

**Patent Law of the Cooperation Council for the Arab States of
the Gulf (GCC Patent Law)**

Resolution of the Supreme Council at its 41st Session

21 Jumada (I) 1442 AH - 5 January 2021 AD

Al-Ula, Kingdom of Saudi Arabia

Patent Law of the Cooperation Council for the Arab States of the Gulf (GCC Patent Law)

In implementation of the GCC objectives set forth in Article (Four) of the GCC Charter; and

Supporting the joint scientific and technical cooperation among Member States provided for in Chapter (IV) of the Unified Economic Agreement, particularly the development of an essential foundation to support and encourage research, applied and technical sciences; and

Endeavouring to achieve the objective of transferring and adapting the imported technology, as well as encouraging and developing local technologies to cope with the nature of the needs of the region and the objectives of advancement and development therein;

The GCC Supreme Council (41st Session, January 2021), having reviewed the GCC Patent Law, endorsed by the Supreme Council at the 20th Session held in November 1999, hereby agrees to amend the Law as follows:

Article (1)¹

In implementing the provisions of this Law, the following words and terms shall have the meanings assigned to each, unless the context otherwise requires:

1/1 “Cooperation Council”: the Cooperation Council for the Arab States of the Gulf (GCC).

1/2 “Law”: the GCC Patent Law.

¹ Article (1) amended per Supreme Council’s Resolution (41st session)

1/3 “Patent”: the document granted by the Office to the owner of invention (patentee) enabling his invention to enjoy protection within any of the GCC States according to the provisions of this law.

1/4 “Commercial Cooperation Committee (CCC)”: the ministers concerned with trade affairs in the GCC States.

1/5 “Committee”: the Grievance Committee formed by the CCC to exercise its competencies provided for in this Law and the Implementing Rules thereof.

1/6 “Office”: the Patent Office at the GCC Secretariat-General.

1/7 “Competent Authority”: the ministry, department or the national office concerned with the patent law in each GCC Member State.

1/8 “Implementing Rules”: the rules issued for implementation of the provisions of this Law.

Article (1 bis)²

1bis/1- The Office shall receive applications for patents, examination or granting at the request of any GCC Member State. Recourse to the Office shall be optional from any GCC Member State.

1bis/2 – In the event the Member States have chosen the Office to act on their behalf in receiving the applications for patents, examination or granting of patents, they shall notify the GCC Secretary General accordingly. The notice shall specify the limits for benefiting, in part or in whole, from the services of the Office. The GCC Member States shall apply their national legislations to the patents in terms of the Office’s services they don’t want to benefit from.

² Text created per Supreme Council’s Resolution (41st session)

1bis/3 – When chosen by any GCC Member State to receive a patent application, the Office shall refer the application to the competent authority for taking necessary actions according to the national legislations of such Member State.

1bis/4 - The Office may not grant a patent without the consent of the Member State (s) which has chosen it to act on its behalf in granting such patent in accordance with the procedures stipulated in the Implementing Rules. In all cases, the patent shall be valid only in those States.

1bis/5 – The Office shall publish a circular in the official gazette stating the names of the Member States and the services that the Office provides on their behalf and any updates thereto.

Article (2)

2/1 An invention shall be deemed patentable according to the provisions and Implementing Rules herein if it is novel, involves an inventive step, industrially-applicable and does not conflict with the provisions of the Islamic Law (*Shariah*), the public order or the public morals in the GCC States, whether in terms of products or manufacturing processes or manufacturing methods.

2/2 An invention shall be novel if it is not anticipated by the prior art, prior art being anything disclosed to the public anywhere by means of written or oral disclosure, by use or in any other way by which the invention is realized before the relevant filing date of the patent application or the priority date validly claimed in respect thereof. For the purposes of this paragraph, disclosure of the invention to the public shall not be considered if it took place within one year, whether before the patent application's 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. Also, the disclosure of the invention to the public shall not be considered if it took place at an officially recognized exhibition within the six months preceding the filling of the patent application; such being the case, the Implementing Rules shall determine the protection provisions for the subject invention.

2/3 An invention shall be considered as involving an inventive step if, in the light of the related prior art, it is not obvious to a person with ordinary skill in the art.

2/4 An invention shall be considered as 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 patent applications pertaining to inventions having connection with the security of any GCC Member State, the procedures stipulated in the Implementing Rules shall apply.

2/6 Should there be more than one application for registering 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 ownership of 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 ownership shall also be assigned to the employer if he proves that the inventor would not have achieved such 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 the 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 following

the termination of his services shall be considered as having been filed during his employment.

Article (3)

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

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

3/1/2 Schemes, rules and methods for doing business, performing purely mental activities 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 Law shall not protect varieties of plants or species of animals.

Article (4)³

The Commercial Cooperation Committee may exclude certain inventions from patenting when it is necessary to protect the public order or the public morals including protection of life or human, animal or plant health or to avoid substantial harm to the environment.

Article (5)

³ Article (4) amended per Supreme Council's Resolution (41st session)

5/1/1 The patent application shall be submitted to the Office by the inventor, his authorized agent or by the person to whom the rights of the invention have devolved. The application shall include a request to be granted 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 his authorized agent (if any), as well as an acknowledgment justifying the applicant's right to the invention if the applicant is not himself the inventor.

5/1/3 The application shall relate to one invention only or to aspects that are so related as to constitute one inventive concept.

5/2/1 The patent application shall include the name (title) of the invention, a (detailed) description, one claim (protection element) or more, one explanatory drawing or more (if any), and an abstract of the invention.

5/2/2 The description shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art.

5/2/3 The claim or claims shall determine the scope of the protection sought. The description and the explanatory drawings may be used to interpret the claims, whenever necessary.

5/2/4 The claims shall be clear and concise (brief) and be fully supported (fairly based) on the description.

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 any amendments he deems fit to his application provided that such amendments shall not constitute a substantive modification to the contents of the original application.

Article (6)

If the applicant is not a resident in the GCC States, he shall appoint an authorized agent residing in any of the GCC Member States to carry out the tasks empowered to him by the applicant before the Office.

Article (7)

7/1 The patent application may include claim for the right of priority of an earlier application filed in any country or regional office. Such being the case, the application shall indicate the filing date and number of the earlier application and the name of the country in which it was filed. The applicant shall produce proof thereof as provided in the Implementing Rules otherwise the claim for the right of priority shall be denied.

7/2 The duration of priority is 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)⁴

9/1 Upon receiving a patent application on behalf of any GCC Member State, and having ensured that the requirements provided for in the Law and the Rules of Implementation are fulfilled, the Office shall register the filing date of the application.

9/2 The Office shall undertake formal or substantive examination of the application on behalf of any GCC Member State so requested, or refer the application to one

⁴ Article (9) amended per Supreme Council's Resolution (41st session)

of the approved examination authorities to undertake such examination after payment of the substantive examination fees.

Article (10)

Where it is found, upon formal examination, that certain conditions prescribed by the Law are not fulfilled, the Office may request the applicant to take the required action to complete the application within three months at most from the date he was so notified. If he fails to do so within the said period, his application shall lapse.

Article (11)

Should it be found, upon substantive examination, that the application has satisfied the terms prescribed in this Law and its Rules, the Office shall issue a decision granting the patent, record it in the register and publish it. If no objection is submitted to the Committee by any interested party, the patent shall be granted to the owner of the invention after three months from the date of publishing.

But where it is found, upon substantive examination, that the applicant is not entitled to the grant of patent, the Office shall issue a decision rejecting the application explaining the reasons for rejection, and a copy thereof shall notify 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, using, importing, selling or offering it for sale. As for industrial processes or manufacturing methods of a certain product, the patent owner shall have the same right with respect to direct products of such 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, using, offering for sale, selling or importing the product for these purposes, without his consent.

But if the patent subject is an industrial process, he shall have the right to prevent others from actual use of the process, and from using, offering for sale, selling or importing at least the product obtained directly by such process for these purposes, without his consent.

12/3 Despite the grant of the patent, an establishment that, in good faith, manufactures a product, uses the industrial process or the manufacturing method of a product, or takes 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 the performance of these acts. The assignment or transfer of the said right to a third party can only be made in conjunction with all the assets of the establishment.

Article (13)

The patent owner (patentee) shall exploit the invention covered by the patent sufficiently in the GCC States within three years from the date of grant. Should the prescribed period expires without the patent being sufficiently exploited, the provisions of Article (19) shall apply.

Article (14)

The rights under a patent shall not apply to the following:

14/1 Acts performed for scientific purposes.

14/2 Use of the patent theme in means of transportation temporarily or accidentally entering the territories of the GCC States, whether that were in the body, apparatus, devices, equipment, or the other additional parts of the said means of transportation, provided that such use shall be confined to the needs of those means.

Article (15)

The term (period) of patent protection is twenty years counted from the date of filing the patent application.

Article (16)

The patent shall be subject to an annual fee to be paid at the beginning of each year starting from the year following the patent application filing date. Should the patent owner (patentee) fails to pay the fee within a maximum of three months from the beginning of the year, he may pay the fee within another three months period starting from the expiry of the previous period with payment of an additional fee. In all cases, the annual fees may be paid in advance for the whole or part of the patent term. If the patent owner fails to pay the fee within the aforementioned legal period (six months from the due date), the patent shall lapse. The same provisions governing the patent in this Article shall apply to the patent application. Should three years expire without the Office making a decision on the merits of the application, the applicant may stop payment of the fees until the Office issues a decision granting the patent, in which case the applicant shall pay all unpaid annual fees.

Article (17)⁵

17/1 The owner of a patent that enjoys the protection decided for him herein may license others to perform all acts of exploitation stipulated in Article (12/1) hereof or some of them. Such license shall be written, signed on by both parties and authenticated by an official authority in one of the GCC States. The licensing contract shall not be recognized unless it is entered in the records of the Competent Authority, and the registration request fee and the licensing contract registration 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 the invention exploitation acts stipulated in the

⁵ Article (17) amended per Supreme Council's Resolution (41st session)

contract. The licensee shall not assign the rights and obligations licensed to him by the patent owner unless his right to assignment is expressly stipulated in the licensing contract.

Article (18)⁶

The licensing contract to exploit or dispose of the patent shall in all cases be subject to the power and oversight of the Competent Authority. The Competent Authority may request the contracting parties to amend the contract so as to negate abuse of the patent rights, and whatever negative influence the contract may have on competition in the GCC States or their possession and propagation of technology. If the parties fail to respond, the Competent Authority shall have the right to deny approval of the contract and to refuse its registration.

Article (19)⁷

19/1 If the patent owner did not exploit the patent at all or he exploited it insufficiently as per Article (13), the State, which chose the Office to grant the patent on its behalf, may grant a compulsory license subject to the following terms:

19/1/1 At least three years have elapsed since the grant of the patent. 19/1/2 The license applicant proves his exertion of efforts, over a reasonable period of time, to obtain license from the patent owner for a reasonable price and under reasonable business terms.

19/1/3 The license shall not be exclusive.

19/1/4 The license shall be for meeting the needs of the local market essentially.

19/1/5 The licensing decision shall specify the scope and the term of the license to meet the purpose for which it has been granted.

⁶ Article (18) amended per Supreme Council's Resolution (41st session)

⁷ Article (19) amended per Supreme Council's Resolution (41st session)

19/1/6 The patent owner shall be paid an adequate compensation.19/1/7 The exploitation of the patent shall be confined 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 of his establishment which exploits the patent, provided that the State approves such transfer.

19/2 Should the invention relate to semiconductor technology, licensing shall only be permitted for non-commercial general purposes or to rectify practices proved by judiciary or administrative decisions that they are non-competitive.

19/3 Each GCC State shall determine the fee applicable to the compulsory license application and granting according to its national legislation.

Article (20)⁸

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

20/2 The GCC States, which have chosen the Office to grant the patent on its behalf, may disregard the clauses 19/1/1 and 19/1/2 if the application for a compulsory license was because of a public emergency situation or a pressing public need or was for general non-commercial uses in one or more GCC State.20/3 Where the applicant for a compulsory license is the government of one of the GCC States that have chosen the Office to grant the patent on its behalf in order to exploit a certain invention through one of its organs pursuant to the requirements of public interest, such government may approve the grant of the license according to the terms set forth in Article (19) with observation of paragraphs 20/1 and 20/2.

Article (21)⁹

⁸ Article (20) amended per Supreme Council's Resolution (41st session)

⁹ Article (21) amended per Supreme Council's Resolution (41st session)

Should the exploitation of an invention involve a significant technical advancement and has a considerable importance and such exploitation requires the use of another invention, the GCC States that have chosen the Office to grant the patent on its behalf may, subject to the provisions of Articles 19 and 20, grant either party or both of them a compulsory license to exploit the other invention, unless they amicably agree to such exploitation.

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 GCC States within two years from the grant of 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 Rules within three months from the date of maturity.

22/3 If the compulsory licensee fails to satisfy any other term that is stipulated in the decision granting the license.

22/4 If the circumstances for which the license was granted end and are unlikely to reoccur, with due consideration to the legitimate interests of the licensee.

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 file 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. Ownership of the patent will not transfer and changes of its particulars shall not be invoked against others except from the registration and publication date of the modification decision.

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 Rules shall regulate the applicable procedures before the Committee and the fees of the appeal and renewal thereof.

Article (25)¹⁰

The decisions of the Committee may be appealed before the GCC Economic Judicial Commission. Settlement of such appeal shall be made in conformity with the provisions of this Law and the laws of the GCC States respectively; otherwise settlement shall be made according to the 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 disputes shall be settled in accordance of the provisions herein and the laws of these competent authorities governing patents, if any, respectively, otherwise settlement shall be 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 Law and its Rules.

27/2 The Office shall issue an official bulletin (gazette) in which all the announcements stipulated in this Law and its Rules shall be published.

¹⁰ Article (25) amended per Supreme Council's Resolution (41st session)

Article 28¹¹

The Commercial Cooperation Committee shall issue a decision to form the Grievance Committee according to the following:

28/1 Each GCC Member State shall nominate two candidates for the membership of the Committee such that one of them is legal and the other is technical. 28/2 The Committee shall have a chairman and a vice-chairman from the legal members to be selected by the rest of members for a three years term.

28/3 The Committee shall take its decisions by a two-thirds majority votes of attendant members. 28/4 The Committee holding (meeting) shall be deemed valid if it is attended by two thirds of the Committee members..

28/5 The Committee's meeting shall be postponed for two weeks if the quorum provided for in Article 28/4 is not reached and the meeting shall be deemed valid with the members present.

28/6 The Committee members shall neutrally perform their tasks, independent from the directives of any authority whatsoever.

Article (29)¹²

Members of the Committee and the Office staff, throughout their term of service, or in the two years following termination of their services, may not file applications in their names. The information in their possession shall be regarded top confidential.

Article (30)¹³

¹¹ Article (28) amended per Supreme Council's Resolution (41st session)

¹² Article (29) amended per Supreme Council's Resolution (41st session)

¹³ Article (30) amended per Supreme Council's Resolution (41st session)

Subject to the provisions of Article (1bis) and Article (9), the Office shall collect fees from the beneficiaries in the following cases:

1. Patent application.
2. 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 the annual fee of patent.
6. Transfer of the right in the patent application or transfer of ownership of the patent.
7. Obtaining a copy of the application, of its record, or of the patent.
8. Registration of appeal before the Committee.
9. Renewal of appeal before the Committee.
10. Requesting sample of microorganism plantation.
11. Request for a certificate of temporary protection (of displayed invention) in an exhibition.
12. Conducting Search in Office's documents.
13. Substantive Examination.

The Implementing Rules shall determine the amounts of fees..

Article (31)¹⁴

The Commercial Cooperation Committee shall issue the Implementing Rules for the present Law.

¹⁴ Article (31) renumbered per Supreme Council's Resolution (41st session)

Article (32)¹⁵

The Commercial Cooperation Committee may propose amendment to this Law.

Article (33)

This Law shall come into force three months from the date of publishing it together with the Implementing Rules thereof.

¹⁵ Article (32) amended per Supreme Council's Resolution (41st session)