

## 【中東アフリカ IP 情報】 GCC 特許庁 特許規則改正

2021 年 6 月 8 日  
ジェトロ・ドバイ事務所

湾岸諸国協力会議(GCC)の特許規則の一部条項の改正について、2021 年 4 月 11 日付けで公告された。既報<sup>1</sup>のとおり、GCC 特許庁は、2021 年 1 月 6 日に[公式ホームページ](#)で、2021 年 1 月 5 日に開催された第 41 回湾岸協力会議首脳会議の決定によって、特許規則の一部条項の改正が承認されたことに基づき、新規特許出願の受付を停止したことを発表していたが、その内容は公開されていなかった。

特許規則第 1 条、第 4 条、第 9 条、第 17-21 条、第 25 条、第 28-30 条、第 32 条、第 33 条が改正されるとともに、第 1 条の 2 が新設され、第 31 条が廃止された。

改正前の第 1 条 7 項で、GCC 特許庁で付与された特許について GCC6 カ国で法的保護を享受するとされていた条項が廃止され、新たに第 1 条 3 項において、GCC のいずれかの国での法的保護を享受するとされた。そして、新設された第 1 条の 2 第 1 項においては、GCC 特許庁は、GCC のいずれかの国の要請により、特許出願の受付、審査、特許付与に責任を負うとされ、GCC 特許庁への要請は、GCC 各国が任意に選択できると規定された。さらに、第 1 条の 2 第 2 項において、GCC 加盟国は、特許出願の受付、審査、特許付与の全部または一部を要請するかを GCC 事務局に通知することとし、要請しない部分には、各国特許法を適用することとした。

また、2021 年 1 月に GCC 特許庁に確認した限りは、継続中の案件については審査が継続されるということであったが、改正規則では、改正規則の承認前に受け付けた出願の取り扱いについては、通商協力委員会が発表することとされた。一方、すでに付与された特許権については権利期間満了まで、GCC 各国で有効であることが明記された。

今後、この改正規則に基づき、実施細則が制定されるとともに、GCC 各国の選択によって、新たな GCC 特許制度が定まっていくことになる。

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<sup>1</sup> [https://www.ietro.go.jp/ext\\_images/world/middle\\_east/ip/ip\\_gcc\\_210113.pdf](https://www.ietro.go.jp/ext_images/world/middle_east/ip/ip_gcc_210113.pdf)

(参考資料) 2021年4月11日付け公告の湾岸諸国協力会議(GCC)の特許規則 (仮訳)

Article 1	In the implementation of the provisions of this Law, the following terms and expressions shall have the meanings assigned to them below except where the context otherwise requires:
1/1	The GCC: The Cooperation Council for the Arab States of the Gulf.
1/2	The Law: The GCC Patent Law.
1/3	Patent: The document granted by the Office to the owner of the invention so that his invention enjoys legal protection in any of the GCC States in accordance with the provisions of this Law.
1/4	Trade Cooperation Committee: the ministers concerned with trade affairs in the GCC States
1/5	The Committee: The Grievance Committee appointed by the Trade Cooperation Committee to practice its jurisdictions stipulated in this Law and the Implementing Regulation.
1/6	The Office: The Patent Office of the Secretariat General of the Cooperation Council
1/7	The Competent Authority: The ministry, authority, department or national office concerned with patent matters in each of the GCC states
1/8	The Implementing Regulation: The regulation issued in implementation of the provisions of this Law.
Article 1 bis 1 bis 1	The Office shall be responsible for receiving patent applications, examining them, or granting patents at the request of any of the GCC States. Recourse to the Office by any of the GCC States is optional.
Article 1 bis 1 bis 2	The GCC States, in the event that the Office chooses to represent them in receiving the application, examining it or granting the patent, shall so notify the Secretary-General of the Cooperation Council. Such notice shall determine the limits of benefiting from the Office services, in whole or in part. The GCC States shall apply their national legislations on patent applications in the aspects where they do not wish to benefit from the services of the Office.

Article 1 bis 1 bis 3	If any of the GCC States elects the Office to receive the patent application, the Office shall refer the application to the competent authority to take the necessary actions in accordance with the State's national legislation.
Article 1 bis 1 bis 4	The Office may not grant a patent except upon the approval of the State or States that elect the Office to grant the patent on its behalf, in accordance with the procedures specified by the Implementing Regulation. In all events, the patent shall not be valid except in those States.
Article 1 bis 1 bis 5	The Office shall issue a circular in the Official Bulletin in which the names of the GCC States, the services provided by the Office on their behalf, and any updates thereto are published.
Article 4	The Trade Cooperation Committee may exclude some inventions from obtaining a patent whenever necessary to protect public order or public morals, including the protection of human, animal or plant life or health, or to avoid severe damage to the environment.
Article 9 9/1	When receiving patent applications on behalf of any of the GCC States, and after ensuring that the conditions stipulated in the Law and the Implementing Regulation are met, the Office shall record the date of submitting the application.
9/2	The Office shall examine the application formally or substantively on behalf of any of the GCC States that have elected the Office to conduct the examination, or shall refer it to one of the approved authorities to do so, after paying the substantive examination fees.
Article 17 17/1	The owner of a patent that enjoys the protection prescribed thereto in the Law may license others to perform all or some of the exploitation work stipulated in Article (12/1), and the license must be in writing, signed by both parties, and authenticated by an official authority in one of the GCC States. The license contract shall not be valid unless it is registered in the records of the competent authority, and the registration application fee and the license contract registration fee have been paid.

17/2	The granting of a contractual license shall not preclude the patent owner's exploitation of the patent in person, or granting another license for the same patent, unless the first license contract stipulates otherwise.
17/3	The contractual licenses shall entail the right of the licensee to perform all acts of exploiting the invention as stipulated in the contract, and the contractual licensee shall not be entitled to assign the rights and obligations licensed by the owner of the patent, unless the licensee's right to assign is expressly provided for in the license contract.
Article 18	The license contract for the exploitation or disposal of the patent shall be subject in all events to the authority and supervision of the competent authority who may ask the parties to the contract to amend it in order to prevent the misuse of the right to the patent, and the negative impact of the contract on competition in the GCC States or their possession and dissemination of technology. If the parties do not respond, the competent authority shall have the right to deny approval to the contract and not record it in the register.
Article 19 19/1	If the owner of the patent does not exploit the patent at all or does not use it adequately in accordance with Article (13), the State that has elected the Office to grant the patent on its behalf may grant a compulsory license under the following conditions:
19/1/1	At least three years have passed since the patent was granted.
19/1/2	The license applicant shall prove that he has exerted the efforts, within a reasonable period, to obtain a license from the patent owner at a reasonable price and on reasonable commercial terms.
19/1/3	The license shall not be exclusive.
19/1/4	The license shall be mainly to meet the needs of the local market.
19/1/5	The licensing decision shall specify the scope and duration of the licence, as required by the purpose for which it was granted.
19/1/6	The patent owner shall be granted a fair compensation.

19/1/7	The exploitation of the patent shall be restricted to the licensee, and the license shall not be transferred to a third party except in case of transferring the ownership of the licensee's facility or the part thereof that exploits the patent and provided that the State approves this transfer.
19/2	If the invention relates to semiconductors technology, it may only be licensed for general non-commercial purposes, or to correct practices that are judicially or administratively determined to be non-competitive.
19/3	Each GCC State shall determine the fee due for applying for and granting a compulsory license, in accordance with its national legislation.
Article 20 20/1	The decision to grant the compulsory license shall not result in not granting other compulsory licenses, or precluding the patent owner from exploiting the invention by itself, or grant him other licenses to exploit it.
20/2	The GCC States that have elected the Office to grant the patent on their behalf may not observe clauses (19/1/1) and (19/1/2) if the compulsory license application is due to a general emergency or an urgent public need, or is for non-commercial public uses, in one or more of the GCC States.
20/3	If the applicant for the compulsory license is the government of one of the GCC States on whose behalf the Office has elected to grant the patent in order to exploit a specific invention therein by means of one of its agencies, and that was based on the requirements of public interest, it may approve granting the license, according to the conditions set out in Article (19), subject to what is stated in paragraphs (20/1) and (20/2).
Article 21	If the exploitation of an invention involves significant technical progress and is of great importance, and such exploitation necessitates the use of another invention, the GCC States that have elected the Office to grant the patent on their behalf, subject to the provisions of Articles (19) and (20), may grant either or both of the parties a compulsory license to exploit the other invention, unless they have agreed amicably on the exploitation.
Article 25	It is permissible to appeal against the decisions of the Committee to the Economic Judicial Authority of the Cooperation Council, and such appeal is decided in accordance with the provisions of this Law and the laws of the GCC States related to patents, respectively, or according to the general rules

Article 28	The Trade Cooperation Committee shall issue a decision to form the Grievance Committee as follows:
28/1	Each GCC State shall nominate two members for the Committee, one of them shall be legal and the other technical.
28/2	The Committee shall have a legal chairman and vice-chairman to be elected by the rest of the members for a period of three years.
28/3	The Committee shall take its decisions by a two-thirds majority of the present members.
28/4	The meeting of the Committee shall be deemed valid if it is attended by two thirds of the Committee members.
28/5	The meeting of the Committee shall be postponed for two weeks if the quorum referred to in Paragraph 28/4 not reached. The meeting shall be valid with the present members
28/6	The Committee members shall perform their work impartially and independently from the directives of any party.
Article 29	The Committee members and the Office employees may not submit requests in their names during their tenure, and during the two years following the end of their service, and the information in their possession shall be deemed strictly confidential

Article 30	<p>Subject to the provisions of Article (1 bis) and Article (9), the Office shall collect fees from the beneficiaries in the following cases:</p> <ol style="list-style-type: none"> <li>1- Patent application.</li> <li>2- Granting and publishing the patent.</li> <li>3- Annual fees.</li> <li>4- Amendment or addition to the patent application.</li> <li>5- Additional fee resulting from delay in paying the annual patent fee.</li> <li>6- Transfer of the right to request or transfer patent ownership.</li> <li>7- Obtaining a copy of the application or the registration of the application or the patent.</li> <li>8- Filing a grievance before the Committee.</li> <li>9- Renewing the grievance before the Committee.</li> <li>10- Requesting a culture medium sample.</li> <li>11- Requesting a document to display the invention in an exhibition.</li> <li>12- Conducting a search in the Office documents.</li> <li>13- Substantive examination.</li> </ol> <p>The Implementing Regulation shall determine the amount of fees</p>
Article 32	<p>The Trade Cooperation Committee shall issue the Implementing Regulation for this Law.</p>
Article 33	<p>The Trade Cooperation Committee shall propose amendment of this Law.</p>

**【免責条項】**

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