

# Patent Protection in the UAE

**Ahmad Saleh** - Partner, Head of Innovation, Patents & Industrial Property - Innovation, Patents & Industrial Property (3IP)

ah.saleh@tamimi.com - Dubai International Financial Centre

March 2014

---

## The UAE Reinforces its Basis for Protecting Innovations

The United Arab Emirates has proved to be a leading economy in the Middle East. It is currently the second largest economy in the Arab world after Saudi Arabia, with a GDP exceeding 400 billion dollars and with a gain of more than GDP 11 billion dollars in 2013. The UAE economy has grown around 231 times since its independence in 1971 and is continuing to grow at huge pace. The UAE is currently ranked 28th worldwide in GDP. The UAE's economy is expected to grow between 4-4.5% in 2014, despite the political instability in the surrounding countries. The UAE's remarkable and continuous economic achievements and success have been a focus worldwide and it has become a place of trust in the international community, reflected most recently by winning the bid to host the prestigious EXPO 2020. The UAE's real GDP is expected by experts to double by 2020. A large number of massive scale projects are currently being designed across the country.

The UAE's historically strong petrochemical industry has been leveraged in the last decade to attract investments in non-oil based sectors. Currently, more than 70% of the UAE's total GDP comes from non-oil sectors, including tourism, real estate, finance, transport and trade. Knowledge and innovations are now among the core aims of the UAE government, which is determined to further strengthen and diversify its economy by attracting regional and international technology players inside the country and by fostering the development of local innovations. The technological sector in the UAE is strongly believed to advance at an unprecedented pace in the short and medium terms.

A large number of projects have been undertaken by the government to attract foreign investments in the technological and knowledge arena, notably the implementation of a number of free zones, such as Dubai Silicon Oasis, Dubai Internet City, Dubai Knowledge Village, Dubai Technology and Media Free Zone, only to name a few. A number of other free zones are also currently under construction, notably Dubai TechnoPark, which is an information technology park covering an area of 21 million square meters of land designed for the commercial development of technology. These free zones are designed to provide foreign ownership-flexibility and tax benefits for foreign companies and investors. A number of other initiatives have also been taken up by the authorities including innovation funding programmes for local inventors and investment in mega-projects in various technological fields of public interest such as energy and aviation.

The rapid economic development in the UAE has led to an important rise in the number of patent applications filed in the UAE which is expected to continue. In another initiative, the UAE has concluded on 14 February 2014 a Memorandum of Understanding with the Republic of South Korea for cooperation on intellectual property rights, particularly in the field of patents. The agreement included collaborative arrangements between the Korean Intellectual Property Office (KIPO) and the UAE Ministry of Economy for the examination of UAE patent applications and the development of the local capabilities of the UAE Patent Office. This includes the training of local examiners in the examination of patent applications in various fields of technology. The UAE Ministry of Economy will meanwhile continue to have parallel collaborations with its traditional partner, the Austrian patent office, for the examination of applications. However, it is believed that the UAE Patent Office will continue to build its local capabilities with the objective of

becoming a fully independent patent office in the upcoming short number of years. More than 2,200 UAE patent applications filed before 2011 are expected to be examined before the first half of 2014.

Knowledge and innovation are believed to be an important dimension of the UAE's economical growth in the short and medium terms. It is believed that the UAE will continue to pave the way in attracting direct foreign investment in technology and in fostering local innovation.

## **Overview of the UAE Patent System**

Patent protection in the UAE is regulated under Federal Law No.17 of 2002 as later amended by Federal Law No.31 of 2006. Patent protection in the UAE is granted for inventions that are novel, inventive and useful. Absolute worldwide novelty is required. The term of protection for patents is 20 years from the filing date.

There are essentially two routes for patent protection in the UAE, a national route and a regional route. The national route requires filing a national application at the UAE Patent Office. The regional route requires filing a GCC patent application, which once granted, would in principle cover protection in the six GCC countries. However, there are still uncertainties with regard to the enforcement of a GCC patent in the UAE as well as to the availability of invalidation procedures for such patents in front of the local courts. The most applicable protection route would depend on the circumstances of each case.

The UAE is a member of a number of international and regional treaties and bodies, namely the World Intellectual Property Organisation (WIPO) Convention, the Patent Cooperation Treaty (PCT), the Paris Convention, The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), and the Gulf Cooperation Council (GCC). It is possible to take advantage of these conventions when considering patent protection in the UAE.

Patent applications in the UAE should be filed in both English and Arabic accompanied by certain formality documents which include a power of attorney, an assignment (where the applicant is not the inventor) and a commercial licence (where the applicant is a commercial entity). The formality documents should be legalised at the UAE embassy or consulate at the place of execution (if outside the UAE). Where the patent application claims priority over an earlier filed application under the Paris Convention, a copy of the priority application in both English and Arabic should also be filed. The formality documents can be filed within 90 days from the filling date of the patent application.

Once the patent application is accepted as to formalities, it is put in line for substantive examination. As a result of the collaboration agreement between the UAE Patent Office and KIPO, it is believed that the current backlog for the substantive examination of applications is between one to two years. The patent office will require the applicant to pay the substantive examination fees once the application reaches its turn for examination. It is not possible to request the substantive examination prior to that date.

The application is then examined in light of criteria including novelty, inventiveness and utility. The validity of the priority claim is also assessed during substantive examination. The applicant is generally given between two to three opportunities to respond to the examiner's objections and amend the application to overcome these objections. Patent applications are prosecuted in both English and Arabic, and thus all amendments to the patent application during examination should be filed in both English and Arabic. Upon completion of the substantive examination, the UAE Patent Office will either accept or reject the application. Rejected applications can be appealed in front of the competent committee at the Ministry of Economy within a 60-day period.

If the UAE Patent Office agrees to grant a patent, the applicant is directed to prepare the publication material and pay the publication fees, subsequent to which a decision to grant a patent is published in the UAE Official Gazette. The publication of the decision to grant starts a 60 days' opposition period within which third parties have the opportunity to oppose the decision to grant a patent. If no oppositions are filed by the end of the 60 days' period, a patent is granted and the UAE Patent Office issues a registration

certificate evidencing the grant of the patent. Once a patent is granted, it is valid and enforceable for a period of 20 years from the filing date and gives the patentee the right to exclude others from exploiting the invention without authorisation within the UAE territory

After grant of the patent, infringement and invalidation procedures are available in front of the UAE judicial courts. It is important to note that Arabic is the only official language accepted in front of the UAE courts and therefore all evidentiary documents should be filed in Arabic in order to be admissible. Equally, only the Arabic version of the patent granted is admissible in front of the judicial courts. This highlights the importance of having the Arabic translation of the patent application reviewed by an Arabic speaking patent lawyer prior to its grant.

In order to keep the patent application or patent valid, annuity fees should be paid annually in the UAE from the first anniversary until the 20th anniversary of the application or patent, taken from the filing date. The invention is subject to compulsory licensing in favour of third parties if the invention is not used by the applicant (or an authorised licensee or assignee) within a 3 year period from the date of grant inside the UAE.

### **Rising Sectors for Patents**

Patent applications are filed in the UAE in a wide range of industries, but currently remain mostly concentrated in the sectors of information technology, petrochemicals (covering mechanical and chemical related innovations) and [pharmaceuticals](#). Whilst these traditional sectors will continue to grow in the UAE, the diversification and growth of the UAE economy will have a strong impact on the development of the real estate, construction, tourism, food and beverage and banking sectors. The UAE's plans to invest heavily in its own infrastructure (including transport and logistics) will also likely result in increased growth in the sectors of general manufacture, industrial machinery, transport equipment and ICT equipment. Other sectors supported by the UAE authorities and expected to face substantial growth include health care, energy (including renewable energy), and aviation.

It would be wise for those doing or planning to do business in the UAE to consider patent protection inside the country as means for protecting their investments and increasing their market share against their competitors.

Learn how [Al Tamimi's Intellectual Property team](#) can offer assistance to matters relating to patent protection in the UAE.