his possession suggesting that the right has been infringed or that the infringement is imminent, and to provide information that is sufficient to implement the provisional measure and identify the goods concerned.

3- The Magistrate of Summary Justice shall decide on the petition within a period not exceeding (10) ten days from the date of its filing, save for exceptional cases that he deems appropriate.

4- The Magistrate of Summary Justice may, when necessary, issue the order, at the request of the petitioner, without summoning the other party, if it is likely that the delay in issuing the order may cause irreparable harm to the plaintiff or if there is a fear that the evidence will be lost or destroyed. In this case, the other party shall be notified of the matter without any delay forthwith upon its issuance, and when necessary, the notification may be made immediately after execution of the order.

5- If the Magistrate of Summary Justice orders that a provisional measure be taken without summoning the other party, the defendant may, after being notified thereof, file a grievance against said order before the president of the

court that issued it, within (15) fifteen days from the date of his notification thereof, and the president of the court in this case may confirm or modify or cancel the order.

6- The Magistrate of Summary Justice may instruct the petitioner to provide an appropriate financial guarantee or a bank guarantee sufficient to protect the defendant from abuse of the right, and the amount of the guarantee or bank guarantee shall be reasonable and appropriate.

7- The right holder may file a lawsuit in respect of the origin of the dispute within (20) twenty days from the date of the issuance of the order to take the provisional measure or from the date of his notification of the rejection of the grievance stipulated in clause (5) of this article, as the case may be, otherwise this order shall be cancelled at the request of the defendant.

Article 48- Claim for compensation

The Trademark owner incurring damage resulting from the infringement of any of his rights stipulated under the provisions of this Decree-Law, may file a lawsuit with the Civil Court to claim compensation in accordance with the general rules.

Chapter 8

Penalties

Article 49

Without prejudice to any severer penalty stipulated in any other law, a penalty of imprisonment and a fine of no less than (100,000) one hundred thousand dirhams and not more than (1,000,000) one million dirhams, or either of these two penalties, shall be imposed on whomever:

1- Forges a Trademark that was registered in accordance with the provisions of this Decree-Law or counterfeits a Trademark in a way that leads to confuse the public, whether in respect of the goods or services distinguished by the original Trademark or those that are similar thereto.

2- Knowingly uses a forged or counterfeit Trademark for commercial purposes.

3- Puts on his goods or uses in respect of the services he provides, in bad faith, a Trademark owned by others.

4- Possesses tools or materials with the intent of using them to forge or counterfeit registered or well-known Trademarks.

5- Knowingly imports or exports goods bearing a forged or counterfeit Trademark.

Article 50

Without prejudice to any more severe penalty stipulated in any other law, a penalty of imprisonment not exceeding one year and a fine of not less than (50,000) fifty thousand dirhams and not more than (200,000) two hundred thousand dirhams or either of these two penalties shall be imposed on whomever:

1- Sells or offers for sale or circulation or possesses with the intention of selling goods or offers the provision of services carrying a forged, an imitated, or unlawfully put or used Trademark, despite his knowledge thereof.

2- Unlawfully uses an unregistered Trademark in the cases stipulated in Article (3) of this Decree-Law on his commercial papers and documents, goods, or services, and this would lead to the belief that the Trademark has been registered.

Article 51

In the event of recidivism, whoever commits any of the acts stipulated in Articles (49) and (50) of this Decree-Law shall be punished with a penalty that does not exceed twice the maximum penalty prescribed for the crime.

The court may order the closure of the facility, and order the confiscation of the tools, machines, and materials used in the offence.

Article 52

The court may publish the judgment of conviction at the expense of the convict.

Chapter 9

Final Provisions

Article 53

1- The Trademarks registered in accordance with the provisions of the laws, decisions, and regulations in force prior to the effective date of the provisions of this Decree-Law shall be deemed valid, and these Trademarks shall enjoy the protection prescribed therein.

2- The provisions of this Decree-Law shall apply to the undecided Trademark registration applications that were submitted prior to the date of entry into force of its provisions, provided that these applications are amended in accordance with the provisions of this Decree-Law.

Article 54- The electronic system for registering Trademarks

1- The Ministry may establish an electronic system and an electronic database available to the public to register and renew Trademarks and complete the necessary procedures therefor.

2- The Ministry shall make the aforementioned electronic database available to the competent local authorities.

Article 55- Supervision and control

The Ministry shall supervise and control the implementation of the provisions of this Decree-Law, and the control of offences and breaches that occur in violation of its provisions. A Cabinet decision - based on a proposal by the Minister - may entrust any of the competent local authorities with these tasks or some of them.

Article 56- Law enforcement officers

The employees of the Ministry or the employees of the local authorities who are designated by a decision of the Minister of Justice in agreement with the Minister or the head of the local judicial authority shall be granted the capacity of judicial enforcement in evidencing the violations of the provisions of this Decree-Law or its Implementing Regulation, within the scope of their respective competencies.

Article 57- Fees

The Council of Ministers shall issue a decision determining the fees necessary to implement the provisions of this Decree-Law.

Article 58- Implementing Regulation

The Council of Ministers shall, upon the proposal of the Minister, issue the Implementing Regulation for this Decree-Law.

Article 59- Implementing decisions

The Minister shall issue the necessary decisions to implement the provisions of this Decree-Law.

Article 60- Abrogation

1- Federal Law no. (37) of 1992 on Trademarks and its amendments shall be abrogated.

2- Any provision that violates or contradicts the provisions of this Decree-Law shall be abrogated.

3- The decisions and regulations in force prior to the date of entry into force the provisions of this Decree-Law, , shall remain effective in a manner that does not conflict with its provisions, until the issuance of their replacement pursuant to the provisions of this Decree-Law.

Article 61- Publication and entry into force of the Decree-Law

This Decree-Law shall be published in the Official Gazette and shall come into force as of January 2, 2022.

Issued by us at the Presidential Palace in Abu Dhabi:

On 13/ Safar/ 1443H.

Corresponding to 20/ September/ 2021

Khalifa bin Zayed Al Nahyan
President of the United Arab Emirates

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NON-OFFICIAL TRANSLATION