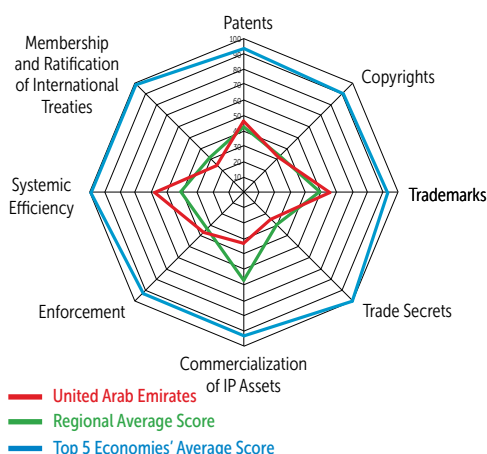
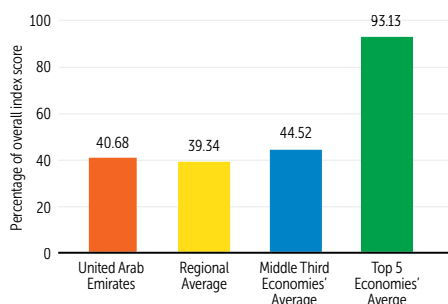


# UNITED ARAB EMIRATES

Rank 32 / 50



## Overall Score in Comparison



## Strengths and Weaknesses

### KEY AREAS OF STRENGTH

- ✓ Basic IP protections in place
- ✓ Relatively strong framework for enforcement of IP rights
- ✓ Increasing administrative and judicial capacity for IP enforcement
- ✓ Enhanced anticounterfeiting efforts, including criminal penalties
- ✓ Awareness-raising and capacity-building efforts on importance and value of IP rights

### KEY AREAS OF WEAKNESS

- ✗ Crucial gaps in protection for life sciences patents, notably in relation to patent enforcement by regulatory authorities, RDP, and patent term restoration
- ✗ Copyright regime fails to address growing piracy levels
- ✗ Partial protection under the current trademark and design framework in need of updating
- ✗ Gaps in customs measures and civil remedies for infringement

INDICATOR	SCORE
<b>Category 1: Patents, Related Rights, and Limitations</b>	
1. Patent term of protection	1.00
2. Patentability requirements	0.50
3. Patentability of computer-implemented inventions (CIIs)	0.50
4. Pharmaceutical-related patent enforcement and resolution mechanism	0.50
5. Legislative criteria and active use of compulsory licensing of patented products and technologies	1.00
6. Patent term restoration for pharmaceutical products	0.00
7. Membership in Patent Prosecution Highways (PPHs)	0.00
8. Patent opposition	0.25
<b>Category 2: Copyrights, Related Rights, and Limitations</b>	
9. Copyright (and related rights) term of protection	0.53
10. Legal measures that provide necessary exclusive rights that prevent infringement of copyrights and related rights (including Web hosting, streaming, and linking)	0.50
11. Expedient injunctive-style relief and disabling of infringing content online	0.00
12. Availability of frameworks that promote cooperative action against online piracy	0.00
13. Scope of limitations and exceptions to copyrights and related rights	0.50
14. Digital rights management (DRM) legislation	0.50
15. Clear implementation of policies and guidelines requiring that any proprietary software used on government ICT systems should be licensed software	0.25
<b>Category 3: Trademarks, Related Rights, and Limitations</b>	
16. Trademarks term of protection (renewal periods)	1.00
17. Ability of trademark owners to protect their trademarks: requisites for protection	0.50
18. Legal measures available that provide necessary exclusive rights to redress unauthorized uses of trademarks	0.75
19. Availability of frameworks that promote cooperative private action against online sale of counterfeit goods	0.25
20. Industrial design term of protection	0.40
21. Legal measures available that provide necessary exclusive rights to redress unauthorized use of industrial design rights	0.50
<b>Category 4: Trade Secrets and Related Rights</b>	
22. Protection of trade secrets	0.50
23. Regulatory data protection (RDP) term	0.00
<b>Category 5: Commercialization of IP Assets</b>	
24. Barriers to market access	0.00
25. Regulatory and administrative barriers to the commercialization of IP assets	0.50
26. IP as an economic asset	0.50
<b>Category 6: Enforcement</b>	
27. Physical counterfeiting rates	0.43
28. Digital/online piracy rates	0.66
29. Civil and procedural remedies	0.75
30. Pre-established damages and/or mechanisms for determining the amount of damages generated by copyright infringement	0.00
31. Criminal standards including minimum imprisonment and minimum fines	0.50
32. Effective border measures	0.25
33. Transparency and public reporting by customs authorities of trade-related IP infringement	0.00
<b>Category 7: Systemic Efficiency</b>	
34. Inter-governmental coordination of IP rights enforcement efforts	0.25
35. Consultation with stakeholders during IP policy formation	0.50
36. Educational campaigns and awareness raising	1.00
<b>Category 8: Membership in and Ratification of International Treaties</b>	
37. WIPO Internet Treaties	1.00
38. Singapore Treaty on the Law of Trademarks	0.00
39. Patent Law Treaty	0.00
40. At least one free trade agreement (FTA) with substantive and/or specific IP provisions such as chapters on IP and separate provisions on IP rights provided it was signed after WTO/TRIPS membership	0.00
<b>TOTAL</b>	<b>16.27</b>

# Spotlight on the National IP Environment

## Past Editions versus Current Scores

The UAE's overall score has decreased from 44% of the total possible score (15.24 out of 35) in the 5th edition of the Index to 41% (16.27 out of 40) in the 6th edition. Though the UAE's score rose in relation to civil remedies available for infringement, the overall decrease in score is a result of a mixed performance on the new indicators as well as the regulatory approval of a follow-on biopharmaceutical product in violation of the UAE's regulatory patent enforcement mechanism.

## Patents, Related Rights, and Limitations

**4. Pharmaceutical-related patent enforcement and resolution mechanism:** As mentioned in a previous edition of the Index, Ministry of Health Decree 404 provides for an early patent adjudication mechanism for pharmaceuticals. Under the system, the Ministry of Health will deny marketing approval for a product that infringes on a patent existing either in the UAE or in the economy from which the product has been imported. Officials are to either reject an application or hold the application in abeyance until patent protection has expired. However, recently the UAE government approved two generic versions of a pharmaceutical product that was still on patent in the economy of origin. This development seriously undermines the life sciences IP environment in the UAE, since patents on the majority of pharmaceutical products are not protected in the UAE, but rather protection is based on foreign patents. On this basis, the score for this indicator has fallen by 0.5

## Commercialization of IP Assets

**24. Barriers to market access:** A draft investment law discussed in the previous edition of the Index remains under consideration in 2017. The law would remove the 49% foreign equity cap in certain sectors where further investment and technology are needed. In addition, the new Commercial Companies Law passed in 2017 retains the 49% limit. The new law also appears to be more restrictive, with Article 10 granting the Cabinet of Ministers the right, upon the recommendation of the Ministry of Economy, to limit certain sectors to UAE nationals only.

## Enforcement

**29. Civil and procedural remedies:** As mentioned in the previous edition of the Index, the first dedicated IPR Court Circuit was set up in 2016 at the Abu Dhabi Court of First Instance. The increased specialization is expected to expedite the handling of litigation before the courts and has the potential to increase the availability of effective civil remedies, such as injunctions, which are currently rarely secured. In 2017, local analysis suggested that IP cases before the Abu Dhabi IP court are being processed more quickly than before the court was introduced. First instance decisions are issued in about 6 months (cutting the time in half), with reportedly higher levels of expertise. On this basis, the score for Indicator 29 has risen by 0.25.

**31. Criminal standards including minimum imprisonment and minimum fines:** The UAE discussed implementation of the Gulf Cooperation Council (GCC) Trademark Law in 2017 though implementation had not occurred at the time of research. The law raises penalties for engaging in counterfeiting very substantially from the current level under UAE law of a maximum of one year imprisonment and a fine of USD2,275 to a maximum of three years imprisonment and a fine of USD267,000. Penalties rise to a fine of USD26,000 and a one-year prison term for knowingly selling counterfeit goods. A new domestic law, the Anti-Commercial Fraud Law (Federal Law No. 19, passed in late 2016), raises penalties for selling counterfeit goods even further than the GCC law. The new UAE law provides for imprisonment of up to two years and fines of up to AED1,000,000 (USD275,000) for selling and dealing in counterfeit goods (with the maximum penalties reserved for pharmaceutical and food goods). Implementation of the GCC Trademark Law in the UAE as well as application of the new Anti-Commercial Fraud Law would likely lead to a rise in the UAE's score for this indicator in future editions of the Index.

**32. Effective border measures:** Implementation of the GCC Trademark Law would strengthen the legal basis for *ex officio* action by customs officials in the UAE as well as action against in-transit goods (the latter does not currently exist). Specifically, Article 38 of the GCC law authorizes customs to act on their own initiative to seize suspected infringing goods that are imported, exported, or in transit. Currently, the UAE remains a central hub for transshipment of counterfeit goods.