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Law No. 11 for the year 2006 on Trademarks

We, Hamad bin Isa Al Khalifa, the King of the Kingdom of Bahrain

Having reviewed the constitution;

The Law of Civil and Commercial Proceedings enacted by the legislative decree

No. 12 for the year 1971 and its amendments;

The Trade Law enacted by the legislative decree No. 7 for the year 1987 and its amendments;

Draft-law No. 10 for the year 1991 on Trademarks;

The legislative decree No 7 for the year 1994, to ratify the document on the creation of the World Trade Organization;

The legislative decree No 14 for the year 1996 to ratify the Law of Civil and Commercial Articles amended by Law No 13 for the year 2005;

The legislative decree No 31 for the year 1996 approving accession of the Kingdom to the Paris Convention for the Protection of Industrial Property

The civil law enacted by the legislative law No 19 for the year 2001;

The Criminal Procedures Law enacted by the legislative decree No 46 for the year 2002;

Law No. 13 for the year 2004, on approving the Kingdom of Bahrain accession to the Nice Agreement on the International Classification of

Products and Services For Purposes of Marks Registration;

Law No. 18 for the year 2005 approving accession of the Kingdom to the Madrid Protocol on the International Registration of Marks;

Decree No. 1 for the year 1995 on the Kingdom's accession to the Convention of the Creation of the World Intellectual Property Organization (WIPO);

The Shura Council and the House of Representatives have approved the following law which we have endorsed and enacted:

CHAPTER ONE

General Provisions

Article 1

In the application of the provisions of this law, the following terms and phrases shall have the meanings indicated opposite to each of them, unless otherwise indicated:

Kingdom: The Kingdom Of Bahrain.

Administrative Authority: The administrative authority concerned with industrial property.

Minister: The minister who performs supervision over the competent authority.

Register: The Trademarks Register prescribed in Article (7) of this law.

Nice Classifications: The classification made in accordance to The International Classification of Products and Services For The Purpose Of Registration of Marks.

Madrid Protocol: The Protocol relating to the Madrid Agreement on the international registration of marks.

Madrid Union: The union of signatory countries and governmental organizations of the Madrid Protocol.

Paris Union: The Paris Union for the protection of the industrial property which membership includes signatories of the Paris Convention of Industrial Property

International Office: The international Office of the World Intellectual Property Organization (WIPO).

International Registration: The international trademark registration at the International Office for Registrations, as per the Madrid Protocol provisions.

International Application: The International Trademarks registration application.

Article 2

A trademark is any visually perceptible sign, name, word, signature, letter, number, address, seal, drawing, pronunciation, odor, picture, inscription, symbol, packaging, photographic element, figure, one color or more, or a combination thereof, or sign or a group of signs that are used or intended for use to distinguish products or services resulting from the products or services of other facilities, or to indicate, or to render a service or to distinguish any products or services in terms of origin, structure elements, manufacturing method, quality, identity, or any other characteristic.

Article 3

None of the following may be granted a trademark or a registration application or as one of its elements:

A. A mark that is free of any distinctive characteristic, or the mark structured of signs and data that constitute only a name to specify the products or services, or comprising of traditionally known drawings and photographs to products.

B. Marks which are contrary to public order or morality.

C. The flags, insignia or general decorations of the government of the Kingdom of Bahrain or those of foreign, or Arab or International organizations or any of its affiliate institutions, and every other imitation to such insignias or flags or decorations.

D. Marks which resemble the national flags or signs or insignias and other special marks related to the member-states of the Paris Union, and every imitation of such marks or insignias or flags or decorations with deference to provisions of Article (6) Clause (3) of the Paris Convention for the Protection of Industrial Property.

E. Emblems of the Red Crescent or Red Cross, in addition to other similar emblems as well as marks that may be an imitation to any of them.

F. Marks identical with or similar to emblems of exclusive religious signification.

G. Marks that lead to deceiving the public or cause misguidance, especially in terms of origin or source of the product or service.

H. Marks that bare false data on the origin or source of the product or service or about its other characteristics, and the marks encompassing a false, unauthentic, or imitating commercial name.

I. A mark that bears the name, nickname, title, photographs, or insignia of a third party without their previous consent or that of their heirs.

J. Data related to honorary titles or scientific awards which the registration applicant fails to prove legal earning thereof.

K. Marks identical or similar to a mark previously registered by others, for purposes of use in distinguishing all or some of the products or services for which the mark was registered, and the marks identical to a mark previously registered causing confusion to the public, and the marks which registration causes – for some products or services – reduction in value of the products or services distinguished by the mark registered by a third party.

L. The mark which is identical or similar to, or constitutes a translation or imitation of a well-known trademark owned by a different owner for use in distinguishing similar products or services of the used by the well-known trademark to distinguish products.

M. The mark which is identical or similar to, or constitutes a translation or imitation of an essential part of a well-known trademark owned by a different owner for use in distinguishing similar products or services to the products of the well-known mark.

N. The mark which constitutes a copy, imitation or a translation of a well-known trademark owned by a different owner, or of an essential part of it, for use in distinguishing non-similar products or services, or non-identical to the well-known trademark if such a use indicates a connection between the products or services and the well-known mark, and it is probable that damage shall be infringed on the interests of the well-known mark owner.

Article 4

Without detriment to provisions of Article (34) of this Law, any natural or legal person shall be entitled to file a registration application to register a trademark at the competent authorities, and to acquire the subsequent rights ensuing therefrom subject to provisions of this law. Eligible applicants may be nationals of the Kingdom, nationals of countries that are members in the Paris Convention for the Protection of

Industrial Property or nationals of any other country which enjoys national treatment by virtue of any bilateral or international agreement observed in the Kingdom, or any person who maintains in the territory of that country an active and real industrial or commercial firm.

Article 5

In the case an application for a mark was filed at any member-state of the Paris Convention for the Protection of Industrial Property or any other country whose nationals enjoy national treatment by virtue of a bilateral or international convention observed in the Kingdom the applicant or the one who has acquired the rights thereof may within a period of six months following the date of that application, submit a similar application at the administrative authority vested with the same mark, with respect to the same products and services applied for in the earlier application, subject to the conditions, requirements and procedures stipulated by this law and its implementing regulation. In this case, the applicant or the one who acquired the rights shall enjoy the right of priority in accordance with the provisions of the Paris Convention for the Protection of Industrial Property, provided adherence to provisions of Article (4), Clause (d) of the said Convention.

Article 6

1- Any person who registered the trademark with good intentions shall be its owner. Ownership of the mark may not be disputed once the mark registration is associated with its use for at least five years without any judicial feuds pertaining the mark.

2- A person first using a trademark before the owner may request from the competent court to cancel this registration within five years as of the date of registration, unless the first is expressly or implicitly proved satisfied with the use of the mark by the registered owner.

CHAPTER TWO Registration of a Trademark

ARTICLE 7

1- The administrative authority shall establish a register to be named the "Trademark Register", wherein all the approved registered trademarks shall be entered including all the relevant details and actions thereof according to provisions of this law and the Executive By-laws.

2- The existing Trademarks Register at the time of enacting provisions of this law shall be merged with the latter register stated in the above paragraph and thereof considered an integral part of it.

ARTICLE 8

An application for a trademark shall be filed by the owner or his successor in title at the competent authority on a special form designed for this purpose in accordance with the provisions prescribed by this law and the requirements, conditions and procedures defined by the Executive By-laws.

ARTICLE 9

1. The Nice classification shall prevail in respect with trademarks registration and publication thereof.

2. A trademark may be registered for one or more of the classes of products or services prescribed in the Nice classification.

3. Products or Services are not thereto envisaged similar to each other merely because they are under the same class of the Nice classification, nor the products or services are considered different to each other merely because they are under different classes of the same classification.

ARTICLE 10

It is permissible to file one application to register a group of trademarks which are identical in basic elements, and where differences are limited to color or data of products or services distinguishing these marks provided, provided that such products or services are under one class in the Nice Classification.

ARTICLE 11

If two or more persons concurrently apply to register the same mark for products or services in the same class of the Nice Classification, registration of all applications shall be suspended until one party submits an attested assignment by all adversaries and thus ratified from an official administrative authority, or until a final verdict is rendered in favor of any of them.

ARTICLE 12

1. The administrative authority shall examine the registration application of a trademark and its attachments to satisfy all required conditions. The said authority may request from the applicant to amend the application upon such terms as it may deem suitable to impose, within (30) days of the date or receiving the application, provided a suitable time is prescribed which is communicated to the applicant. If the applicant fails to honor what the administrative authority asked in a timely fashion, the application is therein considered void.

2. The administrative authority must rule in the trademark registration application within (30) days as of the date of filing it, provided all conditions are satisfied or as of the date of conducting amendments and completion of requirements.

ARTICLE 13

1. Should the administrative authority accept an application to register a trademark, an entry thereof shall be recorded in the register and the said decision shall be disclosed in the matter prescribed by the Executive By-laws. Any concerned person may object in writing at the administrative authority competent with trademark to the decision of the registration within sixty days of the disclosure thereof in which case the objection shall be a grounded subject.

2. The Executive By-laws determine rules and procedures for deciding on the objection prescribed.

3. If the application for the registration of a trademark was accepted and has not been opposed, and the prescribed time for opposition expires, or having been opposed and the opposition has been decided in favor of the applicant the administrative authority must rule acceptance of trademark application registration immediately upon elapse of the legal period for objection or rule in the objections submitted to the said authority, as the case may be. The decision must be published in the official gazette.

4. The administrative authority may impose whatever restrictions, it deems necessary, on use of the trademark, which registration was accepted.

5. A rejection by the administrative authority to register a mark for whatever reason it deems appropriate, or if it imposed restrictions on the use of the trademark which registration was accepted, it must in both cases notify in writing the applicant or his deputy, disclosing the reasons behind the decision prescribed.

ARTICLE 14

If the trademark was registered then a registration term shall extend to the date of filing the application. The concerned administrative authority shall issue upon completion of the registration an official instrument as per the form prepared for this purpose, verifying registration of the mark.

ARTICLE 15

Owner of the registered trademark has a right to exploit the mark, and to prevent third parties, not licensed by him, from using the registered mark, and from using any similar or identical mark, including any geographical indication within a commercial context to distinguish products or services related to the products or services for which the trademark was registered, if such a use leads to confusion of the public.

ARTICLE 16

1. The owner of a registered trademark may request, any time, from the administrative authority to enter any amendments or additions to his trademark without detriment on its essential identity. Any concerned person may request, at any time, from the administrative authority enter additions or to omit information into the register that are not correspondent to the truth or unlawfully entered into the Register. Such entries are subject to the rules, procedures and methodology prescribed by the Executive By-laws.

2. Rules and procedures prescribed in Articles 12 and 13 of this herein law are applicable to deciding on the applications hereinabove paragraph.

3. The administrative concerned authority may unilaterally, at any time, issue a causative decision to add or omit any information to the Register that is not authentically true or unlawfully entered into the Register, as per the rules, procedures and methodology prescribed in the Executive By-laws.

CHAPTER THREE **Protection Period, Cancellation and Striking-off the Registration**

ARTICLE 17

1- The protection period of a registered trademark is ten years commencing as of the date of filing a registration application in the Kingdom. It may be renewed for another period or other similar periods if the owner submitted an application for that purpose to the administrative authority in the last year of the enacted protection period, in accordance with provisions stipulated in the herein law, and as per the conditions, terms and procedures prescribed by the Executive By-laws.

2- The concerned administrative authority shall notify owner of the trademark or his agent of the final date for protecting a mark, at least six months before expiry, as per the form prepared for this purpose.

3- The concerned administrative authority shall automatically strike-off the registration of a trademark if a consecutive period of six months elapsed consequent to the mark protection period, without the owner requesting its renewal. The mark owner may request re-registration of the mark at any time unless it is registered under the name of another person, without detriment to provisions of Article 22 of the herein law.

ARTICLE 18

The administrative authority, by means of an official request, may apply for the cancellation of the trademark registration which was not seriously used for a period of five consecutive years by its owner or by others at the consent of the owner, unless the owner provides adequate justifications for non-use.

The Executive By-laws determine controls and procedures of submitting the cancellation request and undertaking a decision thereof.

ARTICLE 19

The owner of the trademark may apply to cancel registration of some or all of the products or services for which the trademark was registered. The Executive By-laws determine controls and procedures of submitting the cancellation request and undertaking a decision thereof. Use of the registered trademark by third parties under the authorization of its owner, then the use of this mark shall not be allowed from the Register without consent of the beneficiary, unless the beneficiary assign this right explicitly in the license contract.

ARTICLE 20

Without detriment to provisions of Article 6 of this law, the competent court shall, on a request from any interested person, may:

A) Order the cancellation of a trademark registration that was unlawfully registered, including registration contrary to provisions of Article 3 of this law for some or all the products and services for which the trademark has been registered.

B) Order the cancellation of a certification mark if the owner violated commitments stipulated in ARTICLE 30 Clause 4 thereof.

ARTICLE 21

The verdict issued to renew, cancel, or strike off from the register must be published as per the methodology stipulated in the By-laws.

ARTICLE 22

If a trademark was struck off from the Register, it shall not be permitted to have it re-registered for third parties for the same products or services until the elapse of three years as of the date of striking off the trademark.

CHAPTER FOUR **Transfer of Ownership and Mortgage of Trademarks**

ARTICLE 23

1. The trademark ownership may be transferred fully or partly, in exchange for compensation or otherwise including the inheritance. Seizure, mortgage or attachment of the trademark ownership may be made with

or without the commercial stores or the enterprise using the mark for distinguishing the products or services thereof. For purposes of validating the assignment, it must be written.

2. Without prejudice to the provisions related to the sale and mortgage of commercial stores, the seizure or mortgage of a trademark shall not be deemed a proof against others unless entered in the Trademark Register and published in the manner set by the Executive By-Laws.

3. In case the ownership of the commercial store or the enterprise has been transferred without the trademark, the assignor may continue using the trademark regarding the products or services for which the trademark has been registered, unless agreed for the otherwise.

4. A creditor may impose seizure on the trademark as per the rules imposed on In Rem in hand or debtor seizure by others. The concerned party is exempted from provisions related attesting the ceased to the creditor, who declare the seizure and auction minutes to the concerned party to enter in the Register. Neither has credible proof against the other until after entry in the Trademark Register in the manner set by the Executive By-laws.

CHAPTER FIVE

Licensing the Use of a Trademark

ARTICLE 24

The trademark owner may give a license to one or more persons – judicial or natural - to use the trademark for all or some of the products or services for which the trademark was registered, and the trademark owner may use it by himself unless agreed for otherwise. The trademark license period should not exceed the trademark prescribed protection period.

ARTICLE 25

The license agreement shall not include any texts that may restrict the licensee with limitations not ensuing from the rights entitled by the trademark registration, or not necessary to maintain such rights. However, the license agreement may include the following restrictions:

1. Specifying the range of a geographical area for marketing products or services bearing the trademark.
2. Conditions which warrant the quality control of products under the license, by the trademark owner.
3. The obligation of the license to prevent all actions that may lead to lowering the value of or cause harm to the products services bearing the trademark.

ARTICLE 26

License agreement for the use of a trademark should be written, however, to accredit the license it is not necessary to enter it in the Trademark Register.

CHAPTER SIX

Well-known Mark

ARTICLE 27

A well-known mark is defined for purposes of implementing provisions of the herein law as: The mark owned by any person referred to in Article 4 of this law, with a world known trademark whose repute surpassed the country of origin where it was registered and acquired fame in the relevant sector among the consumer public distinguishing such products or services from those of others.

For purposes of determining the well-known mark, in particular, regard is given to the duration of registration or actual use, or the number of countries in which it is registered or has acquired fame, or value of the mark and its impacts in promoting the products or services used to distinguish the mark.

ARTICLE 28

1. Any concerned party may request from the competent court to prevent others from using a mark which is identical or similar to, or constitutes a translation of, parts of a well-known trademark as per the provisions stipulated in Clauses J, K, L of Article 3 of this law.

2. The owner of the well-known mark shall enjoy the due protection for this mark as per provisions of this law, and it is not conditioned to enter this mark in the Trademark Register in the Kingdom.

3. Without prejudice to provisions of Article 6 of this law, any concerned party may request from the concerned court to strike off registration of any mark that constitutes copying or imitation or translation of a well-known trademark, or any essential parts of the trademark within seven years as of the date of registration. If the registration was ill intended, a request may be made to strike off the registration or to prevent use of the mark at any time.

CHAPTER SEVEN

Collective Marks, Certification Marks, & Marks Allocated for Noncommercial Purposes

ARTICLE 29

1. A collective mark used to distinguish the products or services of person who belong to a specific entity of a legal character, even if the entity does not own an industrial or commercial facility. The collective mark registration application is thereto submitted by a representative of the said entity for use by the associates as per regulations determined thereof.

2. Applicant of the collective mark must indicate in the registration application that the mark is collective, and to attach a copy of the implementing regulations of the applicant mark. In all cases, owner of the registered collective mark must report to the concerned party any changes or amendments in the said regulations of use, which shall not take effect before consent of the concerned party.

3. In cases of striking off the collective mark, it may not be re-registered in the interest of others for similar products or services of those for which the trademark is registered.

4. The concerned person, at the request of any other party, may issue a decision to strike off the registration of a collective mark when it is proved the owner of this mark is unilaterally using it without the other associates, or that the owner uses or allows its use contrary to implementation regulations, or uses it in a manner that causes confusion to the public in terms of the products origin, or any other joint description of products or services for which the trademark was registered. The Executive By-laws determine procedures and times to strike off the registration of this mark and to appeal the decision issued thereof.

ARTICLE 30

1. The certification mark used to distinguish the origin or components or method of manufacture or quality products or services, identity or any other character may be registered.

2. Applicant of the certification mark must be a legal person, and to indicate the application is for a certification mark, and to attach to the application a copy of the implementation regulations of the mark. Owner of the said mark must inform the concerned parties of any amendments to the said regulations which shall not enter into effect before consent of the concerned parties.

3. The registration of the certification mark or its assignment shall be effected only by an approval from the Minister.

4. Owner of the certification mark must adhere to:

A) To undertake the necessary controls of the mark implementation.

B) To refrain from personally produce, market any of the products or services for which the mark is used.

C) To allow, without prejudice, the use of the mark for every party meeting the specified requirements.

D) To refrain from allowing the implementation of the mark to breach implementation regulations or for other purposes contrary to certification.

ARTICLE 31

A mark may be registered for non-commercial purposes like the insignia of an association for public interest or a professional corporate to distinguish its correspondence or being distinctive to its members.

ARTICLE 32

Figures, used in commercial contexts may constitute geographical signification or a classification mark or a collective mark. The Executive By-laws determine conditions and special rules related to the registration of marks as per stipulated in this Chapter, and the instruments to be attached to the registration application, as well as all other regulatory matters of relation. The registration of any such marks is subject to provisions stated in the herein law.

CHAPTER EIGHT

International Registration of Trademarks

ARTICLE 33

National application means, for purposes of implementing provisions of this Chapter, a trademark registration application submitted in the Kingdom as per provisions of Article 8 of this law, as a base for the international registration application of the same mark. National Registration means entering the trademark in the Register stated in Article 7 of the hereinabove law, and granting it national protection as a base for an international registration application of the same mark.

ARTICLE 34

Any party which applied or effectively registered a trademark in the National Register, may apply to the concerned party to file an international registration of the same mark, provided he is a national of the Kingdom or a residing foreigner, or in ownership of an industrial or commercial true and working facility in the Kingdom.

ARTICLE 35

The international application must consist of the applicant identity details, products or services class for which protection is required, to which application must include a copy of the trademark in addition to other requirements stated in the Madrid Protocol.

ARTICLE 36

1. The international application concerned person checks compatibility of the information and data entailed in the national application or registration, as may be the case, and must verify authenticity of all such information and data.
2. The concerned party requests from the international registration applicant, within 30 days of submitting the application, to amend the necessary application terms and fulfill all necessary obligations for purposes of a decision, and to communicate to the applicant an appropriate deadline. If the applicant fails to honor all requirements made by the concerned party in a timely manner, the international application shall be void thereof.
3. In the case when the international application honors all requirements, the concerned party must inform the international office and thereto submit the application within 60 days of the date of fulfilling all requirements, otherwise it must reject the application without submitting.
4. The applicant must be informed, in all cases, of the decision issued regarding results of the international application within 30 days of date of issuance.

ARTICLE 37

If the international office requested from the concerned party to extend protection to the Kingdom territory, with regard to international registration of a trademark, and the mark was not pending registration nor

entered in the national register, the authority must examine the application to verify fulfillment of all obligations and conditions as per provisions of this law.

ARTICLE 38

1. If the concerned authority accepts extending the protection to the Kingdom territory with regard to the international registration of a trademark, this authority must duly announce this acceptance as per the prescribed time and in the manner specified by the Executive By-laws.

2. Any person may appeal in writing accepting the extension of protection to the Kingdom territory within 60 days as of the date of publishing the acceptance, provided a reasonable justification. The Executive By-laws determine rules and procedures of the appeal.

3. Upon elapse of the prescribed time for appeal without opposing the extension of protection to the Kingdom territory, or if the opposition was revoked, the concerned party must enter the outcome in the Register and publish it in the manner prescribed by the Executive By-laws and as per the prescribed time. It must concurrently inform the international office of accepting extension of the protection, subject of the international application, to the Kingdom territory.

4. If the concerned party finds the international application inconsistent with the legally bound terms, it would issue a decision rejecting the extension ensuing from the international registration to the Kingdom territory provided informing the applicant and international office within 60 days as of the date of receiving the international application.

ARTICLE 39

1. An international registration replaces the national registration of the trademark, owner, products or services used by the mark to distinguish such products or services. The same rights stipulated for national registration apply to the international registration as prescribed in the provisions of this law. The above must be entered in the Register and publish it in the manner prescribed by the Executive By-laws.

2. The due protection for the trademark becomes effective according to international registration in the Kingdom territory as of the date of international registration, and thus expires as such.

3. Every international registration enjoys the priority right stated in Article 4 of the Paris Convention for the Protection of Industrial Property. No further steps are required as stated in Clause D of the said Article of the aforementioned Convention.

ARTICLE 40

If the period of five years elapsed since the international registration was made, it is thereto considered independent from the national application or registration, as may be the case, considering provisions of Clauses 3 and 4 of Article 6 of the Madrid Protocol.

ARTICLE 41

If the International Office decided to strike off an international registration for some or all products or services for which the trademark was registered, the concerned party must strike off the registration, fully

or partly as per the case, and to enter that into the Register, and to announce it as per the manner prescribed by the Executive By-laws.

ARTICLE 42

The provisions stated in the Madrid Protocol therein apply to the international registration of marks, unless otherwise prescribed in this Chapter.

CHAPTER NINE

Enforcing Rights Pertaining the Registration of a Trademark

ARTICLE 43

1. The owner, having sufficient justifications to believe in the ability to import fake products or services that confusingly bare a mark similar to his registered trademark, may submit a written letter to the concerned authorities to release from customs or to suspend release from customs of such products and to prevent circulation. The application must be supported with sufficient evidence to convince the concerned authority of a violation, on the right of the mark applicant. The application must consist of sufficient reasonable information, by the applicant, to enable the concerned authority to reasonably identify the concerned products.

2. The customs release concerned authority must inform the applicant in writing of its decision within 7 days of submitting the application. The decision, upon accepting the application, is valid for one year as of date of presenting it or for the remainder of the protection period of the trademark, whichever is least, unless the applicant requests a shorter period.

3. The customs release concerned authority may request from the applicant to provide a monetary guarantee or any other equivalent guarantee to protect the defendant and concerned authorities, and to prevent infringement on the right to suspend customs release.

4. Without detriment to provisions of the above clauses, the customs release concerned authority, have to file a lawsuit or request from the owner or others, to issue a decision to suspend customs release of the imported products or in transit or bound for export, after receipt at the customs zone of its jurisdiction, provided sufficient evidence stands that such products are fake or unlawfully baring a mark similar to a registered trademark leading to confusion of the public.

5. If the customs release concerned authority, in implementation of this herein article provisions, decided to suspend the release of products received at the customs zones under jurisdiction, the hereunder is mandatory:

A. To inform the importer and the right owner of the decision issued regarding suspension of customs release upon issuance.

B. To inform the right owner, at his written request, with names and addresses of the products importer and dispatcher and the quantities thereof.

C. To allow the concerned parties to sample the products as per standard customs procedures. The right owner may file a lawsuit at the competent courts and to communicate this filing to the concerned customs

release authority within not more than 10 working days from the date of informing him with the decision to suspend customs release of the products, otherwise the decision is considered void, unless the authority or competent court decides to extend this period at its own discretion for an additional period of not more than 10 days. If a lawsuit was filed on the origin of the dispute, the court may support, amend or revoke it.

6. If the court establishes the products, not released from customs, are confusingly fake or unlawfully bearing the right of a similar registered trademark, it must rule the destruction of products at the expense of the importer, or to dispose of the products outside commercial channels if destroying the products shall impose unreasonable damage to public health or the environment.

7. In all cases, customs release of the products to commercial channels or permitting re-export to merely remove the unlawful trademark is therein prohibited.

8. The Minister of Finance, after coordinating with the Minister, shall issue a decision prescribing the conditions, controls and procedures related to enforcing a suspend of release from customs, and to rule in this matter, in addition to attachments of the application. Notwithstanding such matters, the requested materials should not result in the rendition of resorting to the said measure. The Minister of Finance, at the approval of the Council of Ministers shall issue a decision on the following:

A) Rules of assessing the monetary guarantee or the equivalent guarantees required to deposit as per provisions of this article.

B) The fees on storing products not to be released from customs. Value of the monetary guarantee or its equivalent or the said fees should not be unreasonable causing rendition to request the said measure.

9. For purposes of this article a “fake good” including “packaging” means products that bare a mark similar to a registered trademark unlawfully and without a license, or a mark that cannot be distinguished from the basic elements of the registered trademark.

ARTICLE 44

Provisions of the aforesaid article are not applicable to:

A) Small quantities, non-commercial nature products, products included in personal luggage of travelers, or dispatched in small parcels.

B) Products already circulated in the market in the country of export by the trademark right owner or at his consent.

ARTICLE 45

1. Upon violation or to prevent an imminent violation on any of the due rights prescribed in this law, the owner may request a petition from the head of the competent court regarding the origin of dispute, to undertake one or more cautionary measures, including:

A) Submit a detailed description on the claimed violation and about the products, subject matter of the violation, and the items, machinery and equipment used or to be used in any of the said, and to maintain the related evidences.

B) Seize all items, referred to hereinabove, and revenues from the claimed violation.

C) Prevent the claimed violating products from entering into circulation of commercial channels; prevent exporting those including imported products as soon as they are released from customs.

D) Stop the violation or prevent its occurrence.

2. The court may ask the petition applicant to present reasonable evidences indicating the violation of owner rights or that a violation is imminent, and to ask him to present sufficient information to enable the concerned authorities from undertaking cautionary measures regarding the concerned products.

3. The court must urgently rule in the petition within not more than 10 days as of date of presenting it, excluding exceptional cases weighed by the court chief.

4. The court chief, as may be the case, may rule at the request of the petition applicant without summoning the adversary in any case where delay in issuing orders may result in unrealizable damages or that it would lead to destruction or demise of evidence. In such a case the adversary must be notified without delay of the verdict, and in certain cases the notification may be made after executing the verdict.

5. If the court chief ordered cautionary measures without summoning the adversary, the defendant may appeal before the competent court after being notified within 10 days of the notification. The court in such a case is entitled to support, amend or revoke the decision.

6. The court chief may request from the applicant to provide an adequate monetary guarantee or an equivalent guarantee to protect the defendant and prevent misuse of the right. The value of the monetary guarantee or its equivalent must not constitute an unreasonable burden leading to rendition from requesting the said cautionary measures.

7. The right owner must file a lawsuit regarding the origin of a dispute within (20) days of the date of issuing a verdict for cautionary measures, or from the date of notifying him or rejecting the appeal stated in Clause 5 of this article, as per the case, otherwise the verdict is repealed at the request of the defendant.

ARTICLE 46

1. Subject to provisions of this law, the right owner may file a lawsuit before the competent court if a direct damage was imposed resulting from violating of any of his due rights, in which he demands sufficient compensation for the damages ensuing from the violation, including the profits made by the violator. The court shall assess the compensation according to provisions of Articles 161 and 162 Clause A of the civil code, provided it takes into consideration the value of the product or service – subject of violation as per estimated by the plaintiff according to retail prices or any other legitimate standard requested by the plaintiff or through experts.

2. The right owner may, alternatively to demanding a compensation including profits made by the defendant according to provisions of the previous article, request at any time, and post to ruling in the case, a compensation not less than BD 500 and not more than BD 6000 if the violation used the trademark by deliberately faking the product, or BD 3000 if the violation was in other forms.

3. The competent court may, upon probing cases related to due rights as per provisions of this law, rule the following:

A) Seize the suspected infringing products, and any other materials or equipment of relation, and any documented evidence related to the violation.

B) Commit the violator to suspend the infringement, including prevention of export of products entailed in infringing on any of the due rights as per provisions of this law, and to prevent the imported products from entering into commercial channels after being immediately released from customs.

C) Commit the violator to submit to the court or to the right owner any information related to person/persons or entities that contributed to any of the infringement components, aided or abetted the production or distribution practices of the said products or services, including describing the identity of each participant.

4. The competent court must, at the request of the right owner, issue a verdict to destroy the products proved as fake without any compensation of any kind to the defendant. The court may also rule, without delay, destroying the items and equipment used in manufacturing the fake products without any kind of compensation. The court may in exceptional cases, at its discretion, rule disposal of the products outside the commercial channels in a manner to prevent further violations. The court may, as an alternative, rule disposition of the products outside commercial channels unless the destruction of such products may result in unforeseen damage to the public health and the environment.

5. Removal of the unlawfully labeled trademark on fake products is not a sufficient justification to release the products into commercial channels.

6. The concerned court may estimate the fees and wages of seconded experts and specialists to assume and execute the verdict in a manner that is suitable to the task, and in a manner that does not prevent further resorting to such procedures.

ARTICLE 47

1. Without detriment to any more severe sanction stipulated in any other law, any person who commits any of the following acts shall be punished by an imprisonment for not less than three months and not more than one year; and by a fine not exceeding BD (5000) Five Thousands Bahraini Dinars and not exceeding BD 4000 Four Thousand Bahraini Dinars, or by one of those penalties:

A) Whoever counterfeited a trademark or imitated it in any other way that misleads the public, or used any counterfeit or imitated mark, and was cognizant of that beforehand.

B) Whoever mala fide affix counterfeit or use in his services a registered trademark owned by others.

C) Whoever sold or possessed for the purpose of selling or offered for imported or exported products bearing a trademark that is fake, imitated or unlawfully bearing the trademark right, and he was cognizant of that beforehand.

D) Whoever sells or offers for sale or possesses for the purpose of sale, products bearing a counterfeited or an imitated trademark, or unlawfully put, and was cognizant of that beforehand.

E) Whoever mala fide used a mark, unregistered, in conditions stipulated in Clauses (B to G) of Article (3) of this law.

F) Whoever circulated fake or imitated cards, papers, or packages and was cognizant of that, utilizes or designed to use in the infringement on any of the due rights as per provisions of this law, even if the infringement did not occur on any of the said rights. The punishment is therein doubled in both the minimum and maximum in concurring, and to close the commercial store or project or suspension of activity, if possible, for not less than 15 days and not exceeding six months, and to publish the verdict in a daily newspaper once or more at the expense of the defendant.

2. The action passed by court must be sufficient to establish to deter further infringements, and aims to extract the materialistic motivation of the violator.

3. The court may issue a verdict to seize products suspected to be fake and other related materials, in addition to any equipment used to aid and abet the crimes, and any other assets related to infringements, and any documented evidence related to the offense. Not all the above is required to issue an independent seizure order, as long as they listed under general items to be included in the order.

4. In cases of infringement verification, the court shall rule preserving and destroying of all fake products at the expense of the defendant without any kind of compensation, or disposal of such products outside commercial channels, if destroying the products would result in unforeseen hazards to public health or the environment. The court may rule confiscation of any other asset related to infringement.

ARTICLE 48

Without detriment to any more severe penalty stipulated in any other law:

A) Whoever violates a court order as per Clause C of Paragraph 3 of Article 46 of this law is imprisoned for not more than a month or by a fine not exceeding BD 300 (Three Hundred Bahraini Dinars).

B) Whoever violates a court order whether the parties to the lawsuit or judicial aides or experts or others regarding protection of information confidentiality revealed or exchange within the context of the judicial proceedings, with a fine not more than BD 2000 (Two Thousand Bahraini Dinars).

CHAPTER TEN Transitory Provisions

ARTICLE 49

The marks affixed on products displayed at official international exhibitions or officially recognized exhibitions held inside the Kingdom enjoy temporary protection. The protection is offered during the display period provided all registration terms stipulated in this herein law. The Executive By-laws determine the rules and procedures related to bestowing the temporary protection.

ARTICLE 50

Any person may view the Register and obtain documents and photographs or copy data as per the procedures and rules specified by the Executive By-laws.

ARTICLE 51

Subject to provisions related to the appeal stipulated in Article 13 of this law, concerned persons may submit a grievance to the Minister regarding any final issued verdict based on this law within 30 days of being notified. The grievance must be decided upon according to a caused reason and thus notified to the applicant by means of a registered letter within 60 days as of the date of filing the grievance. The applicant may appeal the revocation decision before the competent court with 60 days as of the date being notified or elapse of the duration to rule in the grievance without being notified.

ARTICLE 52

The concerned authority shall establish an electronic system and an electronic database available to the public, including a database published on the internet to file trademark applications, decide, and register trademarks as well as to maintain such registrations.

ARTICLE 53

Notifications stipulated in this law shall be forwarded by registered mail or by electronic mail or directly handed to the concerned person provided a signed receipt.

ARTICLE 54

The employees appointed by the Minister monitoring the administrative authority competent to verify application of the provisions of this law and the decisions issued for the implementation thereof, shall have access to relevant stores. The employees duly authorized by the Minister of Justice in agreement with the Minister monitoring the administrative authority competent with industrial property shall have the capacity of Judicial Control Commissioners concerning the offenses taking place within their own jurisdiction and that pertain to their functions. The written minutes concerning these offenses shall be transferred to the Attorney General by virtue of a decision by the Minister monitoring the administrative authority competent with industrial property or the person he delegates for this purpose.

ARTICLE 55

All trademarks which are entered in the Register before commencement of this law provisions, shall be accredited and thereto enjoy the due protection herein stated provided the elapsed protection duration is deducted from the stated protection period in this law as per the procedures and manner prescribed in the Executive By-laws.

ARTICLE 56

Provisions of this law are applicable to all trademarks applications for submitted registration, before commencement of this law, provided amendment of such applications complies with provisions of this law.

ARTICLE 57

Fees are applicable to the following:

A) Marks registration applications stipulated in this law, and applications for renewal and striking off.

B) Amendment applications or additions to the registered trademark.

C) Applications submitted to the concerned authorities regarding international registration of trademarks, and renewal of registration without detriment to the international due fees as per provisions of the Madrid Protocol.

D) Objections and Grievances related to any of the decisions issued as prescribed in the provisions of herein law.

E) Applications submitted regarding notes in the Register stating the transfer of the registered trademark ownership, mortgage, seizure, license to use, or mortgage, seizure, license cancellation.

F) Submitted applications on deleting or adding any item to the Register, or to attain any documents, photographs, or data or to review it. A decision from the Minister, at the consent of the Council of Ministers, shall be issued regarding the value of such fees in addition to the rules, percentages to raise or reduce the fees, cases of revoking or exemption from such fees.

ARTICLE 58

The provisions of this law shall not prejudice the checks and pledges stipulated in any bilateral and international conventions observed in the Kingdom.

ARTICLE 59

The Minister shall issue the Executive By-laws and necessary decisions to implement provisions of this law, all of which shall be promulgated in the official gazette.

ARTICLE 60

The Decree shall abrogate Law No. (10) for 1991 regarding trademarks, and thus shall abrogate every other text contrary to this law.

ARTICLE 61

The Ministers, each in his own capacity, shall implement this law, which shall come into effect as of the next day following the publication thereof in the Official Gazette.