

**LEGISLATIVE DECREE NO. (11) OF 2006**  
**WITH RESPECT TO TRADE MARKS**

We, Hamad Bin Isa Al Khalifa, King of the Kingdom of Bahrain,

In accordance with the Constitution,

The Law of Civil and Commercial Procedures Act promulgated by Legislative Decree No.(12) of 1971, as amended;

The legislative Decree No. (1) Of the Year 1987 with respect to certain provisions pertaining to the sale and lease of business premises;

Law of Commerce promulgated by Decree Law No. (7) of 1987, as amended;

Legislative Decree No. (10) Of the Year 1991 with respect to Trade Marks.

Legislative Decree No. (7) of 1994 with respect to the Ratification of the Document Establishing the World Trade Organization;

Legislative Decree No. (14) of 1996 with respect to the Law of Evidence in Civil and Commercial Matters, as amended by Legislative Decree No. (13) of 2005;

Legislative Decree No.(31) of 1996 ratifying the Paris Convention for the Protection of Industrial Property;

The Civil Law promulgated by Legislative Decree No. (19) of 2001;

The judiciary Law promulgated by Legislative Decree No. (24) of 2002;

The Criminal Procedural Law promulgated by Legislative Decree No.(46) of 2002, as amended by Legislative Decree No. (41) of 2005;

Legislative Decree No.(13) of 2004 ratifying NICE Agreement concerning the international classification of goods and services for the purposes of the registration of marks;

Legislative Decree No. (18) of 2005 ratifying Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol);

The decree No. (1) of 1995 ratifying the Convention Establishing the World Intellectual Property Organization (WIPO);

The Shura Council and the Council of Deputies have agreed to the following Law, which we hereby approve and ratify and promulgate.

## CHAPTER I

### General Provisions

#### Article 1

The following terms and phrases, wherever mentioned in this Law, shall have the meanings expressed next to them, unless the context requires otherwise:

***Kingdom:*** the Kingdom of Bahrain.

***Competent authority:*** The Administrative body responsible for Industrial Property.

***Minister:*** The Minister of the competent authority.

***Register:*** The Trademark Register provided for in article (7) of this Law.

***NICE Classification:*** the international classification of goods and services for the purposes of the registration of marks under NICE agreement.

***Madrid Protocol:*** Protocol Relating to the Madrid Agreement concerning the International Registration of Marks.

***Madrid Union:*** The Union consisting of state and governmental organizations members of the Madrid Protocol.

***Paris Union:*** The Paris Union for the Protection of Industrial Property consisting of state members of the Paris Convention for the Protection of Industrial Property.

***International Bureau*** : The International Bureau of the World Intellectual Property Organization (WIPO).

***International Application***: International application for the registration of a trademark.

## **Article 2**

A Trademark shall mean everything that takes a distinctive form such as names, words, signatures, characters, codes, numbers, signposts, seals, drawings, sounds, smells, pictures, inscriptions, packaging, figurative elements, figures, colours, combinations of colours, or any combination thereof or any other sign or a group of signs if used or intended to be used in distinguishing goods or services of an establishment from goods or services of another establishment , or to indicate the performance of certain services, or to distinguish goods or services as regards their source, ingredients, method of manufacture, quality, identity, or any other characteristics.

## **Article 3**

The following shall not be regarded as trademarks nor shall be registered as trademarks or as elements of trademarks:

- A. The mark which is free of any distinctive feature, consisting of signs or details which are the customary names that are given by custom to goods and services, or familiar drawings and ordinary pictures of goods.
- B. Any expression ,drawing or sign contrary to religion , morality or public order.
- C. Armorial bearings, flags ,public slogans, and other insignia belonging to the Kingdom , Arab or international organizations, or one of their agencies or any imitation of such armorial bearings ,flags, slogans or insignia.
- D. Armorial bearings, flags ,public slogans, and other insignia belonging to member states of Paris Convention or any imitation of such armorial bearings ,flags, slogans or insignia , subject to the provisions of article 6<sup>ter</sup> of the Paris Convention for the protection of industrial property.
- E. signs which are identical to the sign of the Red Cross or the Red Crescent and other signs that are imitations thereof.
- F. Marks identical or similar to symbols of a purely religions nature.

- G. Marks which likely to mislead or confuse the public , particularly with regards to the source or origin of the goods or services.
- H. Marks which contain a false indication of source or origin of the goods, services or other descriptions and other marks which contain a false , imitated or forged commercial name.
- I. Name of a third party, surname, photograph or logo , unless he or his heirs agree in advance to the use thereof.
- J. Details of honorary or academic degrees which the applicant for registration does not prove that he is legally entitled thereto.
- K. Marks that are identical or similar to a mark previously registered by others to be used in distinguishing all or certain goods or services for which the mark was registered , or marks that are similar to a mark previously registered by others which would create confusion to the public, or marks the registration of which – for other products and services – may cause diminishing the value of the goods or services distinguished by the mark previously registered by others.
- L. Marks which constitute a reproduction, an imitation or a translation of a well known trademark owned by others that is used to distinguish goods or services similar or identical to that distinguished by the well known mark.
- M. Marks which constitute a reproduction, an imitation or a translation of an essential part of a well known trademark owned by others that is used to distinguish goods or services similar or identical to that distinguished by the well known mark.
- N. Marks which constitute a reproduction, an imitation or a translation of a well known trademark owned by others ,or an essential part thereof, used to distinguish goods or services non-identical or non-similar to that distinguished by the well known mark, if the use of which suggests that a connection exists between the goods or services and the well known trademark, with probability to cause damage to the interests of the owner of the well known mark.

#### **Article 4**

Without prejudice to the provisions of article (34) of this Law, any natural person or legal entity shall have the right to file an application for the registration of a trademark at the Competent authority, and shall be conferred the rights provided for in this Law, provided that the applicant is a citizen of the Kingdom or a national of a country member in the Paris Union or a country whose nationals enjoy national treatment under bilateral or international agreements adopted by the Kingdom , or if the

person has real and effective industrial or commercial establishments in the territory of such country.

#### **Article 5**

If an application for the registration of a trademark is filed in any country of the Paris Union or in a country whose nationals enjoy national treatment under bilateral or international agreements adopted by the Kingdom , the applicant or the assignee may ,within six months from the filing date of the application, file an identical application at the Competent authority concerning the same mark and same goods or services contained in the previous application that is in accordance with the terms and conditions provided for in this Law and its implementing regulations and the Orders for the implementation thereof. In this case , the applicant or the assignee may enjoy the right of priority in accordance with the provisions of Paris Convention for the protection of industrial property subject to the provisions of Article (4) Section (D) of that convention.

#### **Article 6**

1. Any person who registers a trademark in good faith shall be considered the sole owner thereof, it shall be inadmissible to dispute the ownership of a mark if used for a period of at least five years with no legal dispute concerning it.
2. any person who is using a trademark before the person to whom it is registered may request the cancellation thereof from the competent court within five years from the registration date , unless it is approved that the former approve the use of the mark by the person to whom it is registered expressly or implicitly.

## **CHAPTER II**

### **Trademarks Registration**

#### **Article 7**

1. The competent authority shall maintain a register to be called (Trademark Register) wherein the accepted trademarks and all details relating thereto shall be recorded, in addition to whatever action affecting such marks in accordance with the provisions of this Law , and the implementing Regulations and Orders thereof.

2. The old Trademark Register shall be incorporated in the register provided for in the foregoing paragraph and shall be considered as integral part thereof.

### **Article 8**

An application for the registration of a trademark shall be submitted to the competent authority, to be registered using the form prescribed for such purpose, by the person concerned or whoever acts on his behalf in accordance with the terms and conditions provided for in the implementing regulations.

### **Article 9**

1. NICE Classification shall be adopted with regard to the publication and registration of trademarks.
2. Registration of a trademark may take place for one or more categories of goods or services listed in NICE Classification.
3. Goods or services shall not be considered similar to each other for being classified within the same category of NICE Classification, and Goods or services shall not be considered different to each other for being classified in different categories of NICE Classification.

### **Article 10**

A single application may be filed to register a group of identical trademark having substantially similar elements, if their differences relate to elements which do not affect the fundamental features of such marks such as marks' colours or details of goods or services distinguished by such marks, provided that such goods and services listed in the same category in NICE Classification.

### **Article 11**

If two persons or more submit an application at the same time to register the same mark, or marks which are similar, for goods or services listed in one category of NICE Classification, the registration of the applications shall be suspended until either one presents an assignment in his favour signed by the other parties to the dispute and approved by a competent government authority or until a final judgment is passed in favour of either one.

### **Article 12**

1. The competent authority shall examine the application for the registration of trademark and the annexes thereof to ascertain the fulfillment of the required conditions. It may require the applicant , within thirty days from the filing date of the application, to introduce the amendments it deems necessary to the application and to fulfill whatever it deems important to decide thereon, provided that it shall determine the appropriate time for notifying the applicant thereof.
2. If the applicant fails to carry out whatever required by the competent authority within the specified time limit , the application would be considered as if it had never been filed.
3. The competent authority shall decide on the applications of the registration of a trademark within thirty days from the date of filing the application fulfilling the required conditions, or from the date of amendment fulfilling whatever necessary to decide thereon.

### **Article 13**

1. If the competent authority accepts the application for the registration of a trademark , it shall be published before its registration in the time and manner determined by the implementing regulations.  
Every interested party may submit the competent authority a written opposition to the procedures of the registration of the trademark within sixty days from the date of the application approval , provided that the opposition is reasoned.
2. The implementing regulations shall determine the rules and conditions to decide on oppositions.
3. If the specified opposition period lapses without submitting any opposition to the approval of the application for the registration of trademark or if the oppositions submitted in this respect are rejected, the competent authority shall issue a decision to accept the registration of trademark after the lapse of the specified opposition period ,or shall decide on the oppositions submitted to this authority ,as the case may be, and this decision shall be published in the Official Gazette.
4. the competent authority may impose any restrictions it deems necessary to the use of a trademark the registration thereof is accepted.

5. If the competent authority rejects the registration of a trademark for some reason , or if it imposes restrictions to the use of a mark the registration thereof is accepted, it in both case shall notify the applicant or whoever is acting on his behalf by a letter of the reasons for its decision and details of the facts considered.

#### **Article 14**

If a mark is registered the effective date of registration shall be the filing date of the application, the competent authority shall grant the person concerned a certificate upon the completion of the registration, according to the form designated for this purpose, certifying the registration of the mark.

#### **Article 15**

The owner of a registered trademark has the right to use the mark exclusively and to bar third parties , not having his consent, from using his mark or using any similar or identical sign thereof – including any geographical indication – in the course of trade to distinguish goods or services relating to the registered trademark if such use is liable to create confusion to the public, confusion may be created by using the same mark or a similar mark distinguishing goods or services similar to which the mark was registered.

#### **Article 16**

1. The owner of a registered trademark may request the competent authority ,at any time, to make any alterations or additions to his trademark without effecting its fundamental nature.  
Every interested party may request the competent authority ,at any time, to add any omitted details to the register or to delete any false details or details unlawfully registered.  
All that shall be in accordance with the rules and conditions, and the manner determined by the implementing regulations.
2. The adoption of decisions regarding the applications referred to in the foregoing paragraph and the objection to the decisions issued in relation thereto , shall be governed by the rules and conditions , and time period provided for in article (12) and article (13) of this Law.
3. the competent authority , on its own initiative, may issue a reasoned decision , at any time , to add any omitted details to the register or to delete any false details or details unlawfully

registered, that shall be in accordance with the rules and conditions, and the manner determined by the implementing regulations.

## **CHAPTER III**

### **Term of Protection and Cancellation of Registration**

#### **Article 17**

1. The protection conferred by the registration of a trademark shall be for a period of ten years as from the filing date of the application in the Kingdom, it may be extended to similar period or periods if the owner of the trademark submits a renewal application to the competent authority during the last year of the protection period in force , according to the provisions of this Law and the terms and conditions determined by the implementing regulations.  
Renewal shall take place without any new examination and without any consideration of any opposition from third parties.
1. The competent authority shall notify the owner of the trademark or whoever is acting in his behalf of the expiry date of the protection period of the mark in a period of at least six months prior to the expiry date, according to the form designated by the competent authority for this purpose.
2. the competent authority shall , on its own initiative, cancel the registration of a trademark if six months lapse following the expiry date of the protection period of such mark and its owner fails to submit a renewal application, the owner of the mark may request to reregister it at anytime that if it has not been registered by another party, and without prejudice to the provisions of article (22) of this Law.

#### **Article 18**

The competent authority shall , upon a request from any concerned party, issue a reasoned decision to cancel the registration of a trademark proved that it has not been seriously used for five consecutive years by neither its owner nor other parties having his permission, unless the owner of the mark presents a justification for not using it.

The implementing regulations shall determine the regulations and conditions of submitting cancellation applications and the decisions relating thereof.

### **Article 19**

The owner of a trademark may request the cancellation of the registration of the mark from the competent authority for all or some of the goods or services for which the mark was registered.

The implementing regulations shall determine the regulations and conditions of submitting cancellation applications and the decisions relating thereof.

If the owner of a trademark has licensed third parties to use the mark , the registration of such mark shall not be cancelled unless the license beneficiary authorizes such action in writing, or expressly waives this right in the license contract.

### **Article 20**

Subject to the provisions of article (6) of this Law, the competent authority and every interested party may request the following from the competent court:

- A. Canceling the registration of a trademark unlawfully registered , including any registration inconsistent with the provisions of article (3) of this Law, for all or some of the goods or services for which the mark was registered.
- B. Canceling the registration of a certification mark if its owner violates the obligations provided for in article (30) paragraph (4) of this Law.

### **Article 21**

The decision issued with regard to the renewal of the registration of a trademark or the cancellation of the registration shall be published according to the manner determined by the implementing regulations.

### **Article 22**

If the registration of a trademark is cancelled , such mark shall not be reregistered in favour of a third party for the same goods or services , or for identical or similar goods or services , except after the lapse of three years from the date of cancellation.

## **CHAPTER IV**

### **Ownership transfer, Mortgage & Seizure of Trademarks**

#### **Article 23**

1. The ownership of a trademark may be transferred wholly or partly with or without compensation, as well as by inheritance. Such marks may be mortgaged or seized with or without the business premises or the exploitation project for which the mark is used to distinguish its goods and services. Acts of transferring ownership shall be in writing to be valid.
2. Without prejudice to the provisions pertaining to the sale or mortgage of business premises, the transfer of the ownership of a trademark or mortgage thereof shall not be effective towards third parties except after an entry thereof is made in the Register and published in the manner determined by the implementing regulations.
3. If the ownership of business premises is transferred without transferring the ownership of the trademark, the owner may continue to use the mark to distinguish the goods or services for which the mark was registered, unless otherwise agreed.
4. A creditor may seize trademarks belonging to his debtor in conformity with the provisions concerning seizure of garnished movable assets. The competent authority shall be exempt from the provisions relating to the declaration by the garnishee of the amount in his possession due to the garnisher. The creditor shall notify the competent authority of the seizure and the results of the public auction to be recorded in the register. The said seizure and results of the public auction shall not be effective towards a third party before its being duly recorded and published in the manner prescribed by the Implementing Regulations.

## **CHAPTER V**

### **Trademarks Use License**

#### **Article 24**

The owner of a trademark may license one or more – natural or legal - persons to use the mark for all or some of the goods or services for which the mark was registered. Such license to a third party shall not prevent the owner from using his mark, unless otherwise agreed.

The license period shall not exceed the period prescribed for the protection of the mark.

### **Article 25**

The license contract for the use of a trademark may not impose any unnecessarily restrictions upon the licensee in order to maintain the rights conferred

by the registration of the mark.

The license contract may include the following restrictions:

1. Determination of the scope and geographical domain ,and the period of its use.
2. Conditions necessitated by the effective control over the quality of goods or services.
3. The obligations of the licensee to refrain from any action result in prejudicing the mark.

### **Article 26**

The license contract for the use of a trademark shall be in writing. it shall not be required to record the license contract in the Register to be valid.

## **CHAPTER VI**

### **Well-known marks**

### **Article 27**

A well-known trademark shall mean, in implementing the provisions of this Law, any trademark owned by the persons referred to in Article (4) of this Law which has international renown , and acquired renown in the field which deals commonly with the goods or services for which the mark was registered.

It shall be taken into account when determining a well-known mark , in particular, its registration period , use , number of countries where it is registered or known, or the value of the mark and its effect in marketing the goods and the marks distinguished by the mark.

### **Article 28**

1. Every interested party shall be entitled to request the competent authority to prohibit the use of any mark which constitutes a reproduction, an imitation or a translation of a well-known mark or an essential part thereof, according to the cases provided for in Article (3) Sections (L,M,N) of this Law.
2. The owner of a well-know mark shall not be required to register it in the kingdom in order to enjoy the protection prescribed for such mark.
3. Notwithstanding the provisions of Article (6) of this Law, every interested party may request the competent court to cancel any mark which constitutes a reproduction, an imitation or a translation of a well-known mark or an essential part thereof within seven years from the registration date; and if the registration was made in bad faith , it may be requested to cancel the registration or prohibit the use of the mark at any time.

## **CHAPTER VII**

### **Collective Marks , Certification Marks , and Marks for non-commercial purposes**

### **Article 29**

1. A collective mark may be registered to be used in distinguishing goods or services of a group of persons who belong to a specific legal entity , even where such entity has no industrial or commercial establishment of its own.  
The application for the registration of a collective mark shall be submitted by a representative of such an entity to be used by the persons belonging thereto according to the regulations he determines.
2. The applicant registering a collective mark shall declare in the registration form that it relates to a collective mark , and shall annex to the application a copy of the regulations governing the use of the mark to be registered.  
in all cases, the owner of a registered collective mark shall notify the competent authority of any modification affecting such regulations , and any modification shall not be valid unless approved by the competent authority.

3. a cancelled collective mark may not reregistered in favour of a third party for goods or services identical or similar to which the mark was registered.
4. The competent authority shall , upon a request from any concerned party, issue a reasoned decision to cancel the registration of a collective mark if it is proved that the owner of such mark uses it solely and not together with the persons belonging thereto, or uses it or permits the use thereof in violation of the regulations governing its use, or uses it in a manner liable to create confusion to the public as regards the source of the goods or any common characteristic of the goods or services for which the collective mark was registered.

The implementing regulations shall determine the procedures and time limits concerning the decision on the application for the cancellation of such mark and the objection to the decision on such application.

### **Article 30**

1. A certification mark may be registered to be used in distinguishing goods or services as regards their source, ingredients, method of manufacture, quality, identity, or any other characteristics.
2. The applicant registering a certification mark shall be a legal entity , and shall declare in the registration form that it relates to a certification mark , and shall annex to the application a copy of the regulations governing the use of the mark to be registered.  
The owner of such registered mark shall notify the competent authority of any modification affecting such regulations , and any modification shall not be valid unless approved by the competent authority.
3. A certification mark shall not be registered or disposed of without the approval of the Minister.
4. The owner of a certification mark shall undertake the following:
  - A. Carry out the necessary control on the use of the mark.
  - B. Refrain from manufacturing or marketing any goods or services for which the mark is used.
  - C. Allow, without discrimination , the use of the mark by whoever fulfills the determined regulations.
  - D. Refrain from allowing the use of the mark in violation of the regulations governing its use or for purposes other than certification.

### **Article 31**

A mark for non-commercial purpose may be registered such a sign adopted by a public-service body or used by a professional establishment to distinguish its correspondence or as a sign for its members.

### **Article 32**

A sign , used in the course of trade as a geographical indication , may constitute a certification or collective mark.

The implementing regulations shall determine the conditions and the rules concerning the registration of the marks provided for in this Chapter and the documents which shall be annexed to the registration application, and any other regulations relating thereof. The registration of such a mark shall have all the effects provided for in this Law.

## **CHAPTER VIII**

### **International Registration of Trademarks**

#### **Article 33**

In implementing the provisions of this Chapter, national application shall mean an application filed for the registration of a trademark in the Kingdom in accordance with the provisions of Article (8) of this Law as a basis of an application for the international registration of the same mark.

National registration shall mean recording the trademark in the Register provided for in Article (7) of this law , and granting it national protection as a basis of an application for the international registration of the same mark.

#### **Article 34**

The applicant who submits a national application or has registered a trademark locally may submit the competent authority an application for the international registration of the same mark, provided that the applicant is a citizen of the Kingdom or a foreigner residing therein , or if

he has in a territory of the Kingdom a real and effective industrial or commercial establishment.

### **Article 35**

The international application shall contain information on the applicant identity and declaration of the goods or services for which the protection is claimed accompanied by a copy of the trademark and other requirements provided for in Madrid Protocol.

### **Article 36**

1. The competent authority shall examine the international application to ascertain the correspondence of the data and information contained thereof with that contained in the national application or the national registration ,as the case may be. Further , it shall ascertain the validity of such data and information.
2. The competent authority may ,within thirty days from the filing date of the application, require the applicant of international registration to undertake the amendments it deems necessary to the application and to fulfill whatever it deems important to decide thereon. The competent authority shall specify the appropriate time limit to notify the applicant.

If the applicant fails to carry out whatever required by the competent authority within the specified time limit , the international application would be considered as if it had never been filed.

3. If the international application satisfies all the necessary requirements , the competent authority shall notify the International Bureau of it ,and shall transmit such application within sixty days from the date of satisfying the requirements , or shall reject such application without transmitting it to the International Bureau.
4. the applicant shall be notified ,in all cases , of the decision issued with respect to the application for the international registration within thirty days from the issuance date thereof.

### **Article 37**

If the International Bureau requests the competent authority to extend the protection of a trademark subject of international registration to the territory of the Kingdom – provided that such mark is not subject of national application or registration – the competent authority shall examine such application to ascertain the fulfillment of the required conditions in accordance with the provisions of this Law.

### **Article 38**

1. If the competent authority approves to extend the protection of a trademark subject of international registration, it shall publish that in the time and manner determined by the implementing regulations.
2. Every interested party may oppose in writing to the approval of extending the protection to the territory of the Kingdom within sixty days from the publication date of such approval , provided that the opposition is reasoned.  
the implementing regulations shall determine the rules and procedures of deciding on oppositions.
3. If the specified opposition period lapses without submitting any opposition to the approval of extending the protection to the territory of the Kingdom , or if the oppositions submitted in this respect are rejected , the competent authority shall record that in the Register and publish it in the time and manner determined by the implementing regulations. Further , it shall notify the International Bureau of the approval of extending the protection of the trademark subject of international registration to the territory of the Kingdom.
4. If it appears to the competent authority that the international application does not satisfy the prescribed decisions , it shall issue a decision to reject the protection period derived from international registration in the territory of the Kingdom, provided that it shall notify the applicant and the International Bureau of that within sixty days from receiving the international application.

### **Article 39**

1. The international registration shall replace the national registration in respect of the same trademark , owner and goods or services distinguished by that mark; such registration shall

have all the rights prescribed national registration in accordance with the provisions of this Law.

It shall be recorded in the Register and published in the manner determined by the implementing regulations.

2. the protection prescribed for a trademark under the international registration in the territory of the Kingdom shall extend from the date of international registration until the expiry date of the registration.
3. Every international registration shall enjoy the right of priority provided for in Article (4) of Paris Convention for the protection of industrial property , and it shall not be required to undertake the provisions provided for in paragraph (D) of Article referred to in that Convention.

#### **Article 40**

After the lapse of five years from the international registration , such registration shall be considered independent from the national application or registration ,as the case may be, and subject to the provisions of paragraphs (3) and (4) of Article (6) of Madrid Protocol.

#### **Article 41**

If the international bureau decides to cancel the international registration for all or some of the goods or services for which the mark was registered, the competent authority shall cancel such registration – wholly or partly as the case may be – and shall record that in the Register and publish it in the manner determined by the implementing regulations.

#### **Article 42**

The provisions provided for in Madrid Protocol with respect to the international registration of trademark shall apply to any matter which is not specifically provided for in this Law.

### **CHAPTER IX**

#### **Enforcement of the Rights Conferred by the Registration of Trademarks**

### Article 43

- (1) The right owner may , if he has motivated reasons to believe that the importation of counterfeit goods or goods bear a mark similar to his registered trademark may take place and are liable to confuse the public, lodge an application in writing to the customs authorities to suspend the release of such goods and to prohibit the circulation thereof. Such application shall be accompanied by adequate evidence to satisfy the competent authorities that there is , prima facie, an infringement of the applicant right , and the application shall contain sufficient information reasonably available to the applicant to enable the said authority to reasonably identify the concerned goods.
- (2) The customs release authority shall notify the applicant in writing of the decision on his application within seven days from the filing date of the application. In case the application is accepted, the decision shall extend to a period of one year from the filing date thereof or to the remaining term of protection of the trademark , whichever comes earlier , unless the applicant requests less time period.
- (3) The customs authorities may require the applicant to provide an appropriate security or equivalent assurance sufficient to protect the defendant and the relevant authorities and to prevent the abuse of the right to suspend the release by customs authorities.
- (4) Without prejudice to the foregoing paragraphs, the customs authorities may on its own initiative, and without the need to submit complaint or application by the right owner or any third party, issue an order to suspend the release of imported or transited goods or destined for exportation upon their entry into the customs jurisdiction, if adequate evidence are provided, prima facie, that such goods are counterfeit or they unlawfully bear a mark similar to a registered trademark and liable to create confusion to the public.
- (5) if the customs release authority orders ,in accordance with this provisions, to suspend the release of goods entered into their jurisdiction , it shall:
  - a) Promptly notify the importer and the applicant of the suspension of the release of goods.
  - b) Inform the applicant ,upon a written request form him, of the names and addresses of the consignor, the importer , and the consignee of the goods and of the quantity thereof.

- c) Allow the parties concerned to inspect the goods in accordance with the customs procedures.

The right holder shall be required to submit the merits of the case to the competent court and to notify the customs release authority of the proceedings within a period not exceeding ten working days from the notification date of the suspension of such goods, otherwise the order would be considered as if it had never been issued unless such authority or the competent court decide to extend the time-limit, in appropriate cases, to a period not exceeding another ten working days. If a case is filed with the merits of the case, the competent court may confirm, modify or revoke the order.

- (6) If it appears to the competent court that the goods suspended by customs authorities are counterfeit or they unlawfully bear a mark similar to a registered trademark and liable to create confusion to the public, such goods shall be destructed at the expense of the importer, or disposed of outside the channels of commerce if the destruction causes unreasonable harm to public health or the environment.

- (7) In all cases, the simple removal of the trademark unlawfully affixed shall not be sufficient to permit release of the goods into the channels of commerce or the re-exportation thereof.

- (8) The finance minister shall, in coordination with the Minister, issue a decision to determine the details, conditions, regulations and procedures of submitting customs release applications, the decisions thereon and the documents required to be annexed therewith. It shall be taken into account upon the determination of such details that it shall not deter recourse to such procedure.

The finance minister, upon the consent of the Ministers Council, issue a decision with respect to :

- A. The rules governing the assessment of the security or the equivalent assurance required to be provided by the applicant according to the provisions of this Article.
- B. Storage fees of the goods ordered to be suspended by the customs authorities.

The security, the equivalent assurance or the amount of the storage fees shall not unreasonably deter recourse to such procedure.

- (9) For the purposes of this Article, <counterfeit goods> shall mean any goods, including packaging, bearing without authorization a trademark which is identical to the registered trademark in respect

of such goods, or a mark cannot be distinguished in its essential elements from such a trademark.

#### **Article 44**

The provisions of the foregoing Article shall not apply to:

- A. Small quantities of goods ,of a non-commercial nature , contained in travellers' personal luggage or sent in small consignments.
- B. Goods offered for circulation by the right holder or with his consent in the markets of the exportation country.

#### **Article 45**

(1) In case of infringement or to prevent an imminent infringement of any right prescribed for in the provisions of this Law, the right holder shall be entitled to obtain an order on the basis of a petition from the president of the competent court considering the merits of the case to adopt one or more appropriate precautionary measures:

- A. To draw up detailed description of the alleged infringement and the infringed goods ,materials, equipments and implements used or might be used in the infringement, and to preserve relevant evidence in regard to the infringement.
- B. To order the seizure of the articles stated in the foregoing paragraph , as well as the royalties of the alleged infringement.
- C. To prevent the entry of the goods that involve the alleged infringement into the channels of commerce as well as the exportation thereof, including imported goods immediately after their customs release.
- D. To desist the infringement or prevent the occurrence thereof.

(2) The president of the court shall have the authority to require the petition applicant to provide any reasonably available evidence that the right is likely infringed or that such infringement is imminent, and to require him to provide any information necessary to enable the competent authority executing the precautionary measures to identify the concerned goods.

- (3) The president of the court shall decide on the petition expeditiously within a period not exceeding 10 days of the filing date thereof, with the exception of the special cases he considers.
- (4) The president of the court ,when necessary shall be authorized to issue the aforementioned decision ,upon a request from the petition applicant and without the summons of the other party, in cases where any delay in the decision issuance is likely to cause irreparable harm to the applicant, or if there is a risk of evidence being disappeared or destroyed. In such case , the other party shall be notified of the decision promptly; and ,when necessary , the notification may be immediately after the execution of the decision.
- (5) If the president of the court orders to adopt a precautionary procedure –without the summons of the other party- the defendant may appeal such an order to the competent court within 10 days from the notification date. In such case , the court may confirm , modify or revoke the order.
- (6) The president of the court shall have the authority to require the petition applicant to provide an appropriate security or equivalent assurance sufficient to protect the defendant and to prevent abuse. The amount of the security or the equivalent assurance shall not unreasonably deter recourse to the indicated precautionary procedure.
- (7) The right holder shall be required to submit the merits of the case within twenty days from the issuance date of the precautionary order or from the notification date of the rejection of the appeal provided for in Paragraph (5) of this Article , as the case maybe. Otherwise the order shall be revoked upon the request of the defendant.

#### **Article 46**

- (1) if the right holder has suffered direct injury because of an infringement of any of his rights conferred by the provisions of this Law, he may file a case with the Competent Court to order the payment of damages adequate to compensate for the injury he has suffered because of the infringement including the royalties gained by the infringer.

The Court shall determine the amount of damages it deems adequate to compensate for the injury pursuant to Articles 161 and 162(A) of the Civil Law, provided that the Court shall take into account the value of the goods or services –subject of the infringement- according to experience or what the applicant determines with regard to the retail price or any other legitimate criteria he requests to be applied.

- (2) The right holder may, instead of claiming damages adequate to compensate for the injury including the royalties gained by the infringer according to the foregoing paragraph, obtain at any time and before the settlement of the dispute an order for the payment of damages of no less 500 Bahraini Dinars and no more than 6,000 Bahraini Dinars if it is found that the infringement has occurred by use of a trademark in wilful imitation of goods, or 3,000 Bahraini Dinars if it is found that the infringement has occurred by another way.
- (3) The competent civil court upon the consideration of claims relating to the rights prescribed for in provisions of this Law may order the following:
  - A. Seizure of the goods suspected to involve infringement, and any material or implement relating thereto or any document relating to infringer.
  - B. Order the infringer to desist the infringement, including preventing the exportation of the goods that involve infringement of any of the rights prescribed by the provisions of this law, and prevent that imported from entry into the channels of commerce immediately after customs release.
  - C. Order the infringer to inform the court or the right holder of any person or entity involved in any aspect of the infringement and of the methods of production or the channels of distribution of such goods or services, including the determination of the identity of all persons involved in the production and distribution of the infringing goods or services and of their channels of distribution.
- (4) Upon a request from the right holder, the competent court shall, without compensation of any sort, order the destruction of goods found to be counterfeit. It may order –without delay- the destruction of the materials and implements used in the manufacturing or production of the counterfeit goods, without compensation of any sort. The court in exceptional cases –it

determines- shall order the disposal of such goods outside the channels of commerce in a manner that would prevent any threat of any other infringement.

Instead of the destruction of the goods, materials and implements , the disposal of which outside the channels of commerce may be ordered if the destruction causes unreasonable harm to public health or the environment.

- (5) The simple removal of the trademark unlawfully affixed shall not be sufficient to permit release of the goods into the channels of commerce.
- (6) The competent court shall determine the expenses and fees of the delegated experts and specialists assigned with a case in a manner corresponding to the degree and nature of the assignment, providing that it shall not unreasonably deter recourse to such procedure.

#### **Article 47**

1. Without prejudice to any more severe punishment stipulated in another law, a punishment of imprisonment for a period of no less than three months and no more than a year and a fine of no less than 500 Bahraini Dinars and no more than 4,000 Bahraini Dinars, or by either punishment , shall be inflicted upon any person who:
  - A. counterfeits a registered mark or imitates it in a manner likely to mislead the public; or knowingly uses any counterfeit or imitated mark;
  - B. unlawfully and fraudulently affixes to his products or uses for his services a registered mark belonging to a third party;
  - C. knowingly sells, offers for sale or trade, or possesses with the intention to trade, or imports or exports goods bearing a counterfeit or imitated mark, or unlawfully bears a registered mark.
  - D. knowingly presents or offers services distinguished by a counterfeit or imitated mark , or unlawfully uses a registered mark for such purposes.
  - E. Uses in bad faith an – unregistered – mark in cases provided for in Article 3 (paragraphs B - N) of this Law.
  - F. knowingly circulates counterfeit or imitated cards , documents , or packaging used or designed to be used in the infringement of any right provided for by the provisions of this Law, even if infringement of such rights has not occurred.

In case of repetition, the penalty with its minimum and maximum limits may be doubled, along with the closure of the enterprise or project, or the suspension of the activity –as the case may be- for a period of no less than 15 days and no more than 6 months, with the publication of the judgment in a daily gazette once or more at the expense of the convicted party.

2. The penalty assessed by the court shall be sufficient to provide a deterrent to further acts of infringement , and shall aim at the elimination of the material motivation of the infringer.
3. The court shall be authorized to order the seizure of goods likely to be imitated and any other relevant materials, or implements used in committing the offence, or assets pertain to the infringer activities , or proof documents relating to the offence .It shall not be required to determine each matter individually in order to issue the seizure order as long as they belong to general categories recorded for such purposes.
4. in case the infringement is established , the court shall order the seizure and destruction of all imitated goods at the expense of the convicted party without compensation of any sort, or the disposal of such goods outside the channels of commerce if the destruction causes unreasonable harm to public health or environment. The court shall be authorized to order the seizure of any asset pertain to the infringer activities.

#### **Article 48**

Without prejudice to any more sever punishment stipulated in another law,

- A. A punishment of imprisonment for a period not exceeding a month or a fine of no more than 300 Bahraini Dinars, shall be inflicted upon any person who does not comply with an order issued by the Court in conformity with the provisions provided for in paragraph C (item 3) of Article 46 of this Law.
- B. A punishment of a fine not exceeding 2,000 Bahraini Dinars , shall be inflicted upon any proceeding party, judicial assistant, expert , or any other person who does not comply with an order issued by the Court with respect to the protection of secret information disclosed or circulated in the context of any legal proceeding.

## **CHAPTER X**

### **Miscellaneous Provisions**

#### **Article 49**

Marks affixed on goods exhibited at official or officially recognized international exhibitions held in the territory of the kingdom of Bahrain shall enjoy temporary protection during the period of the exhibition thereof , provided that the registration conditions provided for in this Law are satisfied. The implementing regulations shall determine the terms, conditions and procedure for the grant of such protection.

#### **Article 50**

Any person may consult the Register and obtain extracts ,copies, or details therefrom, according to the rules and procedures determined by the implementing regulations.

#### **Article 51**

Subject to the provisions of opposition provided for in Article (13) of this Law , the person concerned shall be entitled to appeal any final decision issued under the provisions of this Law to the Minister , within 30 days from the communication of such a decision. . The appeal shall be decided reasonably , and the person concerned shall be notified by a registered letter within 60 days from the date of filing the appeal.

The applicant shall be entitled to challenge the decision of the rejection before the competent court within 60 days from the notification date of the appeal rejection or after the lapse of the period specified for deciding on the appeal with no communication.

#### **Article 52**

The Competent authority shall establish an electronic system and an electronic database to be available to the public , including a database on the internet, for filing trademark applications , deciding thereon , registering thereof , and maintaining such a registration.

#### **Article 53**

Notifications provided for in this Law shall be communicated by registered mail or by email , or shall be handed to the person concerned with acknowledgement of receipt thereof.

#### **Article 54**

The officers designated by the Minister to ascertain the implementation of the provisions of this law and the Orders for the implementation thereof shall have the power to inspect the relevant business premises.

The officers authorized by the Minister of Justice ,in agreement with the Minister , shall have judiciary powers in inspecting offences that fall under their jurisdiction and relate to their duties.

The statements issued with respect to such offences shall be referred to the public prosecutor by an order issued by the Minister or his delegated official.

#### **Article 55**

Marks registered under the provisions of Laws and Orders effective until the date of entry into force of this Law , shall be protected and maintained in force, provided that the protection period lapsed shall be deducted from the protection period provided for in this Law, in conformity with the procedures and manner prescribed for in the Regulations.

#### **Article 56**

The provisions of this law shall apply to any undecided application for the registration of a trademark filed before the entry into force of this Law , provided that such an application shall be modified to conform with the provisions of this Law.

#### **Article 57**

Fees shall be due for any of the following:

- A. applications for the registration of a trademark provided for in this Law, as well as applications for the renewal or cancellation of the registration.
- B. applications for amendment or addition to registered trademarks.

- C. Applications filed with the competent authority for the international registration of a trademark and for the renewal of such a registration, without prejudice to the fees prescribed for in Madrid Protocol
- D. Oppositions and appeals to any decision issued according to the provisions of this Law.
- E. Applications filed for recording ,in the Register, a notice of ownership transfer, mortgage, seizure , or license for the use of a registered trademark , or the cancellation of the mortgage , seizure , or license thereof.
- F. Applications for the cancellation or addition of data to the Register , or for obtaining extracts ,copies, or details therefrom , or for consulting it.

The Minister shall ,subject to the approval of the Ministers Council, issue an order to determine such fees , the terms and percentage of the increase and reduction thereof, and the cases for refund or waiver of these fees.

#### **Article 58**

The provisions of this Law shall not prejudice the rules and obligations provided for in the bilateral and international agreements adopted by the Kingdom.

#### **Article 59**

The Minister shall issue the Regulations and Orders necessary to implement the provisions of this Law , and that shall be published in the Official Gazette.

#### **Article 60**

The Legislative Decree NO. 10 of 1991 with respect to trademarks shall be repealed , as well as all provisions contrary to this Law.

#### **Article 61**

The Ministers ,each in their respective capacity, shall implement this Law , which shall come into effect the day following the date of its publication in the Official Gazette.

**Hamad Bin Isa Al Khalifa**  
**King of the Kingdom of Bahrain**

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