



مكتب فراهات وشركاهم
Farahat & Co.
Established 1985, in UAE

Patent

Intellectual Property (IP)



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PATENTS

A Patent is a right associated with any new invention resulting from a novel idea or novel improvement of an invention protected by a patent, in all fields of technology, whereby the idea or improvement is based on scientific principles and capable of industrial exploitation, whether be it new industrial products, or developed industrial methods, or new applications of common industrial methods. The right to a patent may be assigned or licensed to a third party. An assignment shall have no effect against third parties unless it has been recorded at the Patent Office and published in the Official Gazette. Working of patents in the United Arab Emirates is an official requirement. If the owner of a patented invention does not satisfy the stipulated working requirements within 4 years from the filing date, or the owner refuses to license it under a contract of fair terms, then the patent will be subject to compulsory licensing under the provisions of the law.

Patentable Inventions:

According to the UAE Patent Law, letters patent shall be awarded to any new invention resulting from an innovative idea or inventive step in all fields of technology, provided that such an idea or inventive step has a scientific basis and is capable of industrial application. The invention shall be deemed industrially applicable in its broadest term if used or utilized in such fields as agriculture, Fisheries, handicrafts, and services.

Exceptions from Patentability

- a) Plant varieties, animal species, or biological methods of producing plants or animals. Exceptions shall be allowed for the microbiological methods and their products.
- b) Diagnostic methods, humans and animals. treatments, and surgical operations needed for
- c) Scientific and Mathematical principles, discoveries and methods.
- d) Guides, rules or methods followed to conduct business or perform mental activities or play games.
- e) Invention that may lead to violation of the public order or morals.

If it is evident to the administration upon examination of the patent application that the scope of the invention relates to the national defense, then the procedures provided for in the implementing regulations of this law shall be undertaken thereon.



Registration procedure

Initial step to register a Patent is the filing of the application for the grant of a patent, after this the concerning authorities examined it as to the compliance with formalities and patent ability provided for under the Patent Law including the novelty, inventiveness and industrial applicability. If the application is rejected, the applicant shall have the right to appeal to the Committee within 60 days as of the date of receiving the notification of rejection. The accepted applications are published in the Official Gazette and any interested party has the right to appeal to the Committee within 60 days as of the date of publication in the Official Gazette. If no opposition is lodged within the time limit indicated above, the letters patent or the utility certificate is issued. However, it is to be noted that no Committee has been formed yet.

As per the new Patent Law, a patent is valid for 20 years. A utility certificate is valid for 10 years.

The payment of annuities can be made on or before the due date at any time and for any number of years. However, annuities can still be paid during the three months after the due date without late payment fee and another 3 months with a late payment fee (total grace period is six months). Although the law does not have any stipulation of novelty except the mention of —new“, the Implementing Regulations require the administration to examine the patent as to its novelty, i.e., the new invention has no precedence in the industrial prior art. The industrial prior art means all that was disclosed to public anywhere at any time whether by written, oral disclosure or by use or any other method which allows the understanding of the invention.

Technical know-how is protected from any unauthorized use, breach or disclosure. Infringement of the rights of a patentee is punishable under the provisions of the law. The United Arab Emirates is a member of the Gulf Cooperation Council Patent Law. Further it has joined the PCT as of March 1999; thereby patents may be deposited within the National Phase of the PCT.

Compulsory Licenses and Expropriation of Inventions

1. If the owner of the letters patent or the holder of the utility certificate have not used or made use of the letters patent or the utility certificate, then any interested party may according to article (30) of this law obtain a compulsory license under the following conditions:
 - a. The period of at least 3 years since the issuance of the letters patent has passed.



- b. The proposed licensee should demonstrate the efforts made to obtain the license from the patentee for a reasonable price and under reasonable commercial conditions. The required procedures will be set in the implementing regulations in this regard.
 - c. The license should not be issued in absolute terms. The license may include obligations and boundaries for both the licensor and the licensee.
 - d. The license should be intended to satisfy the basic requirements of the local market. The proposed licensee must offer the necessary guarantees set in the implementing regulations of this law in order to sufficiently exploit the invention to remedy the deficiency or meet the needs that lead to requesting the compulsory license.
 - e. The scope of the license should be in line with the objective for which it has been issued.
 - f. The patentee should receive a fair compensation.
 - g. The use of the patent should be restricted to the licensee. The license cannot be transferred to a third party except where the ownership of the establishment of the licensee or the part thereof utilising the patent has been assigned. Such a transfer should be approved by the competent court and be bound to articles (28) and (32) of this law.
 - h. In the case of semi-conductor technology, the license shall only be for public, non-commercial use, or to remedy a practice determined after judicial or administrative process to be anti-competitive.
2. The compulsory license shall not be granted if the owner of the letters patent or utility certificate offers plausible justification. Importing the product is not considered as plausible justification.