

SAUDI ARABIA

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Saudi Arabia accedes to PCT: impact on patent filing strategies



By Rob Deans

Saudi Arabia's accession to the Patent Cooperation Treaty (PCT) and to the Patent Law Treaty (PLT) in August 2013 is a prompt for businesses filing patents in the Middle East to review their filing strategies for the region.

Accession to the PCT sees Saudi Arabia join the other Gulf Cooperation Council (GCC) states of Bahrain, Oman, Qatar and the UAE as members of the PCT. Kuwait is now the only GCC state which has not joined the PCT.

Saudi Arabia also joins the GCC states of Bahrain and Oman as members of the PLT.

Saudi Arabia: Impact on patent filings

In terms of population and GDP, Saudi Arabia is the largest economy in the GCC and, as such, is often a key focus for those who are seeking to establish patent rights in the region.

Following its accession to the PCT, Saudi Arabia is now included on the PCT designated countries list and patent filers may now opt for the extended period in which to enter the costly national filing phase. As a result, the number of direct patent filings to Saudi Arabia may well increase.

Alongside Saudi Arabia's accession to the PCT and PLT, the Saudi Patent Office has undertaken an extensive review to complete the accession process and the legislative framework has now been implemented by Royal Decree No. M/63 in December 2009. The results of this review have been positive and include the implementation of an electronic filing system which should significantly increase the efficiency of the Saudi Arabia patent process.

GCC: Impact on patent filings

In the past, rights holders seeking to obtain protection for their technology in Saudi Arabia have often done so by filing for patents with the GCC Patent Office. This has been done on the basis that, on the face of it, a GCC patent provides protection across all six GCC member states, including Saudi Arabia.

However, the GCC Patent Law (introduced in 1992, with the GCC Patent Office becoming operational in 1998), operates on the premise that patents granted by the GCC Patent Office apply in all GCC states and that it is the responsibility of each individual GCC state to enforce GCC patents.

The GCC patent system operates outside the PCT and, under the GCC Patent Law, filings are accepted in accordance with a 12 month priority period.

In contrast to the system envisaged by the GCC Patent law, Saudi Arabia's legislation ratifying the GCC Patent Law does not set out how patents granted by the GCC Patent Office take effect in Saudi Arabia. As a result, there is no clear regime for enforcing a GCC Patent in Saudi Arabia.

The length of the priority period available to patentees and the enforceability of any patents granted are key factors in establishing an appropriate filing strategy for the Middle East. Accordingly, with both these factors weighing in favour of PCT filings in Saudi Arabia (rather than with the GCC Patent Office claiming priority under the GCC Patent Law) we can expect businesses with a focus on Saudi Arabia to opt increasingly to file patent applications in Saudi Arabia rather than with the GCC Patent Office.

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