

## **Advisory Committee on Enforcement**

### **Ninth Session**

**Geneva, March 3 to 5, 2014**

### **THE EFFORTS OF THE LEAGUE OF ARAB STATES AIMED AT REDUCING THE INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS AND COMBATING COMMERCIAL FRAUD**

*prepared by Mrs. Maha Bakhiet Zaki, Director, Intellectual Property and Competitiveness Department, League of Arab States\**

1. Arab countries have long been interested in combating commercial fraud and protecting Intellectual Property Rights (IPRs). Some of them have even contributed to the international efforts for the protection of intellectual property and ratified a number of international conventions since the 19<sup>th</sup> century, more specifically during the colonial era.
2. The governments of Arab countries have continued to make great efforts to combat piracy, counterfeiting and commercial fraud, and one of the most important governmental policies has been the adoption of a legal framework to combat piracy and counterfeiting. A survey of the legal frameworks shows that most of the Arab countries have enacted legislation in the field of intellectual property. With a view to disseminating a culture of respect for IPRs and to raising public awareness of IPRs, the Arab countries are also organizing a campaign through different media mediums on the negative impacts of counterfeiting and piracy.
3. It is well-known that the primary function of trademarks is to indicate the source of products but this function has further developed with economic and industrial progress.

---

\* The views expressed in this document are those of the author and not necessarily those of the Secretariat or of the Member States of WIPO.

Trademarks do not only indicate the source of products but also have become a symbol of product quality and marketing. Thus, counterfeiting trademarks impedes the trademark's performance of its functions and could also harm the consumer.

4. It is noteworthy that most of these laws list a group of acts in which trademarks are used for fraudulent purposes. These acts are deemed crimes punishable with imprisonment and fines, where the right of the court to confiscate the devices and machines used particularly in the falsification process is preserved. Moreover, these laws provide for the right to claim damages and other civil remedies. In all these cases, the infringed trademark shall be registered in the country concerned. Hence, protection is conditioned by registration.

5. Over the last ten years, Arab countries have exerted huge efforts to develop intellectual property legislations within the framework of the World Trade Organization (WTO) to ensure Arab States' compliance with their commitments under the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement). They also have been maintaining their efforts to curb counterfeiting and piracy by developing successful partnerships between the public and the private sectors.

6. Some Arab countries have committed to the provisions of Article 69 of the TRIPS Agreement and issued resolutions regarding the establishment of contact points. These countries include Egypt where a Ministerial Decree was issued in 1997 concerning the establishment of an IPR-protection contact point to serve as a link between WTO and the Egyptian bodies responsible for the enforcement of IP conventions, and to assist customs authorities *vis-à-vis* border measures.

7. Many Arab countries have developed their legal systems and clearly defined the role of customs authorities, and the custom procedures to be applied in the event of suspension of custom clearance as well as the judicial procedures to be applied after the suspension of custom clearance. Most customs administrations in Arab countries cooperate with the Regional Intelligence Liaison Office in Riyadh affiliated with the World Customs Organization (WCO /RILO) and cooperate with other countries regarding the exchange of information related to commercial fraud in order to adopt the custom procedures needed to seize trademark infringing goods.

8. A number of customs administrations in Arab countries have established units to combat commercial fraud and protect intellectual property, which in itself represents a development in the fight against piracy and counterfeiting, as well as an addition to relevant governmental efforts (e.g., Bahrain, Egypt, Jordan, Sudan).

## **THE EFFORTS OF THE LEAGUE OF ARAB STATES (LAS)**

### **INTRODUCTION TO THE INTELLECTUAL PROPERTY AND COMPETITIVENESS DEPARTMENT**

9. Following the Memorandum of Understanding (MOU) between the League of Arab States (LAS) and the World Intellectual Property Organization (WIPO), July 2000, and the LAS Council Resolution No. 6071, dated March 12, 2000, the LAS SG Resolution No. 89/1 dated April 4, 2012, concerning the establishment of the Intellectual Property and Competitiveness Department within the organizational structure of the Economic Affairs Sector, was adopted.

10. The Intellectual Property and Competitiveness Department has participated in a number of activities on 'Customs' efforts to combat fraud and counterfeiting and provide IPR protection', including: the "Regional Conference for Arab countries on the national customs' efforts to

combat fraud and counterfeiting and provide IPR Protection”, co-organized by the LAS IP Unit and the IP Office at the Embassy of the United States in Cairo, in the LAS headquarters on April 27 and 28, 2010.

11. The most important recommendations of this Conference are:

- The IP Unit and the Customs Department at the LAS shall examine the benefits of using the LAS information network related to intellectual property management in order to facilitate the exchange of information on customs irregularities concerning infringements of intellectual property.
- Customs authorities shall necessarily utilize the information registered in IP offices in Arab states in distinguishing between genuine and counterfeit products.
- Customs authorities in Arab countries shall necessarily practice more competences vis-à-vis free zones and cross-border goods to halt smuggling and the movement of fake and counterfeit goods.
- The establishment of units specializing in intellectual property to combat commercial fraud in customs administrations shall be promoted and such units shall connect with IP offices in Arab countries.

12. Other relevant meetings include the seminar on “Intellectual Property Rights and the Fight Against Piracy” organized by the General Directorate of Customs in the Kingdom of Bahrain on November 20 to 22, 2006.

13. The seventh meeting of the Technical Committee for enacting the Arab Guidance Act on the Protection of Intellectual Property Rights, held in Beirut on January 8 to 10, 2013, has recommended the following:

- Pursuant to Resolution No. 911 of the Council of the Arab Justice Ministers, issued by its 27<sup>th</sup> session held in Cairo on February 15, 2012, incorporating a full chapter on border measures within the text of the Arab Guidance Act for the Protection of Intellectual Property Rights, based on the results of the 7th meeting of the Technical Committee responsible for preparing a Draft Arab Guidance Act for the Protection of Intellectual Property Rights, Chapter 8 (Articles 153-157) was added to cover: “Border Measures for the Protection of Intellectual Property Rights.” The Director of the Intellectual Property and Competitiveness Department at LAS has been tasked with the preparation of an explanatory memorandum on the Draft Arab Guidance Act for the Protection of Intellectual Property Rights and the Final Provisions, for dissemination to the members of the Committee for consideration at the meeting in 2014.
- The Draft Law and explanatory memorandum have been circulated to the LAS Member States seeking their views, proposals and remarks; such feedback to be forwarded to the LAS Centre for Judicial and Legal Studies before submitting it to the Committee for consideration during its meeting in 2014.
- The General Secretariat of the LAS has reviewed WIPO’s efforts in the area of building respect for IP, and the meetings held in the Arab region, namely the meeting held in the Sultanate of Oman in November 2012, and the meeting held in the Kingdom of Jordan which was attended by all GCC countries in June 2013, except the Arab Maghreb countries.
- The League of Arab States (LAS) suggests organizing a meeting in May 2014 at the headquarters of the LAS to reflect upon the conclusions of the previous meetings which

were held in this area for all Arab countries. This meeting could be organized in cooperation with WIPO, LAS, the World Customs Organization (WCO) and the International Criminal Police Organization (INTERPOL).

14. New creations and inventions have contributed to the erosion of borders and distances, with people no longer residing in the same place. This has certain advantages, which were summarized by WIPO Director General Francis Gurry, namely improved communication and transfer of knowledge and ideas between cultures, the movement between continents within a few hours, and the availability of huge amounts of information on the internet which, in turn, facilitates the launching of group projects, the definition of common goals, and the implementation of common plans to meet challenges. One of the key challenges of this century is the fight against piracy, the infringement on innovations and creations, as well as their counterfeiting, falsification and illegal use.

15. We are fully aware that social and economic losses caused by commercial fraud and counterfeiting, e.g., unemployment and loss of income tax returns, are concerns that haunt governments in all countries. Therefore, international cooperation remains essential to ensure the implementation of appropriate border measures.

16. Combating piracy and counterfeiting obliges all stakeholders to follow a multidirectional methodology or policy since the continuation of the cross-border movement of counterfeit and fake goods without any restrictions or real counter-actions is unacceptable. Consumer protection, as well as health and safety concerns, should prevail over any other considerations.

#### AWARENESS-RAISING

17. One of the most important policies is awareness raising, promoting the concept of intellectual property and disseminating it to the public through different media.

18. Therefore, an awareness-raising campaign is being organized by implementing a joint project by the LAS and WIPO, which aims at raising the awareness of consumers about the negative impacts of commercial fraud and counterfeiting with a view to disseminating a culture of respect for IPRs.

19. The project is an animated cartoon composed of four segments. Each segment lasts for 60 seconds (one minute) and displays with humor the importance of IP rights in the following four domains:

- (1) Trademarks;
- (2) Trademark counterfeiting relating to public health;
- (3) Copyright and neighboring rights; and
- (4) Online piracy.

20. The scenario was written upon consultation with the Union of Arab Artists and the Egyptian Actors Guild. Dr. Nabila Hassan Salem and other renowned writers were nominated to write the scenario, and a famous Egyptian actor, Hani Ramzi, was chosen to play the main part. Each segment of the project costs 3,000 USD, and the total cost of the project is 12,000 USD, including the salary of actor Hani Ramzi who participated in the project, as he believes in the importance of raising awareness and combating IPR infringement.

FINALLY, THE LAS MEMBER STATES EFFORTS CAN BE SUMMARIZED AS FOLLOWS:

- Adoption of a legal or legislative framework.
- Accession to international agreements and work with international relevant organizations and bodies.
- Establishment of a unified database of all parties concerned by the fight against piracy, counterfeiting, falsification and commercial fraud.
- Provision of the human and material resources to strengthen the supervisory role in combating counterfeits and commercial fraud.
- Enhanced training programmes for employees working to seize counterfeit goods.
- Cultural programs and media campaigns to raise awareness to the importance of combating counterfeiting and commercial fraud.
- Cooperation and coordination amongst the administrations concerned in the same country such as the General Directorate of Customs, the Department of Industrial Property, and the Department for Consumer Protection.
- Full coordination and cooperation with the private sector and civil society institutions.

[End of document]