

Hosting IRENA highlights IP challenges in the UAE



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On 30 June 2009 the United Arab Emirates (UAE) was chosen to host the headquarters of the International Renewable Energy Agency (IRENA). A major international governmental organisation founded in January 2009, IRENA has a goal to promote and facilitate the rapid transition towards widespread and sustainable use of renewable energy worldwide.

The headquarters will be based in Abu Dhabi's Masdar City which is currently under construction. Once completed, Masdar City will be fully powered by renewable energy and will be the world's first carbon-neutral, zero-waste city.

The appointment of the UAE to host IRENA is consistent with the trend in recent years to develop a knowledge-based industry in the UAE, and in other parts of the Gulf region. Other examples reflecting this trend include Dubai Biotechnology and Research Park (Dubiotech) and Qatar Science & Technology Park (QSTP) in Doha, Qatar.

A sound intellectual property (IP) legal framework is critical to attracting technology-focused companies and organisations such as IRENA. The UAE has IP laws to support a growing knowledge-based industry (with some laws under review), but there are challenges to be faced.

IP framework: As a member of the World Trade Organization (WTO), the UAE is obliged to comply with the terms of the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (known as TRIPs). TRIPs sets a benchmark level of intellectual property protection for WTO member countries.

Patents: The UAE has had patent laws in place since 1992 with the first patent being granted in 2006. Patents may be filed directly in the UAE or through the Patent Co-operation Treaty (PCT). The PCT provides for the filing of a single application that may result in patent protection in several member countries.

The UAE is a member of the Gulf Co-operation Council (GCC)

together with Bahrain, Kuwait, Oman, Qatar and Saudi Arabia. Of these countries only Bahrain, Oman and the UAE are members of the PCT.

If a company seeks patent protection in the UAE and other GCC states, it may consider obtaining a GCC patent, which cannot be obtained through the PCT. Although a GCC patent is intended to provide patent protection in all GCC countries, it is not certain that this patent is enforceable or even valid in some GCC countries. Only four of the member countries have enacted enabling legislation applying GCC granted patents to their local laws; no enabling legislation has been enacted in the UAE or Kuwait.

Trademarks and copyright: The UAE and all other GCC countries (except Kuwait) are signatories to the Paris Convention which requires member countries to meet certain standards with respect to trade mark registration and enforcement.

The UAE has a developed trademark registration system and follows the Nice international trademark classification system. UAE copyright law protects, among other things, computer programmes and applications, databases, engineering plans and other defined works. Both economic and moral rights are protected.

Trademark and copyright registrations should be obtained in the UAE (and in GCC countries). In theory, UAE laws provide for enforcement of unregistered trademarks and copyright. However, in practice, administrative bodies and the Courts are significantly more inclined to act to enforce trademarks and copyright if there is a registration certificate.

Conclusion: The UAE's IP legal framework exists to support the country's ambition of developing a technology-based industry, however IP rights holders may face challenges in protecting and enforcing their rights.

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