

How MENA Brands Protect Trademarks in the U.S.: Top Strategies to Optimize Value

Brief Overview: This article explains key trademark challenges facing MENA-region companies entering the U.S. market and outlines legal strategies to protect and optimize brand value through trademark clearance, registration, technology-enabled searches, and cross-border legal coordination.

Practice Area: Cross-Border, Intellectual Property

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October 27, 2025 / 4 minute read

As companies based in the MENA region look to expand their reach into the U.S. market, one of the most crucial steps to ensure business success is clearing and securing trademark rights. When entering the U.S. market, most companies want to use the same brands as they use in their home markets, to take advantage of the brand's recognition in the U.S. among people already familiar with it. However, registered and common-law trademark rights are national in scope, and so it is critical to check for conflicting marks in the U.S. This is doubly important in the United States because U.S. trademark rights are based primarily on actual use in commerce, so a search of the U.S. Patent and Trademark Office register may not uncover existing relevant marks.

For example, we have worked with companies from the Gulf region seeking to introduce products and services into U.S. retail channels. These companies discovered that similar brand names were already in use by other entities, requiring strategic adjustments to their U.S. branding strategy.

Consequently, companies entering the U.S. need to think carefully about how to pursue trademark clearance and registration. In the U.S., registration of trademark rights is critical to establish nationwide rights, procedural advantages in court, and presumption of validity. Few legal investments are as valuable.

The Critical Importance of Trademark Registration in the U.S.

In a competitive world, trademark protection is essential to prevent unauthorized use of brand names, logos, and other intellectual property that are confusingly similar. In

particular, the U.S. market, with its vast consumer base, can easily surface unexpected potential trademark disputes. This risk of unexpected confusion is magnified by a principle of U.S. trademark law which treats non-English trademarks as potentially confusingly similar to existing trademarks that have the same meaning in English.

Without securing a trademark in the U.S., foreign companies may lose control over their brand or lose sales to competitors who may register similar names. Trademark rights in the US ultimately depend on actual, good faith use in commerce, which includes imports from abroad, and having priority of use. In the U.S., trademark applications can be filed based on actual use, intent to use, and existing foreign trademark registrations and applications, under the Madrid protocol and other international treaties. Notably, foreign applicants can leverage Section 44(e) of the Lanham Act to register trademarks based on their home country registration without having to provide evidence of actual use in U.S. commerce initially, streamlining the entry process while you prepare for market launch.

There are many benefits to trademark registration for companies entering the U.S.:

- Trademarks are listed in the U.S. Patent and Trademark Office's database of registered and pending trademarks. This provides public notice to anyone searching for similar trademarks. They will see your trademark, the goods and services on your registration, the date you applied for trademark registration, and the date your trademark registered.
- A legal presumption that you own the trademark and have the right to use it. So, in federal court, your registration certificate proves ownership, eliminating the need for copious amounts of evidence.
- Automatic right to bring a lawsuit concerning the trademark in federal court.
- The right to use the federal trademark registration symbol, ®, with your trademark to show that you are registered. This may help deter others from using your trademark or one too similar to yours.
- If the trademark is owned by a U.S. subsidiary, it may be possible to record your registration with U.S. Customs and Border Protection (CBP). They can stop the importation of goods with an infringing trademark.

Experienced Counsel

We understand the complexities of trademark law and the unique challenges that MENA companies face when expanding into the U.S. market. Our strategy is focused on making the trademark registration process as efficient and cost-effective as possible, without sacrificing quality or results.

Leveraging Advanced Technologies for Trademark Searches

We utilize the latest technologies and software platforms to conduct thorough, accurate, and inexpensive trademark searches. By using cutting-edge search tools, we can quickly identify potential conflicts with existing U.S. trademarks and easily search and clear alternative marks if necessary. This saves you time, money, and resources, while reducing the risk of future legal disputes.

Tailored Legal Advice for Foreign Companies

U.S. trademark law can be confusing, particularly for companies based outside the country. Our team provides tailored legal counsel, helping MENA-based businesses understand the nuances of U.S. intellectual property law, from trademark registration to enforcement. Whether you are just starting to build your brand or are already established in the U.S., we help navigate the process with efficiency and clarity.

The USPTO has extensive experience processing trademark applications in non-Latin script. Your brand name can be registered in its original design and script, preserving your brand's authentic identity. We help navigate transliteration requirements and ensure your mark is properly registered to protect both the original script and its English equivalents.

Cross-jurisdictional Oversight and Coordination

Through careful coordination with our partners and legal colleagues across borders, and our deep knowledge in commercial, tax and employment law, we can help clients with all the related legal issues arising in launching a product in the U.S.

Many MENA companies operate as family businesses with specific ownership and succession considerations. U.S. corporate law and trademark law work in synergy, allowing us to structure IP ownership through corporate entities that align with your family business governance and succession plans. These structures can be seamlessly integrated to protect your brand across generations while maintaining family control.

Proactive Brand Protection

Trademark registration is just the first step in protecting your brand. We go beyond registration, offering ongoing monitoring and enforcement services to prevent infringement. This proactive approach ensures that your brand remains safe and protected as you grow and expand in the U.S.

Why Act Now?

The U.S. market is a competitive and lucrative opportunity for global companies. We have

seen MENA companies lose brand control when, for example, they do not register and enforce their trademarks—allowing competitors or opportunistic third parties to claim similar marks, resulting in costly rebranding or loss of market position. The earlier you begin the trademark search and registration process, the more likely you are to avoid these costly disputes and to safeguard your intellectual property for the long term.

Carter Ledyard is dedicated to helping Middle East and North African businesses navigate the trademark registration process quickly and cost-effectively, using the latest tools to maximize your chances of success. Contact us today to discuss how we can help you protect your brand and succeed in the U.S. marketplace.

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