

Patent Regulation of the Cooperation Council for the Arab States of the Gulf

In fulfillment of the objectives of the Cooperation Council for the Arab States of the Gulf stipulated in Article 4 of the Charter, and

In support of the joint scientific and technical cooperation between Member States cited in chapter 4 of the Unified Economic Agreement, particularly the resolve to acquire an indigenous base founded on encouraging and supporting research, applied sciences, and technology, and

In an endeavor to achieve the object of the transfer and adaptation of transferred technology and to encourage and develop local technologies to meet the needs of the region and the objectives of progress and development.

The Supreme Council of the Cooperation Council for the Arab States of the Gulf in its 20th session held in November 1999, having reviewed the GCC Patent Regulation approved by the Council in the 13th session held in December 1992, approves the amendment of the Regulation as follow:

Article 1:

In the implementation of the provisions of the Regulation, expressions shall have the meanings assigned to them below except where the context otherwise requires:

1/1 Cooperation Council: The Cooperation Council for the Arab States of the Gulf which comprises (the State of the United Arab Emirates, the State of Bahrain, the Kingdom of Saudi Arabia, the Sultanate of Oman, the State of Qatar, and the State of Kuwait).

1/2 the Ministerial Council: The Ministerial Council of the Cooperation Council for the Arab States of the Gulf.

1/3 The Committee: The Grievances Committee appointed by the Ministerial Council to carry out its jurisdictions stipulated in this Regulation and its Bylaws.

1/4 Board of Directors: The Board of Directors of the Patent Office of the Cooperation Council for the Arab States of the Gulf stipulated in the Patent Office Statute.

1/5 The Office: The Patent Office of the Cooperation Council for the Arab states of the Gulf, which consists of the Board of Directors and the Office staff.

1/6 the Regulation: Patent Regulation of the Cooperation Council for the Arab States of the Gulf.

1/7 The Patent: The document granted by the Patent Office to the owner of the invention so that his invention shall enjoy legal protection within all the Cooperation Council States according to the provisions of this Regulation and its Bylaws.

Article 2:

2/1 An invention shall be patentable according to the provisions of this Regulation and its Bylaws if it is new, involves an inventive step, industrially applicable and is not contrary to the laws of Islamic Shariya, or public order or to morality observed in the Cooperation Council States, whether that was pertaining to new products, industrial processes, or to manufacturing methods.

2/2 An Invention is new if it is not anticipated by prior art. Prior art being constituted by everything disclosed to the public anywhere by means of written or oral disclosure, by use, or by any other way by which the invention is realized before the relevant filing date of the patent application or priority date validly claimed in respect thereof. For the purposes of this paragraph, disclosure of the invention to the public shall if it took place within one year, either before the application filing date, or before its priority date and it occurred due to abusive actions of others against the applicant or his predecessor or as a result thereof. The disclosure of the invention to the public shall no be taken into consideration if it took place in an officially recognized exhibition within the six months preceding the filing of the application, such being the case, the Implementing Bylaws shall determine the protection provisions for the subject invention.

2/3 and invention is deemed to involve an inventive step if, having regard to the relevant prior art, it would not have been obvious to a person having ordinary skill in the art.

2/4 and invention shall be considered industrially applicable if it can be produced or used in any type of industry, agriculture, fishing, or services. Industry in this connection should be interpreted in the broadest sense to include handicraft.

2/5 In the event of filing of applications pertaining to inventions having connection with the security of any of the Cooperation Council States, procedures stipulated in the Implementing Bylaws shall apply.

2/6 should there be more than one application for a particular invention, the patent shall be granted to the owner of the first application that has the earliest priority date.

2/7/1 if the invention is a result of joint efforts of several individuals, the ownership of the patent shall belong to them equally, unless otherwise multilaterally agreed upon. A person will not be considered an inventor if his activities were limited to executing the ideas.

2/7/2 the right to a patent shall be assigned to the employer if the invention was the result of execution of a contract or an obligation providing for carrying out inventive activities. The right shall also be assigned to the employer if he proves that the inventor would not have achieved such an invention had he not used the facilities, means, or information made available through his employment.

This may not prejudice the employee's right to receive special remuneration to be determined by a competent authority in the country

where the invention is made and in the light of the circumstances of the contract or the obligation, and the economic significance of the invention. Any agreement depriving an employee from such rights shall be void. The above-mentioned provisions shall also be applicable to employees of government agencies. A patent application filed by an employee inventor within the two years after the termination of his services shall be considered as having been filed during his employment.

Article 3:

3/1 for the purposes of this Regulation, the following shall not be regarded as inventions:

3/1/1 Discoveries, scientific theories, mathematical methods, and computer programs.

3/1/2 Schemes, rules, and methods for doing business, performing purely mental acts, or playing games.

3/1/3 Plant varieties and species of animals, and biological processes for the production of plants or animals with the exception of microbiological processes and the products thereof.

3/1/4 Methods of surgical or therapeutic treatment of the human or animal body and methods of diagnosis applied to the human or animal body with the exception of products used in any of these methods.

3/2 This Regulation shall not protect varieties of plants or species of animals.

Article 4:

The Ministerial Council may exclude from patentability some inventions whenever necessary to safeguard public order or morality, including the protection of human or animal or plantation life and health, or to avoid serious damage to the environment

Article 5:

5/1/1 the patent application shall be submitted to the Office by the inventor, his registered agent, or his successor in title. The application shall request the grant of a patent, and shall be accompanied by the prescribed fee.

5/1/2 the application shall include the names of the applicant, the inventor, and the registered agent (if any) and, where the applicant is other than the inventor, a statement justifying the applicant's right to the invention.

5/1/3 the application for a patent shall relate only to one invention, or to aspects that are so related as to constitute a single general inventive concept.

5/2/1 the application shall contain the title of the invention, a specification, one or more claims, one or more drawings (if any), and an abstract.

5/2/2 the specification shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person having ordinary skill in the art.

5/2/3 the claim or claims shall determine the scope of the protection sought. The specification and the drawings may be used to interpret the claims.

5/2/4 the claims shall be clear and concise and shall be fully supported by the specification.

5/2/5 the abstract shall merely serve the purpose of technical information; in particular, it shall not be taken into account for interpreting the application.

5/3 the applicant shall provide the Office with the required additional information and data related to his application.

5/4 the applicant may introduce the amendments he deems fit to his application if such amendments shall not constitute a substantive modification to the contents of the original application.

Article 6:

If the applicant is a none GCC resident, he shall appoint a registered agent who is a GCC resident to represent him in carrying out activities entrusted to him by the Patent owner before the Office.

Article 7:

7/1 the application may contain claim of priority of previous application filed in any State or regional office. Such being the case, as provided for in the Bylaws, the application shall indicate the date and filing number of the previous application, and the country of filing. The applicant shall produce proof thereof; otherwise, priority claim shall be denied.

7/2 the duration of the priority shall be twelve Gregorian months.

Article 8:

The applicant may, at any time, withdraw his application unless a final decision has been taken thereof. Withdrawal of application shall not entail the right to reclaim its documents, or the right to refund of fees or expenses incurred.

Article 9:

Once the application has satisfied the terms stipulated in the Regulation and the Bylaws, the Office shall register the application filing date and formally examine it. As for the Substantive Examination, it shall either be carried out by the Office, or referred to one of the approved examination authorities after payment of the Substantive Examination fee.

Article 10:

Should it be found by the Formal Examination that some of the

terms prescribed by law, the Office may request that the applicant completes the application requirements within three months at most from the date he was so notified. If he fails to do so within the indicated date, his application shall lapse.

Article 11:

Should it be found by the Substantive Examination that the application has satisfied the terms prescribed in this Regulation and its Bylaws, the Office shall make a decision granting the patent, enter it in the register, and publish it. The Letters Patent shall be delivered to the owner of the invention three months from the publication date should any concerned party submit no objection to the Grievance Committee. Yet, should it be found by the Substantive Examination that the applicant is not eligible for a patent, the Office shall make a decision rejecting the application with indication of reasons for such rejection, and a copy thereof shall inform the applicant. The decision shall then be published.

Article 12:

12/1 The Patent entitles its owner to exploit the invention. The invention pertaining to a product shall be considered as exploited by manufacturing, use, import, sale, or offering for sale. As for industrial processes or manufacturing methods of a certain product, the patent owner shall have the same right to direct products of the said process or method, in addition to his right to use the processes or methods thereof.

12/2 Where the Patent subject is a product, the Patent owner shall have the right to prevent others from manufacturing, use, sale, offering for sale, or import of the product for such purposes, without his prior consent.

However, where the patent subject is an industrial process, he shall have the right to prevent others from actual use of the process. He shall also have the right to prevent others from use, and offering for sale, sale or import of at least the products directly obtained by using such process, for such purposes, without his prior consent.

12/3 Despite the grant of the patent, an establishment that, in good faith, manufactures, uses an industrial manufacturing process of a product, or makes serious preparations therefore, before the filing date of an application by another person, or before the priority date of the application pertaining to the same product or process, shall have the right to continue such acts. The Assignment or transfer of the said right to a third party can only be made in conjunction with all elements of the business.

Article 13:

The Patent owner shall make sufficient exploitation of the patented invention in the Member States within three years from the date of grant. Should the prescribed grace period expire without sufficient exploitation, the provisions of Article (19) shall apply.

Article (14):

The rights under the patent shall not extend to:

14/1 Acts carried particularly for scientific research purposes. **14/2** The use of patent articles on means of transportation temporarily or accidentally entering the territories of the Council States, whether such articles were used in the body, apparatus, devices, equipment, or any other accessories of the said means, provided use of such articles is limited to their necessities.

Article 15:

The term of a patent shall be twenty years counted from the date of filing the patent application.

Article 16:

The patent shall be subject to an annual fee paid in advance at the beginning of each year starting from the year following the application filing date. Should the patent owner fail to pay such fee within a maximum of three months from the beginning of the year, he may do so within another three months period starting upon expiry of the previous one. In such case, an additional fee shall accrue.

However, annual fees may be paid in advance to entirely or partially cover the validity term of the patent. If the owner of the patent fails to pay the annual fee within the aforementioned legal grace period (six months from due date), the patent shall lapse. For the purposes of this Article, the same provisions governing the patent shall apply to the application. Should three years expire without the Office making a decision on the merits of the application, the applicant may abstain from payment of fees until the Office makes a decision granting the patent, and shall, in such case, pay all unpaid annual fees.

Article 17:

17/1 the owner of a patent that enjoys the protection prescribed herein may license others to perform all or some of the acts of exploitation referred to in Article 12/1 of this Regulation. Such license shall be expressed in writing, signed by both parties, and authenticated by an official authority in one of the Cooperation Council States. The licensing contract shall not be effective vis-à-vis third parties inconsiderable if not entered in the Office records, and the registration request fee, and the registration of licensing contract fee have been paid.

17/2 the grant of a contractual license shall not deprive the patent owner from exploiting the patent himself, or from granting another license under the same patent unless otherwise stated in the first licensing contract.

17/3 the contractual licenses shall entitle the licensee to perform all exploitation acts stipulated in the contract. However, the licensee shall not assign the rights and privileges licensed to him by the patent owner unless it is expressly stipulated in the licensing contract.

Article 18:

The licensing contract to exploit or dispose of the patent shall be subject to control by the Patent Office. The Office may request that the contracting parties amend it to rule out abuse of the patent rights, and whatever negative influence the contract may have on competition in the Council States, or the possession and propagation of technology.

If the parties fail to respond, the Office shall have the right to deny approval of the contract and to refuse its registration.

Article 19:

19/1 where the owner has never exploited the patented invention, or has insufficiently exploited it according to Article (13), the Board of Directors may grant a compulsory license, with observation of the following:

19/1/1 At least three years have elapsed after the grant of the patent.

19/1/2 the applicant proves that he exerted, over a reasonable period of time, efforts to obtain license from the patent owner for an adequate compensation, under fair terms.

19/1/3 that the license is not exclusive.

19/1/4 that the license is essentially granted to meet the demands of the local market.

19/1/5 that the license decision defines the scope and terms of the license, according to the purposes for which it was granted.

19/1/6 that the patent owner shall be paid an adequate compensation.

19/1/7 that the exploitation of the patent shall be limited to the licensee. The license shall not be transferable to others except in case of change of ownership of the licensee's establishment, or the section, which exploits the patent, provided the Board of Directors, approves such transfer.

19/2 should the invention relate to "semi - Conductors" technologies, licensing shall only be permitted for public, general, and none commercial purposes, or to rectify practices that proved none competitive by judiciary or administrative decisions.

Article 20:

20/1 The decision granting the compulsory license shall not prevent granting of other compulsory licenses or deprive the patent owner from exploiting the same invention himself, or granting other exploitation licenses.

20/2 The Board of Directors may disregard clauses (19/1/1, and 19/1/2) of this Regulation if the request of compulsory license was due to a state of emergency, or due to a dire public necessity, or for non commercial use, in one or more council States.

20/3 if a government agency in a Council Member State requests a compulsory license to exploit a certain invention, based on the public interest, the Board of Directors may approve the grant of the license according to the terms of Article (19), with observation of clauses 20/1, 20/2.

Article 21:

Should the exploitation of an invention is of a significant technical advance and a considerable economic importance which require use of another invention, the Board of Directors may grant one or both parties a compulsory license to exploit the other invention unless they mutually agree on exploitation in an amicable manner. In such case, provisions of articles (19, and20), shall be observed.

Article 22:

The Compulsory license shall be cancelled in the following cases:

22/1 If the beneficiary of this license fails to exploit it sufficiently in the Cooperation Council States within two years from the date of the grant of the license, renewable for another two years should the delay be found to be due to a legitimate reason.

22/2 if the beneficiary of the compulsory license fails to pay the due amounts and the amounts stipulated in the Bylaws within three months from the date of maturity.

22/3 if the beneficiary of the compulsory license fails to satisfy any other term that is stipulated in the decision granting the license.

22/4 if the circumstances due to which the license was granted end, and are unlikely to reoccur, if the legitimate rights of the licensee shall be observed.

Article 23:

23/1 the ownership of the patent and all the rights originated therefrom shall be transferable by inheritance. The ownership of a patent shall also be transferable wholly or partially with or without compensation.

23/2 any person concerned with the patent ownership may submit a request to the Office for modification of any of the particulars of the patent ownership or the application, supported with the necessary evidential means. Transfer of the patent ownership shall not be affected and changes shall not be invoked against others until the registration and publications date of such modifications.

Article 24:

Any decision issued by the Office may be appealed within three months from the date it was known to be delivered, or from the date of its publication whatever the case may be. The Implementing Bylaws shall provide for the proceedings before the Committee and the fees for the appeal and for its renewal.

The decisions of the Committee may be appealed before the competent authority according to the regulation complied with in the

host country. Settlement of such appeal shall be made in conformity with the provisions of this Regulation and requirements of the laws of the said State respectively; otherwise settlement shall be made according to general rules.

Article 26:

The competent authorities of each Member State shall examine all disputes pertaining to infringement, or imminent infringement of the patent. Such authority shall settle the said disputes in pursuance of the provisions of this Regulation, and of its own regulations governing national patents, if any, respectively, otherwise according to the general rules.

Article 27:

27/1 The Office shall establish a register to enter patents and their particulars in conformity with the provisions of this Regulation and its Bylaws.

27/2 The Office shall publish an official gazette for all the publications stipulated in this Regulation and its Bylaws.

Article 28:

The Ministerial Council shall make a decision to form a Grievance Committee according to the following:

28/1 The Committee shall consist of twelve members from the nationals of the Member States selected for their personal capacity rather than their official capacity.

28/2 Each Member State shall make two nominations for membership of the Committee: one with a legal qualification, and the other being a technical specialist.

28/3 Other Members shall elect two legally qualified persons as a chairman and a vice-chairman of the committee for a three years session.

28/4 The Committee shall take its decisions by a two-thirds majority vote of attendant members.

28/5 The Committee meetings shall be held when one member at least from each State is present.

28/6 The Committee meeting shall be postponed for two weeks if the presence of both members of any of the States is infeasible. Should the infeasibility persist for the following meeting, the meeting shall be valid.

28/7 The Committee members shall neutrally perform their tasks, independent from the directives of any authority.

Article 29:

Members of the Committee, members of the Board of Directors, and Patent Office staff may not, during their employment, or in the two

years following termination of their services, submit applications on their behalf. The information in their possession shall be regarded highly confidential.

Article 30:

The Office shall collect fees from the beneficiaries in the following instances:

1. Filing a patent application.
2. Fees of granting and publication of the patent.
3. Annual fees.
4. Amendment or addition to the patent application.
5. Additional fee for delay of payment of annual patent fee.
6. Assignment of patent application or granted patent.
7. Obtaining a copy of the application, of its record, or of the patent.
8. Requesting the grant of a compulsory license.
9. Grant of a compulsory license.
10. Requesting registration of the license contract.
11. Registration of the license contract.
12. Registration of appeal before the Committee.
13. Renewal of appeal before the Committee.
14. Requesting sample of microorganism.
15. Request for a certificate of temporary protection during an exhibition.
16. Conducting a patent search.
17. Substantive Examination.

Such fees shall be prescribed by the Bylaws.

Article 31:

During the exclusion term, protection of products granted a patent by the office shall not be valid in any Member State that is excluded in conformity with clause (4) of Article (65) of the Trade Related Intellectual Property (TRIPS) annexed to the World Trade Organization agreement.

Article 32:

The Ministerial Council shall issue the Bylaws of this Regulation.

Article 33:

Interpretation and proposals of modification of this Regulation shall be the competency of the Financial and Economic Cooperation Committee following coordination with the Scientific and Technical Cooperation Committee and Industrial Cooperation Committee.

Article 34:

This Regulation shall come into force three months from its publication and the publication of the Implementing Bylaws.