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TECHNOLOGY MARATHON

**Protections of Technologies in the
Middle East**

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Friday, May 19, 2023

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Contents

- Regional outlook: the GCC and the Middle East
- Copyrights
- Patents
- Trademarks
- Trade secrets and know-how



Regional outlook

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The Gulf Cooperation Council

Kuwait

- Population of 4.5 million, including expats
- Silk City megaproject
- Vision 2035 "New Kuwait"

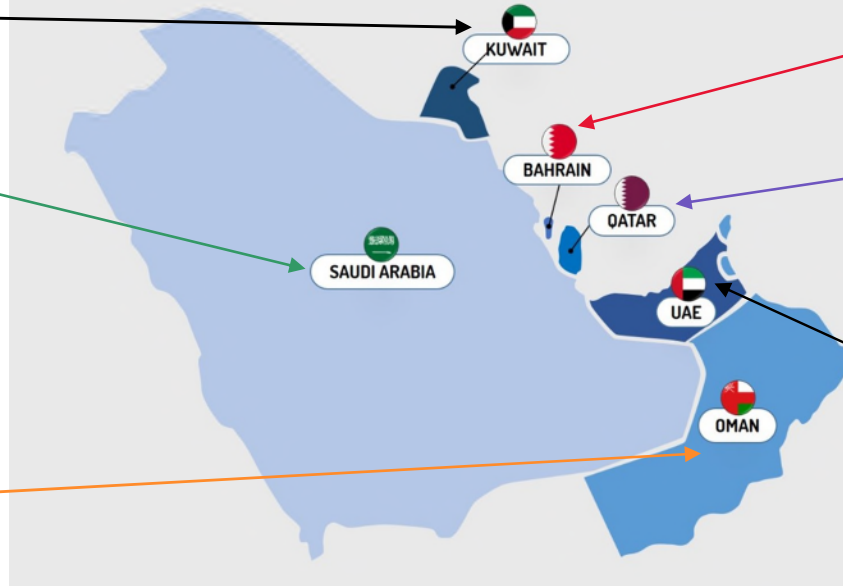
Saudi Arabia

- Population of 35 million, 1/3 expats
- Largest economy in MENA
- ICT market estimated at \$40bn and growing
- "Vision 2030"

Oman

- Population of 5 million, 89% below 50
- Lowest unemployment rate
- Digital transformation program 2021-2025
- "Vision 2040"

GCC MEMBER STATES



Bahrain

- Population of 1.5 million
- 2nd top diversified economy in MENA
- Cloud-first, "Data Embassy" regime for US cloud providers

Qatar

- Small (3 million) but cash rich population
- FIFA World Cup 2022
- Almost 100% urbanized
- GCC / Qatar embargo lifted in January 2021

UAE

- Population of 10 million
- +/- 1 million UAE Citizens
- 4.2% GDP growth in 2023
- "Vision 2021" and "We the UAE 2031"

Source: Public data, Global Economic Diversification Index 2023 (MBRSG), trade.gov

Business Environment

Key factors:

- Optimistic economic growth forecast
- Changing regulatory landscape and developing enforcement practice
- Members of WTO and TRIPS
- World Bank "Doing Business" high rankings:

UAE	Bahrain	Saudi Arabia	Oman	Qatar	Kuwait
16 (!)	43	62	68	77	83

Regional specifics

- ✓ IP legislation is new
- ✓ The GCC countries are signatory to several (but not all!) major international conventions and treaties
- ✓ Scrutiny on potential violation of public order or morals
- ✓ Severe penalties for IP rights' violation
- ✓ Enforcement practice is uneven
- ✓ Close work with the authorities is necessary for successful enforcement
- ✓ Federal level legislation vs legislation in free zones
- ✓ Regulatory requirements to trade activity
- ✓ National security and defense considerations (including data collection and sharing issues)



Complex assessment on scope of registration and future use of IP is necessary

Copyrights

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Legal Framework

- Berne Convention – automatic protection of copyright
- National legislation

UAE	Saudi Arabia	Oman	Kuwait	Bahrain	Qatar
Federal Decree Law No. 38/2021	Cabinet Decision No. 85/1424 (2003)	Royal Decree No. 65/2008	Law No. 75/2019	Law No. 22/2006	Qatar Law No. 7/2002
50 years	50 years	70 years	50 years	70 years	50 years

- Software protected by copyright in all GCC countries
- "Work for hire" concept

Enforcement

- Registration / depositing
 - voluntary, but recommended to create presumption of ownership
- Administrative proceedings
 - designated bodies
 - border control
 - competition authorities
- Civil proceedings
- Criminal liability

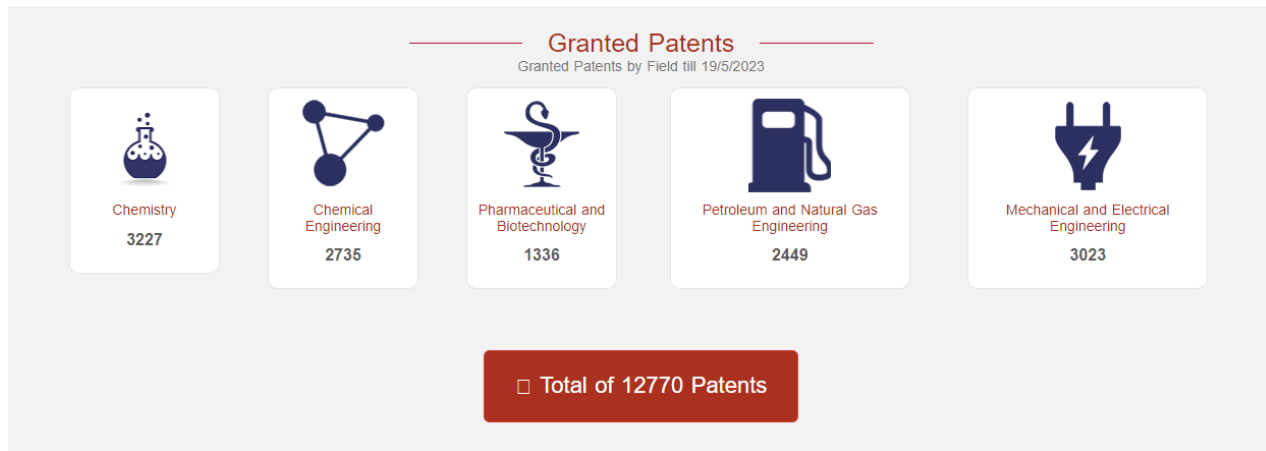


Patents

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Legal framework

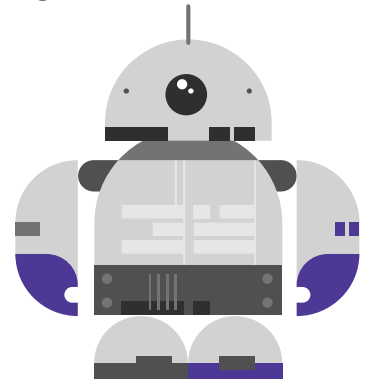
- Patent Cooperation Treaty
- The Gulf Cooperation Council (GCC) Patent Office: in January 2021 stopped accepting new GCC patent applications and resumed work in January 2023



www.gccpo.org

What you need to know

- Scrutiny to ensure no conflict with the general order or the rules of Islamic Sharia or adversely affect to national security or public morals
- Export control type regulations for patent applications
- Arabic translations of applications
- Time consuming registration procedure
- Trend to move from an *absolute novelty concept* to a *novelty grace period* concept
- Post-grant oppositions
- Protection of designs and utility models



Enforcement of patents in the UAE

- No specialized IP courts; proceedings in Arabic
- Preliminary injunctions or "precautionary measure orders" rarely granted
- Civil trials are conducted on the basis of exchanging written memoranda and documentary evidence, including witness statements
- Validity and infringement cases are heard in different proceedings by different courts
- Courts' judgement are not published (except for the Court of Cassation)
- No confidentiality requirements during proceedings
- No disclosure requirements
- Cost awards are generally not available



Trademarks

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What you need to know

- ✓ GCC Trademark Law + national laws
- ✓ First-to-file jurisdictions
- ✓ Relatively broad scope of non-traditional marks protected
- ✓ Still single-class applications (!!!)
- ✓ Quite expensive but relatively quick proceedings
- ✓ Use requirement of 5 years either from the registration date or filing date
- ✓ Oppositions are common
- ✓ C&D letters are common
- ✓ Consider registering trademarks in Arabic too
- ✓ Registration of licenses is not always required, but recommended for enforcement



Parallel import - key considerations

- Criminal prosecution for counterfeiting
 - GCC Customs Union
 - The Arab Convention Against Transnational Organized Crime
 - National laws
- Parallel import generally not prohibited
 - customs procedures
 - exclusive trade agency



Trade Secrets and Know How

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Legal Framework

- Art. 39 of TRIPS
- National legislation
 - **KSA:** Regulation for the Protection of Confidential Commercial Information of 2005
 - **Bahrain:** Law No. (7) of 2003 on Trade Secrets
 - **Qatar:** Law No. 5 of 2005 on Trade Secrets
 - **UAE:** Federal Law No. 11/2021 (On the Regulation and Protection of Industrial Property Rights), section re protection of Undisclosed Information
 - **Oman:** Royal Decree No. 67/2008 (On the Issuance of the Law on Industrial Property Rights), Royal Decree No. 38/2000 (the Law of Trade Marks, Descriptions and Secrets and Protection from Unfair Competition) provisions re protection against unfair competition
- Other sources: penal codes, civil codes and commercial laws, company laws, competition protection laws, labor laws, good faith or honest behavior principles

Biography



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Ksenia Andreeva counsels clients on intellectual property, information technology, and cybersecurity the context of their business transactions.

Ksenia is experienced in drafting and negotiating a broad range of IP and technology-related agreements and commercial contracts, including complex software licenses, technology transfer and development agreements, and e-commerce agreements, service level agreements (SLA), franchise agreements, IP licenses and assignments and other. Her clients include companies in media, technology, telecommunications, consumer products, financial services, insurance and many other industries.

As a complement to her transactional practice, Ksenia advises clients on data protection compliance, including with respect to the General Data Protection Regulation (GDPR) and GCC privacy laws.

The foremost IP publications recognize Ksenia as a leading individual, including *Chambers Global* and *Legal 500*. World Trademark Review (WTR) has recognized her as the Leading Trademark Practitioner, Prosecution & Strategy, for the fourth time in a row in its 2023 edition of its prestigious annual guide.

Biography



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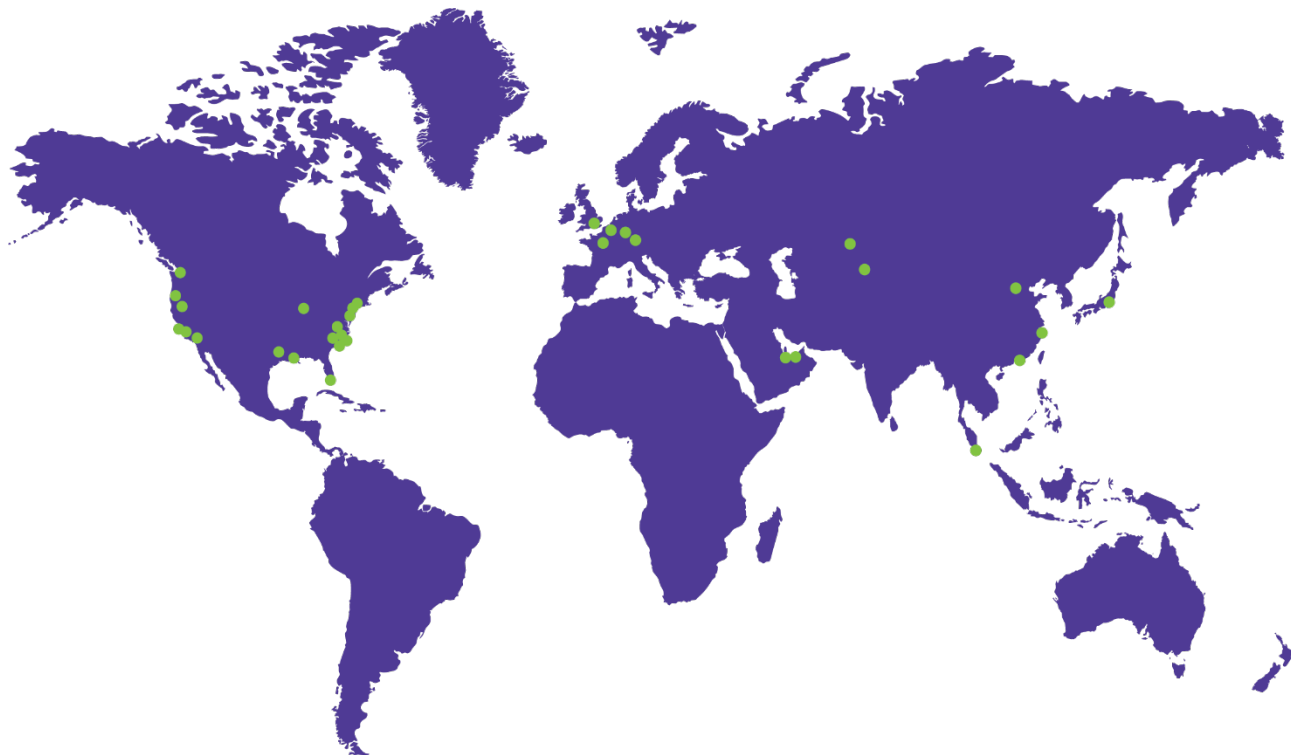
Valentina Semenikhina is a transactional lawyer with more than 10 years' experience advising international companies and sovereign investors on complex corporate transactions, including mergers and acquisitions (M&A), joint ventures (JV), and corporate restructurings. Her clients include companies from the technology, media, and telecom industry as well as financial and investment institutions located around the globe. Valentina is endorsed by *Best Lawyers in Russia* (2021, 2022) for her corporate work and was named a Rising Star in M&A, Russia, by *IFLR1000 EMEA* (2022).

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