



Arabian nights: 1001 new deals

ألف ليلة وليلة: 1001 صفقة جديدة

Jan Wrede, Dennemeyer & Associates, provides key facts and figures – about the Arabian region and the trademark opportunities there.

جان ويردي من دينيمير آند أسوسيتس يقدم حقائق وأرقام حول المنطقة العربية وفرص للعلامات التجارية هناك.

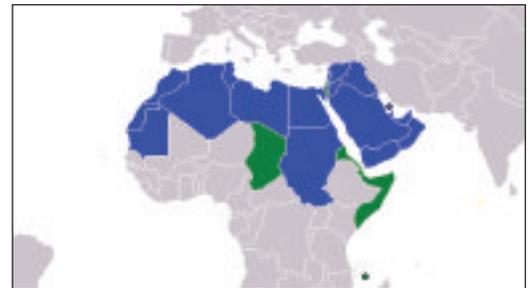
Far from being just a mysterious realm of long gone times – as it is so beautifully depicted in the known folk stories of the 1001 Nights, nowadays the Arabic world is often but one-sidedly associated with the more extreme sides of life, be it through the gargantuan economic wealth accumulated by some oil states, or the difficult aftermath of the Arab Spring. A less biased scrutiny shows yet another interesting facet to the observer: that of a slowly but steadily growing economy, intent on leaving oil-dependency behind. Especially since the turn

of the millennium, more and more public and private resources and efforts have in fact been put into R&D (in other words, patents) and a variety of small and medium sized business startups (ie, trademarks), both for manufacture (for example for construction) and services (such as telecommunications). This tendency is aligned with an increase in buying power and growing brand awareness among local consumers, who look for famous foreign assets in their own home market.

Let's talk some figures

Arabic is officially spoken in 27 countries, either as the only language (16 countries), the second official language (eight countries) or even a third official language (three countries). The 27 countries are: Algeria, Bahrain, Chad, Comoros, Djibouti, Egypt, Eritrea, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Sahrawi, Saudi Arabia, Somalia, Somaliland, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen.

Figure 1 – Map of Arabic speaking countries¹



These 27 countries have a population of around 450 million inhabitants, about 50% of whom are under 25 years of age.

Résumé

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Jan heads the Dubai office of Dennemeyer & Associates, an international IP law firm headquartered in Luxemburg with worldwide offices. With vast practice experience as an Attorney at Law and a Trademark & Design Attorney, his areas of expertise include trademark filing and prosecution, portfolio management, anti-counterfeiting, IP contracts, labeling, unfair competition, geographical indications, domain names, and IP litigation. He has been a member of several INTA and ECTA Committees, where he currently serves as Vice-Chairman of the Geographical Indications Committee.

جان ويردي، مدير مكتب دبي لشركة دينيمير آند أسوسيتس
 يترأس السيد جان ويردي مكتب دبي لشركة دينيمير آند أسوسيتس وهي شركة
 عالمية تعمل في مجال قانون الملكية الفكرية ومقرها في لوكسمبورغ، ولها
 مكاتب في جميع أنحاء العالم ويتمتع بخبرة واسعة باعتبارها مجلسي في
 القانون والعلامات التجارية والنماذج الصناعية، ولا تقتصر خبراته على ابداع
 طلبات العلامات التجارية، والقاضي وإدارة المحافظ ومكافحة التزوير وعقود
 الملكية الفكرية ووضع العلامات، بل تشمل أيضاً المرافعة غير المشروعة
 والمؤشرات الجغرافية وأسماء النطاقات والقاضي في مجال قانون الملكية
 الفكرية. وقد كان عضواً في العديد من لجان الرابطة الدولية للعلامات التجارية،
 ورابطة العلامات التجارية للمجتمعات الأوروبية. ويشغل حالياً منصب نائب
 رئيس لجنة المؤشرات الجغرافية.



Just to compare: the MERCOSUR region has approximately 275 million inhabitants, the USA 320 million, the European Union (EU) 500 million, and the ASEAN countries have around 600 million inhabitants.

The nominal gross domestic product of the 21 Arab League member states (Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Tunisia, United Arab Emirates, and Yemen) alone was of in the region of US \$2,700 billion in 2012. In comparison, the MERCOSUR achieved US \$3,000 billion, the USA US \$16,000 billion, the EU around US \$16,500 billion, the ASEAN countries US \$2,300, and China US \$8,200 billion.

Challenges for trademark owners

Foreign brand owners have long struggled to protect their IP rights properly in one of today's most challenging economic environments – by and large united by religion and language, but at the same time heterogenic through its different cultural and historical local peculiarities. As in other “multi-font” territories (such as China, India, Japan, and Russia), trademark owners often face the necessity to file verbal trademarks twice: in Latin and Arabic characters. This poses the question of whether to follow a literal translation or phonetic transposition of the mark into the new language.

With regard to the Arab world, one may safely say that most owners prefer to maintain the same pronunciation of their trademark over a true semantic translation (this, of course, is the case as long as no undesired secondary meanings are conveyed). In this regard, one has to bear in mind that not all Latin letters have an equivalent in Arabic and vice versa. In particular, in the Latin alphabet there is no “ق” (qaf), “ع” (ain), or “غ” (ghain), which are guttural sounds, while in Arabic the consonants “c”, “g” and “p” are missing – and for transcriptions are usually substituted by the letters “ك” (kaf), “خ” (ghain), and “ب” (ba), respectively. Also, written Arabic usually omits the short vowels, since the reader is supposed to know which one to pronounce in which part of the word.

Below are some examples with their phonetic transcription from Arabic back into Latin:



“KUKA KULA”



“BEBESI”



“LIBTUN”



“STAR BKS”

Calligraphy

Besides looking for the right transcription, another challenge is identifying the right font. As with the Latin alphabet, Arabic also utilizes many typefaces, from classic calligraphy to the more modern scripts. For example:



Kufic, 9th century



Ottoman, 18th century



Naskh, 14th century and still widely used

The western eye would probably not recognize the verbal identity of all three depicted letterings, while the practiced oriental viewer will immediately grasp their beauty and understand their meaning: “Bismillah-Rahmanir-Rahim” (In the name of Allah, the Most Gracious, The Dispenser of Grace).

For the foreign trademark owner, the recommended choice would thus consist in a double approach: trying to come closest to the original, while at the same time being graphically appealing to the local consumer.

Trademark protection: national, territorial, or international?

Trademark owners looking to avoid 27 national filings do have some alternative options at their disposal:

OAPI: Chad and Mauritania could be reached through a single OAPI filing; however, since in the other 14 member states the language benefit would not be the same, this option should primarily be explored for original Arabic signs.



Madrid Agreement & Protocol: Via the Madrid System, the following 11 states can be reached – and, unlike for OAPI, may individually be chosen: Algeria, Bahrain, Egypt, Israel, Morocco, Oman, Qatar, Sudan, Syria, Tunisia, and Yemen.

Incidentally, the name Madrid derives from the times of the Moorish hegemony in Spain, when in the year 865 Mohammed I. of Cordoba built a fortress in the place of what today has become Europe’s third largest city, and called it “*Al Majrit*”, which in Arabic means “source of water”.

GCC: The GCC notably covers six states: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.

Figure 2 – Map of the GCC states



Accession of Jordan, Morocco, and Yemen to the GCC has been under discussion for many years, but currently seems to be on hold.

While the GCC patent system is already working quite well (with more than 25,000 applications filed so far), the GCC trademark system is still waiting to see the light. However, full ratification and entering into force of the GCC trademark law is expected soon and may even occur in 2014.

The GCC trademark law will:

- replace the national trademark laws;
- allow filing to be done through each of the national offices;
- offer registration for sound and smell marks;
- offer registration for collective trademarks;
- provide for single class applications;
- make it possible to claim convention priority for a GCC TM, even though it is not possible to claim priority deriving from a GCC TM abroad;
- likely offer pre-registration opposition, with the filing period being 60 days from publication;
- introduce a use obligation five years after registration, although there is no *ex officio* intervention and cancellation is left to private initiative;
- offer additional protection for famous marks, even if they are not registered; and
- provide both criminal and civil enforcement, with fines reaching up to US \$270,000.

Social Media

According to the *Arab Social Media Report*, there are currently more than 55 million active Arab users of Facebook and 3.7 million of Twitter, which accounts for around 13% of the entire population of the Arab region. The percentage of tweets generated in Arabic reached 74% of total tweets in the region in March 2013, when Arab Twitter users generated 336 million tweets – almost double the

number compared to March 2012. The number of LinkedIn users in selected Arab countries now stands close to 5 million. And a recent survey by Reuters has suggested that the population spending the most hours per day watching *YouTube* in the whole world is... the Saudis!

Software tools

For those IP users interested in reading and writing in Arabic electronically, there is good news. The first sophisticated IP management tools are becoming available on the market in polyglot versions, including modern Arabic. These offer user-friendly applications to manage every kind and number of IP rights, and may even be further customized according to personal standards and preferences.

منتجات البرمجيات

هناك أخبار سارة لمستخدمي برامج إدارة الملكية الفكرية والمهتمين بالقراءة والكتابة باللغة العربية إلكترونياً، حيث أنه قد تم طرح أول برامج متطورة لإدارة الملكية الفكرية وهي متوفرة حالياً في الأسواق في إصدارات متعددة اللغات، بما فيها اللغة العربية. وتوفر هذه البرامج تطبيقات سهلة الاستخدام لإدارة مختلف أنماط الملكية الفكرية والتي يمكن تطويعها لتولكب المعايير والمتطلبات الشخصية.

Outlook

In the Arabian Nights tale, Scheherazade had to finish her account after 1001 nights; while the current promising economic prospects are hopefully more enduring. Using local language is surely another smart strategy to approach the local markets. Or, as an Arab proverb goes, "If a wind blows, ride it!"

¹ http://commons.wikimedia.org/wiki/File:Arabic_Language.PNG

“ Foreign brand owners have long struggled to protect their IP rights properly in one of today’s most challenging economic environments – by and large united by religion and language, but at the same time heterogenic through its different cultural and historical local peculiarities. ”

“لقد كاد أصحاب العلامات التجارية الأجنبية طويلاً لحماية حقوق الملكية الفكرية خاصتهم بشكل جيد في أكثر البيئات الاقتصادية تحدياً اليوم - ومع أنه يجمعها الدين واللغة إلى حد كبير، إلا أنها في الوقت نفسه متباينة في الخصوصيات المحلية الثقافية والتاريخية.”

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