**KUWAIT**

**TRADEMARK**

**Rights Afforded by Registration**

Registration is required to establish rights to a trademark; this is a "first to file" jurisdiction. The courts do, however, recognize rights arising from use of a trademark.

 Use of an unregistered mark for any goods or services is legal.

 No legislation regarding plain packaging has been enacted in this jurisdiction, and it is not under active consideration.

**Time Frame for Obtaining Registration**

The approximate time from application to registration (for a regular prosecution, without opposition) is about six to eight months.

**Advantages of Registration**

**The benefits of registering a trademark include the following:**

 It is the sole means of obtaining right or title to the trademark (excluding the special protection granted to well-known marks, which are also protected on the basis of their fame);

 It provides prima facie evidence of ownership and validity;

 It provides regional/national/local protection;

 It allows use of "Registered Trademark" or other suitable abbreviations to demonstrate ownership of the trademark;

 It allows access to bring actions in particular courts;

 It helps to deter others from unlawfully using the trademark;

 It provides a defense to infringement;

 Enforcement of an unregistered trademark is more difficult and more costly than enforcement of a registered trademark.

**CLASSIFICATION**

**This jurisdiction uses the Nice Classification System.**

Kuwait follows single-Class System and if a Trademark is or will be used in more than one class then separate applications for each class should be filed.

**INTERNATIONAL TREATIES**

Kuwait is a signatory to the Paris Convention. It became a member to the International Union for the Protection of Industrial Property  ("Paris Union"), founded by the Paris Convention.

**Registrable Trademarks**

The following signs that can be reproduced graphically and are capable of distinguishing the goods or services of one person or entity from another are registrable as a trademark:

 words;

 names;

 devices;

 certain three-dimensional shapes;

 colors;

 slogans;

 sounds;

 smells (olfactory trademarks);

 trade dress/get-up;

 touch.

 The special requirements for the registration of three-dimensional shapes are:

front, lateral and top graphic views.

 There are no special requirements for the registration of colors.

 The special requirements for the registration of sounds are: a CD-ROM with sounds and music notation.

 There are no special requirements for the registration of smells.

 There are no special requirements for the registration of trade dress.

 The special requirements for the registration of touch are: graphic representation of the tactile mark.

 Marks registered in black and white or gray scale are construed narrowly to protect the mark as registered and not to cover other color combinations.

**In addition to regular trademark registrations, the following types of trademarks are registrable:**

 collective marks;

 certification marks;

 well-known marks (The well-known status of a trademark must be recognized by the Trademark Office, either within prosecution of a case or by voluntary petition of recognition of the well-known status of a registered trademark.);

 service marks.

 Retail services as such are not registrable but the following (or a comparable recitation) is permitted: the bringing together, for the benefit of others, of a variety of goods (excluding the transport thereof), enabling customers to conveniently view and purchase those goods. (Consult a local attorney for additional advice.)

**The following are not registrable as trademarks:**

 marks contrary to moral standards or public order;

 generic terms;

 names, flags or symbols of states, nations, regions, or of international organizations;

 non-distinctive trademarks absent a showing of acquired distinctiveness (secondary meaning);

 marks that function principally as surnames;

 marks that function principally as geographic location names (but not geographical indications or appellations of origin).

**Geographical indications (GIs) are protected in this jurisdiction.**

GIs are protected by way of:

 trademark laws in the form of collective marks or certification marks.

**Requirements for Registration:**

1. A Power of Attorney legalized up to the Consulate of Kuwait.
2. A certified copy of the priority document legalized up to the Kuwaiti consul.

**Renewal of Trademark/Service Mark Registrations**
1. A Power of Attorney notarized and legalized up to the Kuwaiti Consulate.

2. The original Kuwaiti registration certificate of the trademark for endorsement purposes.

**Assignment Applications**
1. A Power of Attorney executed by the assignee legalized up to the Kuwaiti Consulate.

2. A deed of assignment proving the assignment signed by both parties and legalized up to the Kuwaiti Consulate.

3. The original Kuwaiti certificate of registration of the trademark for endorsement purposes.

**Change of Name/Address Applications**
1. A Power of Attorney executed in the new name and/or address legalized up to the Kuwaiti Consulate.

2. An official certificate proving the change of name and/or address legalized up to the Kuwaiti consulate.

3. The original Kuwaiti certificate of registration of the trademark for endorsement purposes.

**Merger Applications**

1. A Power of Attorney duly legalized up to the Kuwaiti Consulate.

2. A merger document legalized up to the Kuwaiti Consulate.

**Note:**

1) To claim the priority the application to be filed within 6 months from the date of filing the basic application.

2) Certified and legalized copy of the priority document can be filed within three months from the date of filing the application.

**PATENTS**

Registration of Patents is allowed in Kuwait under the provisions of Law No. 4 of 1962 and its amendment in 1999. The registered patent is valid for a period of 20 years from the date of filing of the patent application.

As of now once a Patent application is filed in the Kuwaiti Patent Office, the Registrar does not take any further action as the Kuwaiti Patent Office has not yet started the process of examining, publishing and granting of patents. All patents filed with the Kuwaiti Patent Office are practically in the application stage, but are officially protected for 20 years as of the date of filing.

Until the Kuwaiti Patent Office changes the present practice, all recorded patent applications should stay as recorded documentary evidence of proprietorship and claim priority even without examination and issuance of authentications by the Patent Office. The usual actions of opposition, renewal, payment of annuities, working, and so forth (with the exception of the assignment of applications), are not currently applicable in Kuwait.

According to the patent law, patents for utility models will be granted to those applications which include a new technical solution in the shape or formulation for equipment, means, tools, parts thereof or others which are used in commercial applications. An applicant may transform his patent application for utility model into a patent application for an invention, if the conditions are fulfilled, and vice-versa. In both cases, the filing date of the original application shall be taken into consideration.

The term of protection of a utility model is 7 years starting from the date of submitting the application. It is not possible to renew the term of protection. The Patent Office shall publish utility model applications within 6 months from the date of submitting the application.

Kuwait is a member of the Gulf Cooperation Council Countries (GCC). A patent granted by the GCC Patent Office which is located in Saudi Arabia will protect the patent in all member countries including Kuwait. The GCC Countries comprise the United Arab Emirates, Kingdom of Bahrain, Kingdom of Saudi Arabia, Sultanate of Oman, State of Qatar and State of Kuwait.

**Requirements**

**Patent Applications**
1. A Power of Attorney legalized up to the Kuwaiti Consulate.

2. An extract of the entry of the applicant in the commercial register, or an official copy of the memorandum or articles of association, if the applicant is a company or a body corporate legalized up to the Kuwaiti Consulate.

3. The title of the invention.

4. A summary description of the invention.

5. The number and date of the corresponding foreign patent.

6. The name, address, nationality and occupation of the applicant(s) and inventor(s).

7. Two copies of the specifications of the invention together with the Arabic translation.

8. Two sets of the formal drawings bearing Arabic reference numerals.

9. An assignment document from the inventor to the applicant legalized up to the Kuwaiti Consulate.

**Assignment Applications**
1. A Power of Attorney executed by the assignee legalized up to the Kuwaiti Consulate.

2. A deed of assignment proving the assignment signed by both parties and legalized up to the Kuwaiti Consulate.

3. The original Kuwaiti certificate of registration of the trademark for endorsement purposes.

Change of Name/Address Applications

1. A Power of Attorney executed in the new name and/or address legalized up to the Kuwaiti Consulate.

2. A certificate proving the change of name and/or address legalized up to the Kuwaiti Consulate.

Merger Applications

1. A Power of Attorney legalized up to the Kuwaiti Consulate.

2. A merger document legalized up to the Kuwaiti Consulate.

**DESIGN APPLICATIONS**

**Requirements for Design Applications**
1. A Power of Attorney legalized up to the Kuwaiti Consulate.

2. An extract of the entry of the applicant in the commercial register, or an official copy of the memorandum or articles of association, if the applicant is a company or a body corporate legalized up to the Kuwaiti Consulate.

3. The name, address, nationality and occupation of the applicant.

4. Two representations of each design or model showing the various views. The figure of the design or model should be placed in an upright position on the sheet. When more than one figure of the design or model are shown, these should be on the same sheet, each designated as "perspective view", "front view", "side view" or as the case may be.

**Assignment Applications**
1. A Power of Attorney executed by the assignee legalized up to the Kuwaiti Consulate.

2. A deed of assignment proving the assignment signed by both parties legalized up to the Kuwaiti Consulate.

**Change of Name/Address Applications**
1. A Power of Attorney executed by the assignee legalized up to the Kuwaiti Consulate.

2. A deed of assignment proving the assignment signed by both parties legalized up to the Kuwaiti Consulate.

**Merger Applications**

1. A Power of Attorney legalized up to the Kuwaiti Consulate.

2. A merger document legalized up to the Kuwaiti Consulate.