



# **IP Litigation and Enforcement Guide: United Arab Emirates**



# IP Litigation & Enforcement in the UAE

This is a brief guide addressing common questions and concerns of the IP litigation and enforcement landscape in the United Arab Emirates.

**Is your jurisdiction a common law or civil law jurisdiction?**

The United Arab Emirates is a Civil law jurisdiction.

In certain free zones that have their own court system, common law would be followed. For example, the courts in the Dubai International Financial Centre (DIFC) in Dubai and the Abu Dhabi Global Market (ADGM) in Abu Dhabi have common law jurisdictions.

**What methods are there for enforcing IP rights in your jurisdiction?**

IP Right	Civil	Administrative	Criminal	Customs
Trade Mark	Yes	Yes	Yes	Yes
Unfair competition/passing off	Yes	No	No	No
Copyright	Yes	Yes	Yes	Yes
Registered designs/design patents	Yes	No	No	No
Patent	Yes	No	Yes	Yes, but Court is required

**What courts have jurisdiction to handle civil IP cases?**

The local civil court of the Emirate will have jurisdiction, such as in Dubai, Abu Dhabi, and Ras Al Khaimah. In the absence of a local court, the local seat of the Federal Civil Court will have jurisdiction. Some free zones will have their own courts, such as the DIFC courts and ADGM courts. These courts may also have jurisdiction over intellectual property infringements.

**Is there any bifurcation of proceedings? For example, for determining validity or damages?**

This is uncommon as the court looking into the infringement would usually have no jurisdiction to decide on validity. Validity must be decided by the Federal Courts in Abu Dhabi. The common practice will be to have a stay of proceedings until the validity is decided. In any case, bifurcation is not a known concept, and alternatively, a separate and new claim will need to be brought rather than splitting a current claim. The court may then look into all claims and decide on them together or separately as per its discretion.

### **What are procedures for civil enforcement?**

Civil trials are conducted on the basis of exchanging written memoranda and documentary evidence. In rare circumstances, the Court may call oral witnesses. The Court may also appoint an expert who will meet with the parties. The expert then prepares and submits a report to the Court. The Court is not bound by the expert's findings and both parties may also submit further memoranda addressing the findings of the experts. The parties may also seek leave from the Court to each appoint their own further experts. Further arguments may be raised at any time in first instance proceedings. In the event of further arguments, the other party would be given the chance to respond.

### **Is a power of attorney needed for civil action to be brought? If so what are the procedures and time lines?**

A power of attorney is mandatory to bring civil proceedings. If the power of attorney is issued outside of the UAE, it will need to be notarised and legalised in the UAE Embassy. The power of attorney will then need to be super legalised by the Ministry of Foreign Affairs in the UAE. If the power of attorney is not originally in Arabic, it will also need to be translated by a licensed legal translator in the UAE and further legalised by the Ministry of Justice in the UAE. The abovementioned procedure must be completed before the case is filed. The time for the above procedures will also vary depending on the country of execution, and it may take anytime between 1 - 6 months.

The official fees for legalisation, notarising and translation may also exceed US\$1000.

For both appeals to be accepted, the power of attorney will need to expressly delegate the power to appeal any court decision to the Courts of Appeal and Court of Cassation.

In case of appeal to the Court of Appeal, the power of attorney will be automatically transferred with the file to the court.

In case of appeal to the Court of Cassation, a copy of the power of attorney will need to be submitted by the appellant with the appeal or the appeal will be rejected in form.

### **What is the average time to trial in a civil case?**

First instance proceedings generally take 6 to 10 months to complete but can be longer, particularly if the expert delays the submission of their report or if the parties seek to appoint further experts.

Proceedings at the Court of Appeal will take 3-6 months and proceedings at the Court of Cassation will take from 2-8 months. It is very common to exhaust all levels of appeal in civil litigation.

### **What is the language of the proceedings? Is there a choice of language?**

Proceedings are held in Arabic in onshore litigation. However, English language proceedings are available in the DIFC Courts and the ADGM Courts.

If a party does not know Arabic, the court will require the other party to translate the submissions into English or other approved languages, such as Hindi in the ADGM Courts.

### **Is it possible to apply for summary judgment?**

Summary judgment is not available in onshore courts. However, it is available in the DIFC Courts and the ADGM Courts.

### **On what basis are interim injunctions granted?**

In some cases, applicants can apply to the Judge of Urgent Matters for a precautionary measure order. This is similar to an interim injunctive relief pending court proceedings for the main claim. If the application for the precautionary measure order was filed before the main claim, the plaintiff will have 8 days from the time the measure is accepted to file for the main claim.

### **On what basis are permanent injunctions granted?**

The Court may order the cessation of “the effects of an activity contravening the law”, which should effectively mean a permanent injunction. However, some commentators believe this would only apply to the infringement at issue in the case and not to future possible acts of infringement.

### **What appeal procedures are available from a first instance judgment?**

Appeals against a Court of First Instance decision can be made to the Court of Appeal. There is also a further right of appeal to the Court of Cassation, but such appeals are only limited to points of law.

### **What are the procedures for criminal enforcement?**

Procedures for criminal enforcement are similar to that of civil enforcement. In the event of a criminal prosecution for infringement, oral witnesses may also be called by the Prosecutor. Civil parties may join the criminal proceedings and submit civil claims. The judge looking into the criminal matter will have the jurisdiction to decide on the civil claims.

### **What are the procedures for criminal appeals?**

Appeals against a Court of First Instance decision can be made to the Court of Appeal. There is also a further right of appeal to the Court of Cassation, but such appeals are only limited to points of law.

## **What are the procedures for administrative enforcement?**

The UAE is a federation of 7 Emirates (states). Although the trade mark rights are granted on a federal level, the enforcement of these rights are made on a local level and therefore separately handled by the respective local authorities in the relevant Emirate.

Local government departments that usually take action on trade mark infringement are the local Economic Departments. The procedures may slightly differ from one emirate to the other. We have provided below a general background:

- The trade mark will need to be recorded with the Economic Departments. The brand owner has the right to record an unlimited number of trade mark registrations with the respective Economic Department.
- The Economic Departments will also accept complaints against specific traders identified by the brand owners or their legal representatives.
- The Economic Departments will raid the traders upon payment of official fees for the complaint in addition to the inspection fees, which are dependent on the number of traders.

- The Economic Departments impose administrative fines and conduct destruction of the seized products.

- Although product identification training is not a procedural requirement, the Economic Departments officials strongly request for such training.

## **What are the measures for Customs border protection?**

Currently, five emirates in the UAE (Abu Dhabi, Dubai, Sharjah, Ajman and Ras Al Khaimah) offer the recordal of trade marks with the UAE Customs. The GCC Customs law “prohibits the admission, transit or exit of prohibited or infringing goods...”. Goods that violate intellectual property rights are considered "prohibited goods". In theory, an action can be brought forth to stop imported and exported goods that infringe trade mark or copyright rights at the border. In practice, actions are mainly taken against imported goods.

## What IP treaties is your jurisdiction a member of?

- WTO – TRIPS Agreement
- WIPO – Performances and Phonograms Treaty
- WIPO – Copyright Treaty· Berne Convention
- Paris Convention
- Rome Convention
- Beijing Treaty on Audiovisual Performances
- Marrakesh VIP Treaty
- Patent Cooperation Treaty

## Further reading

### Guides:

- [Mind the Gap - The IP Protection law vs. enforcement reality in UAE](#)
- [Patents, trade marks, copyright and designs in United Arab Emirates: overview](#)
- [Privacy in the United Arab Emirates: overview](#)

### Articles:

- [Counterfeit Goods in the Middle East](#)
- [UAE Ministry of Culture and Youth confirms requirements for social media ads](#)
- [DIFC Intellectual Property Law](#)
- [Official fees reduced in China and United Arab Emirates](#)

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