

The Offices, 02 Building

One Central

Dubai World Trade Centre

PO Box 9204

Dubai - United Arab Emirates

**June 28st, 2022**

**To all the Members of the AIPPI - UAE National Group**

**Subject: 5th Circular/ 2022**

Dear all,

We trust you are well.

We write to share with you an update on the following topics:

1. **News:** Recent breakfast seminar event of AIPPI UAE Group with DIFC authority.
2. **Judicial precedent**: Dubai Court sets out a benchmark percentage in calculating damages for some types of copyrights infringement cases.
3. **Regulations Update:** Cabinet Decision No. 57 of 2022 in relation to the implementing regulations for the UAE Federal Decree-Law No 36 of 2021 (known as the UAE Trademark Law)
* **News: AIPPI – Breakfast Seminar in cooperation with DIFC and support of EIPA, MOE and BPG**

On June 21st, 2022, AIPPI-UAE organized a successful in-person breakfast seminar on an important and topical subject: **IP Strategy for Start-ups.** This is the second breakfast seminar organized with DIFC.

Targeting startups and small companies, the breakfast seminar was organized at DIFC innovation hub and supported by EIPA - Emirates Intellectual Property Association, BPG - Gulf Brand Owners Protection Group- and the UAE Ministry of Economy. The breakfast event was sponsored by Al Tamimi & Company.

The seminar started with opening remarks provided by the president of AIPPI UAE Group, Mrs. Hoda Barakat, along with DIFC IP Commissioner, Dr Tarek Hajjiri, who both welcomed the audience, introduced the panelists and the topics of both panels.

The first session moderated by Mrs. Barakat was on **Public Policy and IP for Start-ups** in which Dr. Tarek Hajjiri and Ms. Samantha Grainger, Member of AIPPI-UAE and Partner at Rouse & Co, took the audience through some strategic issues in relation to IP protection. The speakers also illustrated the practical policies in brief and supported the establishment of broader education and knowledge initiatives of IP rights at all levels. Increased awareness of the importance of IP rights was encouraged by the speakers during this session.

The second panel discussion was on **the needs of Start-ups including strategy, audit and due diligence.** Moderated by the well-regarded EIPA Secretary General Colonel Dr Abdelrahman Almuaini, the panel discussion was also attended by additional four experts and panelists: Ms. Norma Akoury, Member of Gulf BPG and Legal Manager of Total Energie, Mr. Mohamed Al Baloushi, DIFC Fintech Hive, Ms. Rasha Al Ardah, Member of AIPPI-UAE and Partner at Al Tamimi & Co, and Mr. Hady Khawand, Secretary of AIPPI-UAE and Partner at Saba IP. The speakers gave some practical insights on how to manage trademark portfolios, run audits and due diligence tasks and highlight the importance of intangible assets in companies’ financial position and future growth.

The event was concluded with closing remarks and takeaways from both sessions. It was jointly provided by the President of AIPPI UAE Group Mrs. Barakat and DIFC IP Commissioner Dr. Hajjiri.

The seminar was another success for AIPPI UAE Group in promoting communication among UAE members, providing social activities and gathering opportunities to the group, increasing awareness and knowledge on IP within the community and entities located in the renowned financial hub (DIFC).

We look forward to welcoming all members in the next breakfast seminar to be organized in September 2022.

Below are some photos from the breakfast event:

 

  

 

 

* **Judicial Precedent: Dubai Court sets out a benchmark percentage in calculating damages for copyrights infringement cases.**

**Verified by: Nour Saleem**

We have observed that many cases are being decided by Dubai Courts in relation to copyright infringement of public performances of copyrighted works, such as musical and audio content. The cases show that Dubai Courts are keen to consider (10% of total revenue) as a benchmark to calculate compensation that should be awarded to copyright owners.

On September 28th, 2020, we published a circular to show that copyright owners, or their representatives who may act as collection societies, were successful in claiming damages against infringing parties that organize public events and allow for the performance of copyrighted music and audio without permission or acquiring licenses from copyright owners. The Court ruled a compensation for infringement based on an estimated benchmark of 10%.

A new case was decided by the first instance court and revised by the appeal court of Dubai to confirm this 10% as an acceptable percentage in calculating damages. In case number 689 of 2021 (Appeal Civil), Dubai Court of Appeal upheld a compensation of 67,783AED based on the fact that the defendant generated 677,830 AED as a revenue from its social event (i.e. a musical concert) in which 6 songs were played and performed publicly without proper authorization from the copyright owners.

As Dubai Courts allows public electronic access to cases, members can easily search for the above precedent and obtain full information about the facts, case background of disputes and reasoning of holding.

The importance of this case lies in that it has emphasized the right of collection of royalties and compensations while recognizing the “10% of total revenue by defendant(s)” as a fair and adequate benchmark to calculate monetary damages. This precedent brings the Dubai courts a step closer to establishing a precedent for litigated parties in this domain. Whilst this percentage remains a discretionary issue for the Courts to rule on, we believe that the Courts are keen to follow this practice in copyright infringement cases in relation to unauthorized exploitation of audio content. This can also give guidance to the local media sectors, namely TV and Radio channels, to start ensuring that they regulate their commercial use of audio, music and all other copyrighted contents.

* **Regulations update: Cabinet Decision No. 57 of 2022 in relation to the implementing regulations for the UAE Federal Decree-Law No 36 of 2021 (known as the UAE Trademark Law)**

**Verified by: Ziad Suna**

The long-awaited trademark implementing regulations were released on June 7th, 2022. The Communication Committee shared a copy of the Cabinet Decision No. 57 of 2022, “The Decision”, to its members via email as soon as the decision was made available to AIPPI UAE Group. A copy of the Decision is also made available online at [AIPPI UAE GROUP](http://www.aippiuae.org/) website.

A total of 27 articles were enacted in The Decision which was implemented with immediate effect starting from the day that followed the date of The Decision’s publication. The Decision superseded any earlier or conflicting legal provisions.

The Decision included a number of new procedures and rules, notably:

1. For international trademark applications, The Decision referred to the Madrid Protocol’s implementing regulations.
2. A duly attested Power of Attorney to the attorney and/or agent of the applicant is still required to be submitted along with a trademark application.
3. MP3 files should be submitted for voice marks, and chemical formula illustrations are required to be submitted for smell marks.
4. The renewal grace period for trademarks has been extended to 6 months after expiration. The grace period used to be 3 months.
5. The period allowed for appealing the Trademark Office’s decision on an opposition to the Trademark Committee is now 30 days.
6. Any changes to previously filed trademarks after they have been published in the Trademark Journal are strictly prohibited by an explicit provision introduced for the first time.
7. Several technical clauses related to registration, publication, security recordal, license, assignment, customs measures, geographical indications, temporary protection, and cancellation.

Due to its importance and impact on the profession, we urge our AIPPI UAE members to reach out to the Communication Committee and participate in future circulars commenting on and analyzing the new UAE TM Law and its Regulations or any other relevant topic of interest.

Kind regards,

On behalf of the Communication Committee

Authored by: Munir Suboh
Verified by: Ziad Suna, Nour Saleem