

Frequently Asked Questions (FAQs)

A GCC Patent



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A GCC Patent

1. What are the member states of Gulf Cooperation Council (GCC)?

The member states of GCC are Saudi Arabia, Bahrain, Kuwait, Oman, Qatar and United Arab Emirates.

2. What is the legal status of a GCC patent office and when was it created?

The GCC patent office was established in 1992, when the GCC approved GCC patent law establishing the GCC patent office in Riyadh, Saudi Arabia. The office started receiving patent applications in 1998.

3. Can GCC patent office grant a unitary patent for whole GCC region?

Yes, the GCC patent can grant a single patent, which will be equally applicable and enforceable in all GCC member states.

4. What is the role of national offices and national patent laws of GCC member states in prosecution of GCC patent application?

A GCC patent application is fully governed and subject to GCC patent law. There is no role of national patent offices of member states in patent prosecution process.

5. Can a member states object to a patent granted by GCC patent office?

No. There is no such procedure for submission of objections by member states at any stage of prosecution or grant.

6. What can be granted a patent under GCC patent law?

Any invention which fulfills requirements of patentability can be granted a patent. An invention to be patentable must fulfil following conditions:

- i. Novelty
- ii. Inventive Step
- iii. Industrial Applicability
- iv. Invention is not contrary to principles of Shariah (Islamic) law.
- v. Invention is not contrary to public order or morality observed in member states.

A GCC Patent

7. What cannot be granted a patent under GCC patent law?

GCC patent law clearly stipulates subject matters which are not patentable. The following cannot be protected as patents:

- i. Discoveries, scientific theories, mathematical methods and computer programs.
- ii. Schemes, rules and methods of doing business, performing pure mental acts or playing games.
- iii. Plants 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.
- iv. Methods of surgical or therapeutic treatment of human or animal body and methods of diagnosis applied to human or animal bodies, with the exception of products used in any of these methods.

8. How long it takes to register a patent?

It may take 42 to 48 months for granting a patent filed with GCC patent office

9. What is official cost of filing a patent upto grant?

Total official fee for grant of a patent including examination fee is USD 4402. Based on number of claims accepted or rejected, there may be either re-examination or second examination of patent application. The fee for re-examination will be submitted again i.e USD 2000. If the patent office requires second examination, USD 1000 will be paid.

10. Is it possible to designate limited countries of interest for application filed under GCC patent system?

No. An application filed with GCC patent office will be applicable in all countries automatically, and it is not possible to select specific member countries through designation.

11. Is it possible to file national phase application under Patent Cooperation Treaty (PCT) with GCC patent office covering all member states?

No. GCC patent office is not a member of PCT, and it is not possible to file national phase application under PCT with GCC patent office. The only procedure to enter into national phase in GCC member states is by entering into national phase through national patent office of each member state.

A GCC Patent

12. What kind of power of attorney is required for filing a patent through an agent?

A local agent/attorney requires a power of attorney whether a general or specific one before filing a patent application. The power of attorney should be executed by an authorized signatory before a Notary Public and legalized up to the Consulate of any GCC member country.

As per law, Power of attorney shall be filed within three months of filing application.

13. Can a patent be amended during prosecution before GCC patent office?

Yes, amendment can be made either a result of substantive examination or by submitting application to amend by applicant.

14. How many substantive examinations are conducted for patent application filed with GCC patent office?

After filing a GCC patent application, examiner will conduct three substantive examinations. The applicant is provided chance to amend application upto second examination report. In third examination, only minor amendments are possible, not substantial.

15. Can applicant claim right of priority from convention application?

Although GCC patent office is not member to Paris convention, however it accepts priorities from convention application.

16. What is the limit on number of claims?

There is no such requirement. However, there shall be at least one independent claim in application.

17. Can a divisional application be filed in GCC patent office?

Yes, divisional application can be filed in GCC patent office by claiming priority of original application before decision to grant of original application is taken by the patent office.

18. Can applicant withdraw pending patent application?

Yes. A pending patent application can be withdrawn before final decision to grant or refusal is taken.

A GCC Patent

19. What is the procedure for payment of annuities in GCC patent office?

Annuities are paid from the year following the application filing year. An applicant must pay annuity from January 01 to March 31 in the following year.

20. It is possible to extend patent term due to delay caused by patent office?

There is no provision on patent term extension under GCC patent law.

21. Where is appeal against refusal decision filed?

Appeal against refusal decision can be filed with a specialized GCC Patent Committee.

22. What is term of protection for a patent in granted by GCC patent office, and how is it calculated?

Term of protection for a patent is twenty years. It is calculated from date of filing a patent application.

23. Can a patent be amended during appeal stage?

No. In practice it is not possible to amend a patent application during appeal stage. This is equally applicable to appeal before a Saudi court upto any level.

24. Can a lapsed patent be restored under GCC patent law?

There are no provisions for restoration of a patent application under GCC patent law.

25. Is there procedure in place for expediting processing of a patent application by paying additional fee?

No. There is no such procedure in place.

26. Is it mandatory to register a patent license?

Yes under GCC Patent law, license is subject to control of the GCC patent office. The implementing regulations makes it mandatory to record a patent license agreement.

27. What are consequences of non-recordal or registration of license?

Non-recorded license will not be effective vis-à-vis third party in member states.

A GCC Patent

28. Can a patent be assigned partially?

Yes, it is possible to partially assign a patent.

29. Who has right to initiate patent infringement?

A patent owner, and an exclusive licensee having right to initiate action provided in recorded license agreement may sue for infringements.

30. Are there custom measures available for right holders to take actions on infringing goods under GCC patent law?

The GCC patent law leaves the infringement proceedings to competent authorities of all member states. The law itself does not obliges member states to provide border measures for patent enforcement.

31. Which is the competent forum for hearing patent disputes under GCC patent law?

The GCC patent law leaves infringement proceedings to competent authorities in member states. GCC patent law does not define or create any unitary judicial or administrative body to hear patent infringements or invalidity actions.

32. Can invalidity proceedings be filed by any interested party?

Yes. Invalidity proceedings can be initiated by interested party either as a fresh suit or as a defense in infringement cases. GCC patent law is however not clear on question on invalidity.

33. Does the court or GCC patent committee appoints experts for deciding on technical matters?

During appeals against refusal decisions, GCC patent committee or courts can appoint experts for deciding on technical matters.

34. Are there administrative procedures available for patent infringement cases?

No. The GCC patent law leaves infringement proceedings to competent authorities in member states. GCC patent law does not oblige member countries to provide administrative proceedings for patent infringement.

A GCC Patent

35. Is it possible to claim damages in patent infringement cases? How much damages are awarded?

Since infringement is territorial subject matter under GCC patent law, therefore award of damages will depend upon laws of each member state. In Saudi Arabia for example, in theory, damages are possible to be recovered, however in practice it is very unlikely that patent dispute committee or Saudi court will award damages. Shariah (Islamic) law is applicable to calculation of damages, which requires cause and effect relationship between infringing activity, and actual damages caused as a direct result of such acts.

36. Is it mandatory to submit Arabic translation during filing patent application and in infringement suits?

GCC patent office, GCC patent committee and courts will accept only Arabic documents or its Arabic translation by a certified translator. This includes priority documents, power of attorney, and translation of certificates in other jurisdictions used as evidence.