



RESEARCH ARTICLE

LEGAL PROTECTION FOR INDUSTRIAL INVENTIONS IN THE UNIFIED PATENT LAW OF THE GULF COOPERATION COUNCIL COUNTRIES

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Abstract

In the past years, the world witnessed great interest in intellectual and industrial property, due to the huge technological and industrial development revolution that the world witnessed, and the great and developing countries raced to own it. This led to the issuance of international agreements regulating intellectual and industrial property in its various forms, especially inventions. With the issuance of Arab national legislation regulating rules that protect inventions, Therefore, the research article aimed to identify the rules of legal protection for industrial inventions in the unified law of the countries of the Gulf Cooperation Council. By following the comparative analytical descriptive approach, the study reached several results, the most important of which is the existence of legal rules regulating inventions and protecting the patent owner. The most important recommendations were the need to encourage the authoring and publishing of legal literature concerned with industrial property.

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Introduction:-

The countries of the Gulf Cooperation Council have been interested in setting controls to protect industrial inventions, and the Gulf Cooperation Council countries mean: (the United Arab Emirates, Bahrain, Saudi Arabia, Sultanate of Oman, Qatar, Kuwait) The Unified Economic Council of the Arab States of the Gulf approved the ratification by countries of the patent system issued by Royal Decree No. (M/3) dated 1999 AD, which consists of 34 articles on its application and approval, and some provisions of this law were amended in 2021 AD. And it came in the preamble to the unified system as follows: "In the implementation of the objectives of the Cooperation Council for the Arab States of the Gulf, stipulated in Article 4 of the Basic Law of the Cooperation Council.

And in support of the joint technical cooperation among the member states, stipulated in Chapter IV of the Unified Economic Agreement, and in particular, working to acquire an original self-base; It supports and encourages research, applied sciences, and technology.

And in order to achieve the goal of adapting imported technology in line with the nature of the needs of the region and the goals of progress and development in it."

According to Article 1 of the Unified Patent Law for the Arab Gulf States 1999, this system aims to:

- 1- Determining the conditions for legal protection of inventions.
- 2 - Determining the procedures for applying for a patent.

- 3- Determining the rights granted to the owner of the protected invention and the specific period of legal protection.
- 4- Determining the grievance and objection procedures.

According to the Unified Law of 1999, Article One, a special patent office shall be established in the Gulf Cooperation Council, and the office undertakes the tasks of receiving, examining or granting patent applications at the request of the GCC countries and voluntarily resorting to the office (<https://www.gccpo.org/>)

The legislative and international system for the protection of inventions:

The first international agreement to protect industrial property rights in 1883 is the Paris Convention for the Protection of Industrial Property. The Convention has been amended several times, the last of which was the Stockholm Amendment of 1967, which entered into force in 1984, and the first article of it stipulated that the countries to which the Convention applies must form a union to protect industrial property. The second article of it clarified that the protection of industrial property includes inventions, and the third article clarified that industrial property is taken in its broadest sense, including agricultural and extractive industries, and on all manufactured or natural products related to the manufacture of grains, tobacco, fruits, livestock, minerals, mineral water, and flowers.....) One of the most important international agreements is WIPO established by the World Intellectual Property Organization in Stockholm, on July 14, 1967, comprising 132 countries, including the Gulf Cooperation Council (the most important of which is the TRIPs Agreement, the Agreement on Trade-Related Aspects of Intellectual Property Rights). The Patent Law Treaty of 2000, which entered into force in 2005, aims to coordinate formal procedures related to national and regional patent applications and rationalize those procedures to enable their use. The Patent Law Treaty of 2000, which entered into force in 2005, aims to coordinate formal procedures related to national and regional patent applications and rationalize those procedures to enable their use. Among the most important provisions of the agreement is the adoption of electronic filing with the possibility of notification by electronic means - with the codification of model international forms related to inventions in relation to the name, change of applicant, owner, licenses, and correction of errors (Al Sagheer, 2007)

Inventions fall within the protection of intellectual property, as the World Organization for the Protection of Intellectual Property defined it as everything produced by human thought, including inventions, artistic creations, and other products of the human mind.

According to the Paris Convention for the Protection of Industrial Property, Article 1 of it decided that protection for the industrial property includes patents, utility models, industrial designs, trademarks or industrial trademarks, and the service mark. Article (1/3) of the Convention requires that industrial property be taken in its broadest sense, so that its application is not limited to industry and trade, but rather applies to agricultural and extractive industries and to all natural or manufactured products. Intellectual property legislation in the field of intellectual property has distinguished between two types:

- Intellectual and literary property, including the protection of copyright, literary and audio-visual works, and the protection of producers of sound recordings and broadcasting organizations
- Industrial property includes trademarks, models, industrial designs and designs, topographic integrated circuit design, and invention protection (Asharqia, Chamber 2015)

The legal and technical concept of industrial inventions:

Industrial work is everything that a person does to invent a tool that controls nature or material elements in it and achieves benefits from them for humanity (Khater 2010).

And inventions were defined as the discovery of a new technical way to find a commodity or a product that did not exist before, or the arrival of a new method for producing a commodity at a lower expense (Al Kiswani 2011). It was defined as every new industrial product, method, or method developed (Al-Abadi, 2018).

The term "invention" was not defined in the Gulf Unified Law, but the Qatari legislator defined it in the field of application of the unified law as: "The idea that the inventor arrives at and that allows practically finding a solution to a specific problem in the field of technology.

Legislation necessitated that in order for the owner of the original patent to enjoy legal protection, the protection should be in a legal document called the patent, defined by Arab jurisprudence as: the certificate granted by the competent authority in the country whereby the invention owner has the right to monopolize and impose his control

and prevent others from infringing and exploiting him financially for a specific period specified by him. Law (Al .Khouli, 2004)

The first article of the Unified Law of the Arab Gulf Council defined it as The document granted by the office to the owner of the invention so that his invention enjoys statutory (legal) protection in accordance with the provisions of this system and its regulations, and it is valid in all the countries of the Council. Complies with Article 27 of the TRIPS Agreement:

1. The invention must be new: According to Article 2/2, the invention is new if it has not been preceded in terms of prior industrial technology, and prior industrial technology in this field means everything that has been disclosed to the public anywhere by written or oral description, or by the method of use or By any other means by which knowledge of the invention is achieved prior to the date of submitting the patent application or the priority application that is legally claimed.
2. The invention should involve an inventive step, be industrially applicable, and not conflict with the provisions of Islamic Sharia, public order, or public morals in the GCC countries, whether related to products, manufacturing processes, or manufacturing methods.

According to Article(2/3)of the Unified Law: - An invention is considered to involve an inventive step if it is not a matter of course in the opinion of the ordinary professional in relation to the state of the prior art associated with the patent application.

1. The necessity that the invention is industrially applicable in accordance with Article (2/4.) The invention is considered industrially applicable if it can be produced or used in any type of industry, agriculture, fishing, or services. It means that the industrial invention in its broadest sense, which may include "handicrafts", and any invention that cannot be used in industry or applied in industry. The unified law does not protect it like other Arab legislation, so what matters is its application and use in industrial projects (Hamo,2018)
2. The Omani legislator added in Article 2 of Royal Decree No. 82 of 2000: that the invention should not violate public order or public morals or affect national security. Also, Article (4/2) of the Saudi Invention Law 2004 states: It is not permissible to grant a document Protection if the invention is harmful to life, human health, plants, or the environment

Things that are not considered an invention:

Article (3) of the Unified Law, which is compatible with Article (27/3) of the TRIPS Agreement, specifies what is not included in industrial inventions and therefore is not granted the following legal protection document.

- Discoveries, scientific theories, mathematical methods, and computer programs.
- Schemes, rules, and methods for doing business, engaging in purely mental activities, and playing a game.
- Plants, animals, and biological processes used to produce plants or animals, with the exception of microbiology processes and the products of these processes.
- Methods of treating the human or animal body, surgically or curatively, and the methods of diagnosing disease applied to the human or animal body, with the exception of products that are used in any of these methods.

Rights granted to the patent holder:

- According to (12) of the Unified Law and in compliance with Article 28 of the TRIPS Agreement:
The right to exploit the invention, and is considered exploitation of the invention if the subject matter of the patent is a product of its manufacture, use, import, sale, and offer for sale. use of that process or method."
- The right to prevent third parties who did not obtain their consent from making, using, offering for sale, selling, or importing that product for these purposes if the subject matter of the patent is a product. But if the subject matter of the patent is an industrial process, he may prevent third parties who have not obtained his consent from the actual use of the method and from using, offering for sale, selling, or importing at least the product obtained directly by this method for these purposes.."

Patent protection period:

According to Article (15) corresponding to Article 33 of the TRIPS Agreement, the term of patent protection is twenty years, calculated from the date of applying for a patent. In law

The procedural conditions that must be met in the patent application:

The unified law of the Gulf Cooperation Council states, in Article (5), requires the owner of the invention to submit a patent application that includes the following:

- The name of the applicant and inventor, an authorized representative (if any), and an acknowledgment justifying the applicant's right to the invention if he is not the inventor.
 - The name of the invention and one or more illustrations (if any)
- A summary of the invention.
- The description of the invention is clear and complete enough for a man of the profession in this field to be able to implement it.

Infringement of the invention by others:

According to Article (17) of the Unified Law, the owner of the patent may allow others to exploit the industrial invention, but that license must be in writing, and therefore the patent has legal protection when it is infringed by others without the consent of the owner. A counterfeit invention, offering it for sale, or importing counterfeit inventions from abroad.

The Unified Law of 1999 was silent about clarifying those acts that are considered an infringement on protection and left them to the internal regulations of the countries of the Gulf Council system

Where Article (22) of the Saudi Patent Law 2004 AD stipulates that it is considered an infringement of legal protection: the exploitative acts that the Saudi legislator represented in Article 22 of the Invention Law, such as Manufacture of the product, importing it, offering it for sale, using it or storing it for the purpose of offering it for sale or using it is carried out by any person in the Kingdom without the registered written consent of the patent owner.

Article (22) read with Article (47) of the Saudi Patent Law and Article (21) of the Qatari Patent Law corresponding to Article (40) of the Bahraini Law and corresponding to Article (72) of the Omani Patent Law: The right of the patent owner He may file a case against any person who exploits and infringes his invention, and he may ask the competent authority to issue a precautionary seizure order on the invention or the part in which the invention was used or exploited with his right to compensation, with the infringer being punished with a fine that varied from one country to another.

Each of the Gulf Cooperation Council states is free to determine the judicial authority that settles disputes regarding infringement of the invention or the possibility of its occurrence. Article (26) of the Unified Law of the Gulf Cooperation Council states, provided that the aforementioned disputes shall be settled in accordance with the provisions of this system, and their laws relating to patents, if any, shall be in order, and otherwise, in accordance with the general rules.

Conclusion:-

The research article dealt with the legal protection of the patent in the unified law of the countries of the Gulf Cooperation Council 1999 AD, and the study concluded that the unified law set objective and procedural rules for the protection of the owner of the invention if he met the conditions for the patent document. However, the unified law did not establish protection measures in case of infringement of the industrial invention, leaving the matter to the internal regulations of the countries of the Gulf Cooperation Council system that put measures to protect the industrial patent from infringement. The study recommends the necessity of encouraging Gulf legal authors to compose references on intellectual property rights, along with translating Western literature related to industrial property. With more Gulf conferences that support industrial intellectual property research.

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