

WORLD TRADE ORGANIZATION

RESTRICTED

IP/C/W/282/Add.3

2 October 2001

(01-4685)

**Council for Trade-Related Aspects
of Intellectual Property Rights**

Original: English

REVIEW OF LEGISLATION

Responses from Oman to the questions posed by the European Communities and their member States

Addendum

By means of a communication from the Permanent Mission of Oman, dated 19 September 2001, the Secretariat has received the following responses to the questions posed by the European Communities and their member States, as circulated in document IP/C/W/274.

A. GENERAL PROVISIONS

1. *Please describe if your legislation includes measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to your socio-economic and technological development as mentioned under Article 8 of the TRIPS Agreement. If yes, please explain how such measures are consistent with the provisions of the TRIPS Agreement.*

There exist certain legislations as to the protection of public health. The Ministry of Health is currently preparing a draft law on the protection of public health.

Also there are various regulations which prohibit importation of goods and products non-conforming with the Omani standards.

B. COPYRIGHT AND RELATED RIGHTS

2. *Please state how your legislation provides for the protection of the exclusive rights of authors in relation to their literary and artistic works, as specified in Article 9 of the TRIPS Agreement which requires Members to comply with Articles 1-21 of the Berne Convention and the Appendix to the Berne Convention (1971)).*

Article 14 of the Law on Copyright and Related Rights provides that:

"Upon request from the author, owner of the author's rights or their successors in title, the competent court may decide to order the following conservative measures be taken:

- 1) put an end to the infringement of any right protected under this law;
- 2) seize infringing copies of the work and the material used to make those copies;

- 3) prove the existence of a public performance in case of execution, representation or public recitation of a work and discontinue or prevent the display of the show;
- 4) designate an official receiver for the work under conflict, who shall be responsible for the republication, presentation, manufacturing or making or copies of the work; the resulting proceeds shall be deposited with the Court Treasury . Such receivership shall cease by agreement between the concerned parties or by a court decision;
- 5) designate an expert to assess the proceeds of such publication or presentation, where necessary, and seize the income in all cases."

Article 5 provides for the author's rights:

"Author's rights include:

- 1) Moral rights:
 - a) to claim authorship of the work or publish it under a pseudonym or anonymously;
 - b) to object to any deletion, change, addition or any other modification of the work without the author's consent.

The rights set out in the foregoing items may not be assigned, disposed of or subject to prescription.

- 2) Economic rights:
 - a) reproduction of the work by any means;
 - b) translation into another language, summary, adaptation or other transformation of the work;
 - c) public performance or communication to the public of the work by any means;
 - d) any commercial exploitation of the work, including rental of the original or copies of the work."

Article 10 provides that:

"The author or holder of the author's rights may transfer the economic rights in the work, in whole or in part, for free or against compensation. Such act shall be made by a written contract specifying explicitly and in detail each right subject to the act with an indication of the scope, objective, period and place of exploitation and, if any, the compensation."

Article 11 provides that:

"Unless otherwise bequeathed, the individual or collective rights of authors shall devolve, after their death, onto their legitimate heirs."

3. *Please describe the protection accorded to authors of computer programs, databases or compilations of data.*

Please refer to the articles mentioned in the previous question as they apply to authors of computer programs.

4. *Please state whether your legislation provides for a rental right and, if so, the works to which it applies.*

Article 1 of the Law on the Protection of Copyright and Related Rights, under the definition of "publication" provides for the making of copies of a work or a sound recording in a quality that reasonably satisfies the public needs through sale, rental or otherwise transfer of ownership, possession of a work, sound recording or right to use such work or sound recording. Publication also means making a copy of a work or a sound recording available to the public by an electronic medium. "Copies of the work" means any original artistic, literally or scientific work.

5. *Please describe the rights granted to performers, producers of phonograms (sound recordings) and broadcasting organisations under your legislation.*

Article 16 of the Copyright Law provides that:

"Performers shall enjoy the following rights:

- 1) Moral rights:
 - a) to be identified as such with respect to their performances;
 - b) to object to any distortion, mutilation or any modification of their performances.
- 2) Economic rights:
 - a) to broadcast or communicate to the public their unfixed performance;
 - b) to fix or record their unfixed performance;
 - c) to reproduce sound recordings containing an unauthorized fixation of their performances;
 - d) To rent sound recordings containing their performances."

Article 18 provides that:

"Producers of sound recordings shall enjoy the following rights:

- 1) direct or indirect reproduction of their recordings;
- 2) rental of recordings."

Article 20 provides that:

"Broadcasting organisations shall enjoy the following rights in their broadcast:

- 1) fixation of or recording of their broadcasts and reproduction of such recordings;

- 2) rebroadcasting of the broadcast by wireless means and communication of such broadcast to the public."

6. *Please state whether your legislation provides for any limitation or exception in relation to each of the rights described above in accordance with the relevant provisions of the Berne and Rome Conventions and in light of Articles 13 and 14.6 of the TRIPS Agreement.*

In the TRIPS Agreement, Article 13 gives members the right to confine limitations or exceptions to exclusive the rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder.

Article 6 of the Copyright Law provides that:

"The following uses of works shall be lawful even without the consent of the author provided that the source and the name of the author are clearly indicated:

- 1) quoting paragraph from the work in another work for clarification, explanation or criticism purposes, provided that such quotations comply with common practice and are justified by the goal to be achieved;
- 2) exploitation of the work for teaching purposes by way of illustration, in publications, radio or television broadcast, cinematographic work, for educational or teaching purposes, within the limits required by the goal to be achieved."

7. *Please state the terms of protection of each right described above and the work or subject matter to which it applies.*

Article 7 provides that:

"The author's economic rights shall last throughout the lifetime of the author and for fifty years, under the Gregorian calendar, from the beginning of the first year after his death.

In case of a joint work, the term shall be fifty years, under the Gregorian calendar, from the first year after the death of the last surviving author."

Article 8 provides that:

"The term of protection of the author's economic rights in the following works shall be fifty years, under the Gregorian calendar, from the date on which such works were first published:

- a) cinematographic works, works of applied arts and photographic works;
- b) works published under a pseudonym or anonymously, unless the author's identity is revealed during that period;
- c) works published for the first time posthumously."

Article 9 provides that:

"If a work consists of several parts published separately and at intervals, each part shall be considered an independent work for computing the term of protection."

Article 19 provides that:

"The term of protection of the rights of performers and producers of sound recordings shall be fifty years, under the Gregorian calendar, from the beginning of the first year after the starting date of the recording, fixation or performance, as the case may be."

Article 21 provides that:

"The term of protection of the rights of broadcasting organizations shall be twenty years, under the Gregorian calendar, from the beginning of the first year following the year when the recording or fixation was made."

8. *Please state how your legislation grants the retroactive protection provided pursuant to Article 18 of the Berne Convention (the obligation of which derives from Article 9 of the TRIPS Agreement) and Article 14.6 of the TRIPS Agreement.*

Article 24(b) of the Copyright Law provides that the provisions of this Law shall apply to:

"works, performances, sound recordings and related rights existing when this Law becomes effective, the calculation of the term of protection of such works shall include the elapsed period from the date of the specific event when the term of protection started to the effective date of this law."

C. TRADEMARKS

9. *Please give the definition of a sign under your national legislation and explain under what conditions it is protectable.*

Article 1 of the Law on Trademarks, Indications and Secrets and Protection against Unfair Competition provides that:

"A trademark means any visible form capable of being distinguished and consisting of words, signatures, personal names, letters, numbers, logos, symbols, addresses, seals, engravings, combinations of colours, figurative elements or any other sign or combination of such elements, if used or intended to be used to distinguish goods, products or services as those of the owner of the mark by reason of their manufacture, choice, sale or offering for sale."

10. *Please confirm whether or not services are a protectable subject matter in your trademark law. Please confirm if signs, such as trade names, are protectable. Please describe if elements such as sound, perfumes and containers are protectable.*

Services, products and goods as well as trade names enjoy protection. Smelling and hearing marks do not enjoy protection, as the mark must be visible.

11. *Please explain what the requirements of use are, if any, as a condition for a trademark registration. Please explain the definition of use and the conditions of maintenance of a registration in that respect.*

Use is not a requirement for the registration of a mark. Article 3 of the Trademark Law provides that:

"Any person who wishes to use a mark to distinguish goods produced or chosen by the person, if such goods are sold or offered for sale by that person or intended for such purposes, may apply for the registration of that mark according to the provisions of this law."

The registered mark if not used effectively for five consecutive years, the Commercial Court may delete it. (Article 18)

12. *Please confirm whether or not your legislation permits that the registration of trademarks be indefinitely renewable.*

Yes, the protection period continues for ten years. Article 16 of the Law on Trademarks provides that the term of protection resulting from the registration of the mark shall be ten years. The right holder may secure the continuity of such protection for similar periods by making a request for renewal within the last year on the terms and conditions prescribed by the Regulations.

13. *Please describe the special requirements, if any, prescribed by your legislation concerning the use of a trademark.*

No.

D. GEOGRAPHICAL INDICATIONS

14. *Please explain whether or not your trademark registration authority refuses a trademark application if it contains a geographical indication.*

Yes, registration will be rejected if the indication is liable to mislead the public or the commercial community especially as to the geographical origin of the goods or services which includes false information on the origin of the products or their other qualities or characteristics.

15. *Please give the definition of a geographical indication in your legislation.*

Article 1 of the Law on the Protection of Geographical Indications provides that:

"For the purposes of this Law, a geographical indication shall be an indication which identifies a good as its origin and geographical environment in any country, region or locality, including natural and/or human factors."

16. *Please describe and explain the provisions of your legislation establishing a link, if any, between the characteristics of an indication and its geographical origin.*

Article 2 provides that:

"Competent authorities, natural persons or any interested group of producers or consumers of any natural, agricultural, industrial or handicraft products having a distinctive characteristic or reputation attributable to their geographical origin, and any person trading in such articles shall have the right to enjoy protection under this law."

17. *Please describe how additional protection is granted by your legislation to wines and spirits. Please mention other types of products, if any, covered by this additional protection.*

The Law grants protection to all geographical indications including wines and spirits.

18. *Please explain how exceptions under Article 24 of the TRIPS Agreement are used in your jurisdiction. Please provide examples of the use of the exceptions by courts or lists of names considered as generic in your jurisdiction.*

We have no model lists as such laws are new to us.

E. INDUSTRIAL DESIGNS

19. *Please explain whether or not your legislation extends to the protection of designs dictated essentially by technical or functional considerations. Please explain how textile designs are protected.*

It does not extend, as the industrial design must give a special appearance to the product regardless of the functional or technical aspect.

Article 1 of the law on the Protection of Industrial Designs provides that:

"For the purpose of this law, any composition of lines or colours or any three dimensional form, whether or not associated with colours or any, shall be deemed to be an industrial design to be used in industrial or handicraft production, including textile designs, provided that such composition or form gives a special appearance to the product of industry or handicraft."

No special treatment for textiles.

20. *Please explain how your legislation protects right holders of a design against importing of articles bearing embodied or copied design.*

Article 12(b) of the Law provides that:

"Any person who carries out any of the following acts shall be punishable by imprisonment for a period not exceeding two years, a fine not exceeding two Thousand Rials Omani or both:

Knowingly sells, offers for sale, imports or possess with the intention to sell products embodying an industrial design registered in Oman."

Article 13 provides that:

"The right holder in an industrial design may request from the chief judge of the competent court or any judge designated by him from that Court to issue an order to take the necessary conservative measures, such as preventing third parties from manufacturing, selling or importing for commercial purposes goods which embody, wholly or partly, a protected industrial design, and seizing used equipment or implements. The same shall apply to products, goods, packages, papers or others.

An action on the merits shall be filed with the competent court within fifteen days from the date which the order was issued, failure of which shall cause the measures to cease to have effect."

21. *Please state whether or not your legislation provides for the right to issue a compulsory licence for industrial designs.*

No.

22. *Please indicate for what period of time your legislation grants protection for industrial designs.*

The protection period is 10 years from the filing of the registration, renewable for similar periods.

F. PATENTS

23. *Please describe how your legislation defines the notions of: novelty, inventiveness and industrial application.*

An invention shall be eligible for a patent if it is new, includes an innovative concept, and is industrially applicable, be it for new industrial products or used industrial methods and means or a new application for known industrial, methods and means.

24. *Please explain whether or not in your legislation, patent or otherwise, patent rights are enjoyed without any exclusions. If exclusions are provided for, please describe in detail how these exclusions are applied in legal as well as practical terms.*

There are exceptions in the text of Article 4 of the Patent Law:

- 1) Scientific theories, mathematical methods, computer programs, pure mental activities and playing a game;
- 2) Plant and animal research, or biological methods for the production of plants, animals or types of plant and animal. Exempted from this Article is minute biology and its produce;
- 3) Methods of surgical or medical treatment of human and animal body, and methods for diagnosis of illnesses applied to humans or animals.

However, these exceptions have not been applied as the implementing regulations have not been issued yet.

25. *Please explain whether your legislation provides for the exclusion of inventions from patentability based on ordre public or morality. If so, please explain the relevant section of your legislation and explain its formulation. Please also explain if it has been applied in practice.*

Article 2 of the Law provides that the invention shall not be patentable if it violates public order and morals or prejudices national security or contradicts the principles of Islamic Law.

No actual application so far.

26. *Please explain whether or not diagnostic, therapeutic and surgical methods are excluded from patentability in your legislation. If so, please explain the relevant section of your legislation and explain its formulation.*

Already answered in question 24 (Article 4.c).

27. *Please explain whether or not plants, animals and essentially biological processes are excluded from patentability in your legislation. If so, please explain the relevant section of your legislation and explain its formulation.*

Already answered in question 24 (Article 4.b).

28. *Please describe how micro-organisms, non-essentially biological processes, microbiological processes and plant varieties are protected in your legislation. Please explain, in this respect, the relevant sections of your legislation.*

According to Article 4 of the Patents Law, plant and animal research or biological methods for the production of plants, animals or types of plants and animals are not deemed inventions.

29. *Please explain how your legislation protects patent right holders against the importing and against the offering for sale of a patented invention.*

Article 9 of the Law provides that:

"The patent entitles its holder the right to utilize the invention by manufacturing, usage, import, whatever is being manufactured and offer it for sale, whether the subject of invention was material produce, industrial operation or manufacturing process. Others may not utilize the patent without the patent holder's permission."

30. *Please state if your legislation provides for patent product protection of pharmaceutical and agricultural chemical products. In the affirmative, please indicate the legal reference.*

These paragraphs shall be explained in the implementing regulations to be prepared by WIPO.

31. *Please clarify if the patent protection of a process, as provided for in your legislation, covers the product obtained directly by that process.*

Yes. (Connected with the previous question).

32. *Please explain the additional conditions, if any, in your legislation other than the sufficient disclosure of the invention in Article 29 of the TRIPS Agreement (e.g. submission of justification for access to genetic material or prior informed consent to its use). If such additional conditions exist, please point out the relevant legislations and describe the additional conditions in detail.*

The Ministry of Health is preparing a Law on public health.

33. *Please describe if your legislation provides for limited exceptions to the exclusive rights conferred by a patent. If affirmative, please make a reference to relevant legislation.*

No.

34. *Please explain whether or not your legislation provides for compulsory licensing. If so, please explain in detail the conditions under which a compulsory licence may be granted. In particular, please explain how your national legislation considers individual merits in the authorization of such use.*

Yes, Article 15 of the Law provides that:

"Three years after awarding the patent, whomever is concerned, may request a compulsory license to utilize the invention for any of the following reasons:

- 1) Not utilizing the patent actively and seriously within three years from being awarded;
- 2) Suspension the utilization of the invention protected by the patent, by the patent utilizer, for two consecutive years;
- 3) The patent holder's refusal to grant license contract to utilize it, which may impact the establishment, or development, of industrial or commercial activities within the sultanate of Oman."

Article 17 provides that.

"Compulsory license to utilize an invention may not be awarded until after the license applicant submits a proof of notifying the patent holder, by a registered mail, of the request to obtain a license, and not arriving to an agreement within the time frame stipulated in the bylaws."

35. *Please explain how your legislation explicitly ensures that a proposed user has made efforts to obtain authorization from the right holder on reasonable commercial terms and conditions and that such efforts have not been successful within a reasonable period of time. In this context, how do you define "reasonable period of time". Please also explain how your legislation ensures that the use of a compulsory licence shall be authorised predominantly for the supply to the domestic market of the Member authorizing such use.*

The answer will be clarified in the implementing regulations to be issued.

36. *Please state if your legislation grants additional protection for innovations after the 20 years of patent protection has lapsed.*

No.

37. *Please explain how your legislation provides for the enhanced patent protection of patents or patent applications pending on 1st January 1995.*

The Sultanate was connected with the patent office of the Gulf Cooperation Council (GCC) States.

38. *Please explain how your legislation provides for the reversal of the burden of proof in relation to process patents.*

The enforcement Law which includes an article on the burden of proof is still under study.

G. LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS

39. *Please describe how your legislation protects Topographies.*

Article 11 of the Law on the Protection of Topographies Rights of Integrated Circuits provides that:

"Any person who carries out any of the following acts shall be punishable by imprisonment for a period not exceeding two years, a fine not exceeding two thousand Rials Omani or both:

- 1) reproduces a layout-design protected under this law without the authorization of the right holder;
- 2) imports, sells or distributes a registered layout-design or product incorporating an integrated circuit without the authorization of the right holder."

40. *Please explain what protection your national legislation grants to right holders against the unlawful importation, sale or distribution for commercial purposes of topographies including integrated circuits or other articles in which a topography is incorporated in accordance with Article 36 of the TRIPS Agreement.*

Article 4 of the law provides that:

"The holder of the layout-design shall have alone the right to exploit commercially the layout-design. No other person shall have the right to import, reproduce, sell or distribute any protected lay-out-design, unless having obtained a written authorization from the holder of the right to explore the layout-design commercially or the successor in title."

41. *Please explain how your legislation provides for the derogation from Article 36 as specified in Article 37 of the TRIPS Agreement where a person has no knowledge or reasonable grounds to know when acquiring an integrated circuit or an article incorporating such an integrated circuit that it contains an unlawful topography.*

Article 8 of the Law provides that.

"The following uses of a layout-design shall be allowed even without the authorization of the right holder:

- a) if the person did not know or had no reasonable ground to know that the good incorporates a layout-design unlawfully reproduced, in which case, the stock at hand or ordered before notification shall be disposed of against an adequate compensation to be paid to the right holder."

42. *Please state the term of protection granted by your legislation to topographies.*

Article 7 of the Law provides that:

"The term of protection of a layout-design shall be ten years from the filing date of the application for registration."

H. PROTECTION OF UNDISCLOSED INFORMATION

43. *Please explain whether or not your legislation grants a defined period of time for the protection of undisclosed information. If so, please give the time span.*

There is no definite protection period for undisclosed information as long as its value is unknown and secret.

44. *Please explain how your legislation defines undisclosed information.*

Article 34 of the Law on Trade Marks provides that.

"The commercial or industrial activity shall be considered secret if, due to its nature, it is not known, it draws its commercial value from its confidentiality, reasonable measures have been taken to maintain its confidentiality or it is not easily accessible to an ordinary person having skill in the art."

45. *Please explain how your legislation defines data submitted to governments or governmental agencies.*

Article 34 of the Trade Marks Law provides that:

"Disclosure shall include making use of information, tests or other secret information presented to the competent authorities in order to obtain marketing authorization necessary for

pharmaceuticals and agricultural products containing new chemical materials provided that a tangible effort was furnished to obtain such products."

I. ENFORCEMENT

46. *Please describe how your legislation provides for effective action against infringement of intellectual property rights.*

Enforcement is carried out according to the following national laws:

Patent Law 82/2000

Article 9:

The Patent entitles its holder the right to utilize the invention by manufacturing, usage, import whatever is being manufactured and offer it for sale, whether the subject of the invention was material produce, industrial operation or manufacturing process. Others may not utilize the patent without the patent holder's permission.

Article 21:

In the event of any illegal act, or violation of this law or the license awarded in accordance with its provisions, the patent holder, or whomever some or all the patent's rights have been assigned to, in accordance with this law, may request the competent court to issue a provisional seizure on the invention and the installation used or utilized for the invention, or part therefrom.

Article 23:

Anyone requesting a provisional seizure should deposit a bond, to be specified by the court, prior to the seizure order. The confiscator should raise the subjective case within eight days from the court's order, otherwise it shall be considered as null and void.

Article 24:

Without prejudice to any greater penalty stipulated by another law, anyone submitting false or incorrect documents or information to obtain a patent, or anyone forging an invention or manufacturing process, or encroached intentionally upon any right protected by this law, shall be punished by imprisonment for not more than two years and/or a fine not exceeding Rials Omani two thousand.

The Court may order the seizure of confiscated items, or its destruction, together with the machinery and equipment used in the forgery.

Law of Trademarks 38/2000

Article 35:

A punishment by imprisonment for a period not exceeding two years and/or a fine not exceeding two thousand Rials Omani shall be applicable to any person who:

- a) counterfeits a mark registered under this Law, imitates such mark in a manner that is likely to mislead the public or uses in bad faith a counterfeited or imitated mark;

- b) knowingly sells, offers for sale or circulation, processes with the intention to sell products bearing a counterfeited, imitated or illicitly placed mark;
- c) uses in bad faith a mark identical with or similar to a well-known mark, whether registered or not registered, in a manner that is likely to mislead the public, provided that, in the case of a well-known mark that is not registered, goods or services are identical or similar;
- d) contravenes in bad faith provisions on trade indications;
- e) intentionally contravenes provisions on unfair competition or protection of trade secrets.

Article 36:

The owner of a mark may, at any time even before filing a commercial or criminal action, request, by a petition accompanied by an official certificate of the registration of the mark, that the chief judge of the Commerce Court issues an order to take the necessary conservative measures, particularly the seizure of equipment and implements likely to be used or effectively used in committing the offence. The same shall apply to product, goods, titles, packages, papers or whatever bears the infringing mark or indications.

Such seizure may be executed upon importation of the goods. The order may include the designation of an expert or more to assist in the seizure and require that the person making the request makes a deposit.

Article 37:

The seizure procedures provided for in the preceding Article shall be considered invalid if it is not followed within eight days from the date of execution of the seizure by action for damages or the date when the public attorney was notified of the person against whom the measures were taken.

Article 38:

In any commercial or criminal action, the competent court may decide to confiscate the material seized or to be seized to deduct its value from damages or fines or dispose thereof in any other manner considered convenient by the court.

In addition, the court may decide the destruction of illegal marks and, when necessary, products, packages, wrapping material titles, catalogues and other material bearing such marks or illegal indications. It may also order the destruction of equipment and implements particularly used in counterfeiting. Such orders may be issued even in the case where a judgement of non guilty is rendered.

The court may order the publication of the decision in the Official Gazette at the expense of the person against whom the decision was pronounced.

Oman Penal Code 7/74

Article 305:

Shall be punished by imprisonment for a term of three months minimum, and three years, maximum and a fine of Rials Omani twenty, minimum and Rials Omani five hundred,

maximum whoever imitates a registered mark, belonging to a third party, however may be its form, or places it on goods or any products. And shall be punished with same punishments whoever offers for sale or sells, knowingly, a good or a product which bears an imitated or pirated trademark.

Article 306:

Shall be punished by imprisonment for a term between two months and two years and a fine between Rials Omani twenty and Rials Omani three hundred whoever imitates a trademark with the intention of fraud and whoever uses such a mark or sells or offers for sale a product which bears such mark with the intention of swindling the buyer.

Article 307:

Shall be punished by imprisonment for a term between three months and two years and a fine between ten Rials Omani and there hundred Rials Omani whoever:

- 1) imitates an invention or an industrial design registered in the territory of Oman or abroad for the purpose of profit or to prejudice the interest of the owner;
- 2) infringes in any way the trade name of third party even if the infringed name is slightly distorted or associated with a nickname other than that of its owner or with any term or expression which retains the distinguishing letters and name in a confusing way.

Commercial Law No 55/90

Article 47:

Where a tradename is used by a person other than its owner or if used by its owner in a manner inconsistent with the law, the parties concerned may apply for ban on its use. They may also apply for the deletion thereof if it is recorded in the Commercial Register and may also have recourse to compensation where there is cause.

Article 48:

The merchant may not resort to deception and fraud in disposing of his goods and shall not publish false information in respect thereof which is damaging to the interests of another competing merchant, otherwise he shall be liable for compensation.

Article 49:

The merchant may not disseminate any particulars which are inconsistent with fact as regards the origin or description of his goods or the importance of his trade. Neither may he declare contrary to fact that he holds a degree or certificate or award nor resort to any other method which misleads with intent to entice clients from another competing merchant, otherwise he shall be liable to pay compensation.

Article 50:

A merchant may not induce the workers or employees of another merchant to assist him in enticing clients from such merchant or to leave the service of the latter to enter into his service and disclose to him the secrets of his competitor. Such activities shall be deemed unlawful competition which requires compensation.

Article 51:

A person whose profession it is to provide commercial entities with information on the situation of merchants and who in return for a fee deliberately or by way of gross negligence supplies false information about the conduct or financial position of a merchant shall be liable to compensate for the damage caused by this error.

Law on the Protection of Industrial Designs No 39/2000

Article 12:

Any person who carries out any of the following acts shall be punishable by imprisonment for a period not exceeding two years, a fine not exceeding two thousand Rials Omani or both:

- 1) imitates an industrial design registered under this law;
- 2) knowingly sells, offers for sale, import or processes with the intention to sell products embodying an industrial design registered in Oman;
- 3) illicitly affixes on products, advertisements, trademarks, containers or other object indications that may lead to believe that the object is a registered industrial design.

Article 13:

The rights holder in an industrial design may request from the chief judge of the Competent Court or any judge designated by him from that Court to issue an order to take the necessary conservative measures, such as preventing third parties from manufacturing, selling or importing for commercial purposes goods which embody, wholly or partly, a protected industrial design, and seizing used equipment or implements. The same shall apply to products, goods, packages, papers or others.

An action on the merits shall be filed with the Competent Court within fifteen days from the date of which the order was issued, failure of which shall cause the measures to cease to have effect.

Law on the Protection of Geographical Indications No 40/2000

Article 5:

A good may not be designated or presented to the public in a manner which suggests that it originates in a geographical area other than the true place of origin, misleads the public or constitutes an act of unfair competition, including the use of a false geographical indication with a mention of the true place of origin of the good and the use of a geographical indication in translation or accompanied by expressions such as kind, style and imitation.

Article 6:

Any interested person may, pursuant to Article 2, request that an order be issued by the chief judge of the Commerce Court or a judge designate by him from the Court to take the necessary conservative measures, including in particular, seizure of goods, products, packages, papers or the same.

An action on the merits shall be filed with the competent department of the Commerce Court within fifteen days from the date at which the order was issued, failure of which shall cause the measures to cease to have effect.

Article 11:

Any person who intentionally commits any of the acts mentioned in Article (5) of this law shall be punishable by imprisonment for a period not exceeding two years, a fine not exceeding two thousand Rials Omani or both.

Law on the Protection of Topographies Rights of Integrated Circuits No 41/2000

Article 4:

The holder of the layout-design shall have alone the right to exploit commercially the layout-design. No other person shall have the right to import, reproduce, sell or distribute any protected layout-design, unless having obtained a written authorization from the holder of the right to explore the layout-design commercially or the successors in title.

Article 9:

The right holder may request from the chief judge of the Court of Commerce or a judge designated by him from that Court to issue an order have the necessary conservative measures, particularly the seizure of implements used. The same shall apply to product, goods or others.

An action on the merits shall be filed with the competent department within fifteen days from the date at which the order was issued, failure of which shall cause the measures to cease to have effect.

Article 11:

Any person who carries out any of the following acts shall be punishable by imprisonment for a period not exceeding two years, a fine not exceeding two thousand Rials Omani or both:

- a) reproduces a layout-design protected under this law without the authorization of the right holder;
- b) imports, sells, or distributes a registered layout-design or product incorporating an integrated circuit without the authorization of the right holder.

Law on the Protection of Copyright and Related Rights No 37/2000

Article 14:

Upon request from the author, owner of the author's rights or their successors in title, the competent court may decide to order the following conservative measures be taken:

- 1) put an end to the infringement of any right protected under this law;
- 2) seize infringing copies of the work and material used to make these copies;
- 3) prove the existence of a public performance in case of execution, representation or public recitation of a work, and discontinue or prevent the display of the show;

- 4) designate an official receiver for the work under conflict, who shall be responsible for the publication, presentation, manufacturing or making of copies of the work; the resulting proceeds shall be deposited with the Court Treasury. Such receivership shall cease by agreement between the concerned parties or by a court decision;
- 5) designate an expert to assess the proceeds of such publication, or presentation, where necessary, and seize the income in all cases.

The plaintiff shall file an action on the merits of the case with the Court within the following fifteen days, for a decision on the merits and appropriate damages to be granted. Otherwise, the measures shall cease to have effect.

Article 23:

Infringement of any moral or economic right of authors or holders of related rights under this Law shall be punished by imprisonment for a maximum period of two years, by a maximum fine of two thousand Omani Rials or both. In particular, any of the following acts shall be considered infringements:

- a) selling or making available, by any means, a work protected under the provisions of this law;
- b) imitating in Oman a work published abroad, or knowingly making available, exporting or shipping abroad such imitation;
- c) communicating or making available to the public, a performance, broadcast or sound recording through a computer network for commercial purposes;
- d) illicit removal or alteration of any technical protection intended to regulate or limit public access to the work, performance, broadcast or recording, or distribution, import for distribution purposes, broadcasting or making available to the public of the above, provided that the person who commits the act knows or has grounds to know the committed infringement.

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Article 3:

The performance of any of the following acts in relation to artistic works is impermissible except after obtaining a license from the Ministry:

- 1) their photocopying , recording, or alteration for exploitation;
- 2) their importation or exportation;
- 3) their distribution, rental, circulation or sale.

Article 5:

Circulation, sale or display of non-original artistic works shall be prohibited except by authorization from the producer or the authorized agent in Oman.

Article 25:

Whoever breaches the provisions of paragraph first, second and third or Article 3 of this Law shall be punished by imprisonment for a term not to exceed two years and /or a fine of not less than Rials Omani one thousand and not more than Rials Omani two thousand. Such penalties shall be doubled in case the offence recurs.

Article 30:

The provisions of this Law shall not apply to the artistic works imported for personal use, and the importer shall, if he permits their reproduction for commercial purposes or for circulation, be subject to the penalties provided for in Article 25 of this Law.

47. *Please explain whether or not your legislation provides for a mechanism to appeal to judicial bodies of final administrative decisions.*

Article 11 of the Law on Trademarks provides that:

"Any decision by the Register refusing registration or making it subject to a condition may be opposed by the applicant before the Commerce Court within thirty days from the date of notification of the decision. The Court may confirm, cancel or modify the decision.

If, within the fixed period, the applicant fails to oppose the decision and proceed with the modifications required by the Registrar, the applicant shall be deemed to have abandoned the application."

Article 13 of the same law provides that:

"The registrar shall decide on the opposition after hearing the parties if so requested, and shall issue the decision accepting or refusing the registration.

In the former case. he may decide whatever limitations he considers necessary. Any interested person may oppose the decision before the Commerce Court within thirty days from the date he was notified. The Commerce Court may confirm, cancel or modify the decision. Notwithstanding opposition, if the Registrar finds that the opposition to registration is not based on serious grounds, he may issue a decision to proceed with the registration of the trademark, indicating the reasons for such a decision."

Article 13 of the Law on the Protection of Industrial Designs provides that:

"The right holder in an industrial design request from the chief judge of the competent court or any judge designated by him from that Court to issues an order to take the necessary conservative measures, such as preventing third parties from manufacturing, selling or importing for commercial purposes goods which embody, wholly or partly, a protected industrial design, and seizing used equipment or implements. The same shall apply to products, goods, packages, papers or others.

An action on the merits shall be filed with the competent court within fifteen days from the date at which the order was issued, failure of which shall cause the measures to cease to have effect."

Article 8 of the Law on the Protection of Geographical Indications provides that:

"An applicant for registration may oppose a decision refusing the application before a committee to be formed by the decision of the Minister. The procedure for such an appeal shall be determined in the Regulations. The decision of the committee may be the subject of an appeal before the competent department of the Commerce Court within sixty days from the date of notification of the decision of the committee by registered mail."

Article 3 of the Law on the Protection of layout-Designs of Integrated Circuits provides that:

"Any interested person may oppose a decision refusing registration within thirty days from notification before a committee to be formed by decision of the Minister. The rules of procedure of the committee shall be determined in the Regulations. The decision of the committee may be the subject of an appeal before the competent department of the Commerce Court within sixty days from the date of notification of the decision of the committee by registered mail."

48. *Please describe how your legislation authorizes judges to order production of evidence by the opposing party. Please give precise information on what measures are taken to ensure the protection of confidential information.*

No need for legal provisions as they are general rules.

49. *Please quote provisions of your legislation that authorize judges to order a defendant to desist from an infringement.*

No need for legal provisions as they are general rules.

50. *Please quote what provisions of your legislation authorize judges to order the payment to the right holder of adequate damages to compensate the injury he suffered.*

Article 18 of the Law on Hearing and Arbitration before the Authority for the Settlement of Commercial Disputes provides that, without prejudice to the provision of the previous article, the value of the suit shall be estimated according to the prevailing prices on the day of its institution. Such estimation shall include the interests, compensations, expenses etc, and other costs that may arise after the filing of the case until its settlement. The estimation shall be based on the last claims of the litigants, taking the following into account:

- 1) if the suit is in connection with the validity or nullity of an existing contract, its value shall be estimated at the contract value and, as to counter claims, the suit shall be estimated at the claim of the bigger value;
- 2) if the suit is for a part of a right, the suit shall be estimated at the value of such part unless all the right is contested and the claimed part is not excluded, the estimation shall be based on the value of all the right;
- 3) if the suit is relating to the validity or nullity of an existing contract, estimation shall be based on the total cash equivalent for the full term of the contract;
- 4) if the suit is for an assessable claim, the minimum fees shall be collected therefor on its registration, and the Secretariat of the Authority shall calculate the due fee up to the day of the pronouncement of the judgement according to the foregoing and the Authority shall prepare regulations for other rules for estimating cases covered by the foregoing rules.

51. *Please quote what provisions of your legislation authorize judges to order the payment of the right holder's expenses by the infringer.*

No need for legal provisions as they are general rules.

52. *Please explain if and how judges have the authority to order that infringing goods are placed outside channels of commerce or destroyed.*

Refer to the answer to question 46.

53. *Please quote what provisions of your legislation authorize judges to indemnify a defendant in the event of abuse by the plaintiff.*

Enforcement law is still under consideration.

54. *Please explain how your legislation implements Article 50 of the TRIPS Agreement.*

Enforcement law is still under consideration.

55. *Please identify the competent authorities in your jurisdiction who receive requests from right holders for an application to suspend the release of counterfeit goods by the customs authorities.*

The Commercial Court.

56. *Please indicate whether or not procedures are available to suspend the exporting of counterfeit goods.*

Yes, the right holder shall apply to the competent court for an order for provisional seizure if the imitated commodity is prepared for export

57. *Please quote what provisions of your legislation authorize the competent authorities to order the destruction or disposal of infringing goods.*

Refer to the answer to question 46.

58. *Please indicate whether or not your legislation provides for a de minimis imports exception.*

The GCC Unified Customs Law allows entry of quantities of goods for personal use contained in personal luggage.

59. *Please explain how your legislation implements Article 61 of the TRIPS Agreement.*

Refer to the answer to question 46.
