



The Offices, 02 Building  
One Central  
Dubai World Trade Centre  
PO Box 9204  
Dubai - United Arab Emirates

**December 19<sup>th</sup>, 2023**

**To all the Members of the AIPPI - UAE National Group**

**Subject: 12th Circular/ 2023 / Update on the UAE Patents Law and official fees adjustments in according to the Cabinet Decision No 112/2023)**

Dear all,

We share with you a brief circular as prepared by our valued member Amr Eldakak. We trust you find this summary of the latest updates on Patent law is useful and helpful.

In 2021, the United Arab Emirates (UAE) has approved significant legal reforms aimed at developing the country's legal system and promoting innovation, economic growth, and investment opportunities. These reforms include more than 40 new laws and amendments, implemented during the "Year of the 50<sup>th</sup>".

In particular, the UAE Federal Law No. 11/2021 (hereinafter: "the **Patent Law**") on the Regulation and Protection of Industrial Property Rights came into force in 2021, followed by its Implementing Regulations in 2022, aim to protect patenting rights, regulate registration procedures, and support knowledge and innovation in the UAE. Additionally, the Patent Law seeks to enhance the UAE's competitiveness in industrial property rights, by following the best international practices and aligning the country's patent practice with international standards. Moreover, the scope of the Patent Law for protecting IP rights has expressly been extended to cover the free zones.

- **Main features of the Patent Law**

Examples of advanced developments in the Patent Law can be categorized into three main categories:

**(a) Procedural features**

- **Accelerated examination:** to expedite examination of patent and design applications upon request of the applicant.
- **Publication:** Patent office will publish patent applications after passing formalities examination.
- **Translation:** Provides Arabic translation within 3 months from the date of filing which is crucial to swiftly file applications making it easier to meet tight filing deadlines.

#### (b) Substantive features

- **Novelty grace period:** No absolute novelty anymore! The Patent Law provides that the inventor, or third party that has directly or indirectly obtained information from the inventor, can disclose the invention's information to the public within 12 months before the date of filing the application (aligns with the US approach).
- **Patentability exclusions:** The Patent Law explicitly extends the scope of patent exclusion to include software which aligns with the UAE current patent practice. The Patent Law has also extended patentability exclusion to include inventions which exploitation causes harm to human life or health or to the environment. This clearly in harmony with World Intellectual Property Organization (WIPO) sustainable development goals for preserving health and environment.
- **Enablement:** Article 11(5) of the Patent Law states that “*the Invention shall be described as best as possible at the time of filing the application or on the priority date to enable the professional in the field to execute it*”. This may now provide a ground of rejection for the specification if the Patent Office found that it's not disclosing sufficient information for a skilled person in the art to carry out the claimed invention without undue experimentation.
- **Grievance & objection:** The applicant must first submit a request for post-grant re-examination to the Patent Office before going to appeal in front of the Grievance Committee.

#### (c) Enforcement features

- **Compensation:** The patent owner in case of infringement or violation to granted rights can request monetary compensation to recover damages caused by infringement.
- **Penalties:** Penalties have been increased to AED 100,000 - AED 1 million which supports efforts to fight counterfeiting and efficiently protect IP rights.
- **Design protection:** Applicants in the UAE will now be entitled to 20 years protection for design applications, doubling the previous position of 10 years protection.

#### Fee Adjustments (Cabinet Decision No 112/2023):

Recently, amendments to service fees, introduced by Cabinet Decision No 112 of 2023 and published in the UAE Gazette 763 on 15 November 2023, are set to reshape the landscape of patent applications and utility model registration in the United Arab Emirates.

The new official fees are scheduled to take effect on 15 January 2024, i.e. two months from the date of publication. These changes mark a significant evolution in the intellectual property domain.

The main features of these fee adjustments are:

1. **Substantive Examination Based on Claim Categories:** A notable change is the restructuring of substantive examination fees based on the number of claims. Divided into three categories (1-10 claims, 11-30 claims, and 31-50 claims), this approach aims to streamline the examination process, setting a maximum limit of 50 claims per application.
2. **Fees Based on Applicant Status:** The fees structures are now ranked according to the applicant's status, categorizing them into four groups: natural persons, companies, academic institutions, and small and medium enterprises (SMEs).
3. **Annual Maintenance Fees:** A significant addition is the increase of annual maintenance fees (which used to be for zero dirhams), escalating every five years over the patent's 20-year duration.
4. **New Services:** Cabinet Decision 112/2023 also introduces fee adjustments for new services stated in the UAE Patent Law 11/2021 such as express examination, amendments of minor errors (instead of issuing a new examination report), amendments after grant, and re-examination after grant. These additions aim to enhance flexibility and efficiency in the patent prosecution process.
5. **Revival of Lapsed Applications:** Lapsed patent applications can now be restored or revived only within nine months from the date of lapsing, contingent on the payment of specified fees. This time limit encourages prompt action to reinstate lapsed applications. The Cabinet decision introduces fee adjustments for a request for restoration of an application after being lapsed, which used to be free.
6. **Penalties for the Delay in Fee Payments:** A novel approach involves the introduction of monthly penalties for delays in the payment of due fees for any industrial property service. The penalties are capped at the equivalent of 10 months, providing a structured framework for timely compliance.

#### **Takeaways:**

In conjunction with the recent changes in the UAE Patent Law 11/2021 and its Implementing Regulations (Cabinet Decision 6/2022), the fee adjustments outlined in Cabinet Decision No 112 of 2023 represent a pivotal step towards streamlining and harmonizing patent examination and prosecution in the UAE. These changes align the UAE's intellectual property ecosystem with international standards, fostering a conducive environment for innovation and growth in the region. As these adjustments take effect, stakeholders can anticipate a more efficient and globally competitive intellectual property framework in the United Arab Emirates.

Finally, these extensive improvements in the UAE legal landscape show that the UAE is keen on building a human capital capable of meeting the aspirations of development across different sectors; and are paving the way to a new level of innovation and economic development.

Thanks to Amr Eldakak and for his time to finalize this circular which we trust you found informative and useful.

On behalf of the Communications Committee

Kind regards,

Prepared by: Amr Eldakak

Reviewed by: Munir Suboh