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Expanding patent protection into the Arabian Gulf

Namir Sioufi, from Saba IP, introduces patent protection systems in the GCC to help potential applicants decide on their preferred route.

With increasing government fees across the board relating to Intellectual Property procurement, regional IP offices provide a cost effective alternative over individual country filings, where available. Cost may be a crucial criterion for patent applicants with restricted budgets; for others, time to grant, publication and/or enforceability are key factors in deciding when and where to file their applications.

The Arabian Gulf countries, namely Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (UAE) make up the Gulf Cooperation Council or the GCC. Each country has created its own national patent office, under the relevant ministry, from which a patent may be obtained pursuant to their national IP laws and regulations.

Patent protection may also be obtained in each country via a regional patent system created by the Ministerial Council of the Cooperation Council. This latter created the GCC Patent Office (GCCPO), based in Saudi Arabia. The GCCPO manages patent applications filed pursuant to the GCC patent laws and regulations.

When evaluating the GCC market as a whole, or the member countries, a patent applicant has the option of choosing either the national routes or the regional route. The goal of this article is to introduce these systems to help potential applicants decide on their preferred route.

A quick overview

The table on the following page summarizes some relevant particulars relating to the regional GCC system and each country's national system.

A growing and diverse economy

In the span of the past 15 to 20 years, the Arabian Gulf region has been the scene of rapid growth, as witnessed by the development of different sectors. These developments comprise industries that are dependent on the oil and gas industry, but also all those that are independent from this sector such as alternative energy, telecommunications, FMCG, tourism and medical. The results are world trade and tourist hubs such as Dubai, Abu Dhabi, and Doha. In addition, cities such as Manama and Muscat, which are imposing themselves as preferred business destinations bridging between East and West.

In that same period, the region saw the sprouting of numerous new universities and organizations in major cities, providing advanced degrees and investing in advancing local research. King Abdallah University of Science and Technology (KAUST) is an example of a prominent local University, in Saudi Arabia, with high aspirations in education and research, as evidenced by numerous publications in internationally recognized journals and patent filings in an array of subject matters.

Internationally recognized and prestigious institutions such as The Sorbonne, Weil Cornell, Johns Hopkins, Mayo Clinic, and others have established campuses in the region, in agreement with local research, academic or investment organizations.

In 2006, the Gulf Petrochemicals and Chemicals Association (GPCA) was established. The association represents the downstream hydrocarbon industry in the Arabian Gulf and currently includes over 250 local and regional companies. In addition to managing several platforms related to the industry, the association also manages platforms on international trade and research and innovation. The GPCA holds annual meetings to promote this industry, improve trade relations and push for further local innovation.

Résumé

Namir Sioufi, Saba IP

Namir joined Saba IP in 2012 and currently holds the position of Regional Head of Patents. He works alongside a team of professional experts with various specialized backgrounds and provides technical and legal support across all Saba IP branch offices. Namir and his team manage several key patent portfolios from pre-filing recommendations and strategy through prosecution and grant. He has participated in several Global IP conferences as an attendee or a presenter.

Saba IP is the oldest and leading IP firm with offices throughout the Middle East and North African countries, and provides all type of IP-related services including prosecutions, procurement and litigation.

	Filing to Grant (Years)	Filing Conventions/Treaties	Priority Deadline	Examination	Prosecution Language	Annuities
GCCPO	7-9	None	12 months	Yes	Arabic/English	Prior to grant
Bahrain	N/A	Paris/PCT	12 / 30 months	No	Arabic	Post grant
Kuwait	N/A	Paris/PCT	12 / 30 months	No	Arabic	Post grant
Oman	5-7	Paris/PCT	12 / 30 months	Yes	Arabic	Prior to grant
Qatar	5-7	Paris/PCT	12 / 30 months	Yes	Arabic	Prior to grant
Saudi Arabia	3-5	Paris/PCT	12 / 30 months	Yes	Arabic	Prior to grant
UAE	3-5	Paris/PCT	12 / 30 months	Yes	Arabic/English	Prior to grant

The pharmaceutical industry, driven by the need for access to cheaper healthcare, as well as the need for multinational companies to access local manufacturing, is now well established with some key local and regional players. The know-how for manufacturing medicines includes traditional small molecules, biologics, and devices. This know-how is extending more and more into expanding R&D locally.

As a result of the rapidly growing markets in this region and the desire to attract more foreign investments, it is no surprise that the IP landscape has also witnessed a dramatic improvement. These include updated IP laws and regulations, as well as accession to international treaties and agreements. On the one hand, these are designed to encourage more investments from foreign companies, and on the other hand, to promote local innovation seeking national, regional and international exclusivity on new products and processes.

The Regional

In 2016, Kuwait acceded to the Patent Cooperation Treaty (PCT), becoming the last country of the GCC member states to do so. Accordingly, all 6 GCC countries are automatically designated in a PCT filing with a 30-month entry deadline under both Ch. I and II. Despite all its member countries having acceded, the Ministerial

Council of the Cooperation Council has yet to submit its instruments to the WIPO, allowing the GCCPO to accede to the treaty in its turn.

The GCCPO accepts patent applications claiming 12-month priority from the first filing date. This priority claim is provisioned for in the GCC Patent Law, and not pursuant to the Paris Convention since the GCCPO is not signatory to this treaty either.

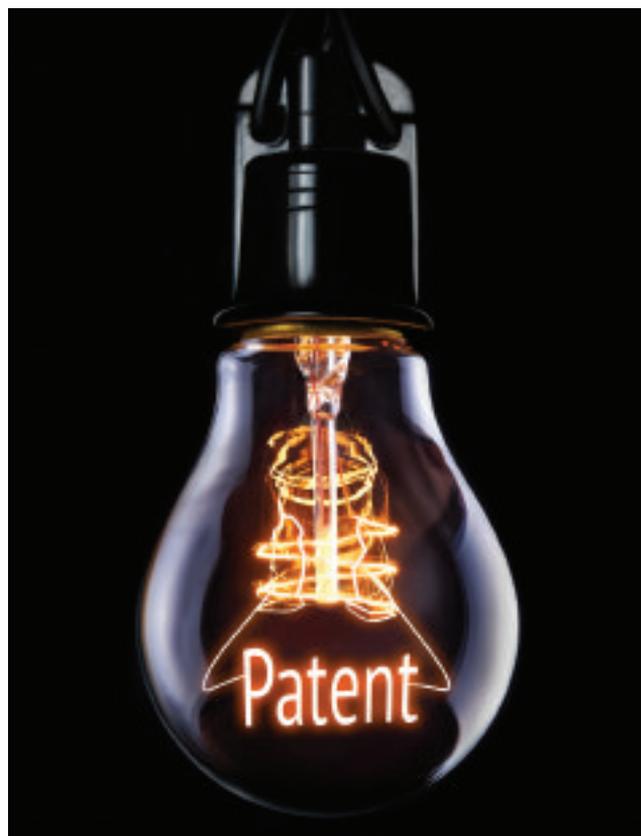
As described in previous paragraphs, the route for seeking protection in that region will depend on the applicant’s strategy. If a decision is made to extend patent protection into all 6 countries, and this is made within the 12-month priority deadline, then the GCCPO offers several advantages such as:

1. One set of supporting documents;
2. One translation and formatting for the specifications and drawings;
3. One examining and decision making authority;
4. One set of maintenance fees due annually;
5. Protection in Bahrain and Kuwait where the national offices are not issuing patents at this time;
6. The overall total cost is lower than filing in the 6 countries separately.

Unlike the European Patent Office (EPO), all 6 countries are automatically designated upon filing, and once granted, the patent is automatically validated in all 6 countries. The maintenance fees remain to be due to the GCCPO and not to each country. The two main drawbacks for filing a GCC patent application are:

1. The decision has to be made within 12 months from the first filing;
2. The prosecution period may extend up to 10 years and is rarely less than 7.

The GCCPO recently renewed and extended its agreement with the Chinese Patent Office (SIPO). Pursuant to the agreement, GCC patent applications are examined either by SIPO or internally, hence the mandatory need for both English and Arabic specifications. Which applications are examined by which authority remains at the discretion of the GCCPO. This latter is growing its capability to eventually handle all examinations internally.



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