

Ministry of Industry
and Commerce



وزارة الصناعة والتجارة

Inventing the Future

An Introduction to **Patents**
for Small and Medium-sized Enterprises

Intellectual Property for Business Series No. 3



Publications in the “Intellectual Property for Business” series:

1. Making a Mark:

An Introduction to Trademarks and Brands
for Small and Medium-sized Enterprises.
WIPO publication No. 900.1

2. Looking Good:

An Introduction to Industrial Designs for
Small and Medium-sized Enterprises.
WIPO publication No. 498.1

3. Inventing the Future:

An Introduction to Patents for Small and
Medium-sized Enterprises. WIPO
publication No. 917.1

4. Creative Expression:

An Introduction to Copyright and Related
Rights for Small and Medium-sized
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5. In Good Company:

Managing Intellectual Property Issues in
Franchising. WIPO publication No. 1035

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Introduction



Acknowledgements

This adapted version of *Inventing the Future*, a Guide to IP for Startups for the Bahraini legal, administrative, and business context was prepared by Muneera Khalifa Abdulla Al-Khalifa, Research and Teaching Assistant at the College of Law, University of Bahrain; and Legal Advisor to the first technology transfer center in the Kingdom of Bahrain, Bahrain Innovation and Technology Transfer Center (BITTC), and Swiss Patent Attorney, ADIPSE Sarl, Intellectual Property Solutions, Switzerland.



Introduction

This is the third in the series of guides on Intellectual Property for Business. It focuses on patents, a crucial tool to enable a company to draw maximum benefit from new technological ideas.

Management of knowledge resources, especially new ideas and concepts, is essential to the ability of any enterprise to change, adapt and seize new opportunities as it competes in a fast-changing business environment.

In today's knowledge economy, almost every enterprise that relies on making improvements to technology needs to consider patenting as a key factor in its business strategy. This guide explains in simple and practical terms the business benefits of the patent system for all types of firms. While it is advisable to consult a patent expert when seeking to protect, exploit or enforce a patent, this guide provides practical information that should be helpful

for understanding the basics and asking the right questions when consulting an expert. Small and medium-sized enterprises (SMEs) are encouraged to use the guide to integrate their technology and patent strategies into their overall business, marketing, and export strategies.

This publication is a translation and adaptation of a guide produced and made available under a Creative Commons license by the World Intellectual Property Organization (WIPO), the United Nations specialized agency that deals with innovation and IP issues. This guide provides a comprehensive introduction to patents. Other WIPO publications referred to in the text can be downloaded from www.wipo.int/publications.

All these resources are available free of charge. However, neither this guide nor the other sources referred to are a substitute for professional legal advice.

Patents



1. What is a patent?

A patent is an exclusive right granted by the government for an **invention** that is **new**, **involves an inventive step** and is **capable of industrial application**.

It gives its owner the legal right to exclude or stop others from making, using, offering for sale, selling, or importing a product or process based on the patented invention.

A patent is a **powerful business tool** to gain exclusivity over a new product or process while developing a strong market position or earning revenues through licensing. A complex product such as a camera, mobile phone or car may incorporate many different patented inventions owned by various holders.

A patent is granted by the **national patent office** of a country, in

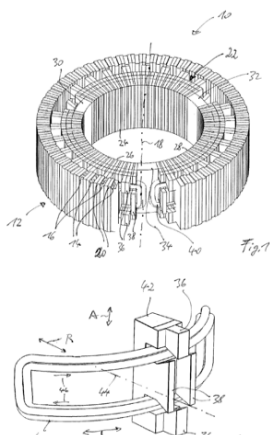
Bahrain the Directorate of Foreign Trade and Industrial Property, at the Ministry of Industry and Commerce, or a **regional patent office** for a group of countries, such as the Patent Office at the Secretariat General for Cooperation Council ("GCC").¹

Patents are valid for a limited period of time, generally **20 years** from the date of filing the application, provided the required maintenance fees are paid on time. A patent is a **territorial right**, limited to the geographical boundary of the relevant country or region.

In return for the exclusive right provided by a patent, the applicant is required to **disclose the invention** to the public by providing a detailed, accurate, and complete written description of the invention in the patent application (see No.

¹ See <https://www.gccpo.org/DefaultEn>, a list of IP offices is available at www.wipo.int/directory/en/urls.jsp.

11). The granted patent and, in many countries, the patent application applications are published in an official journal or gazette. In the Kingdom of Bahrain, decisions related to the issuance of patents are published in the Official Gazette.



TRANSVERSE FLUX

MACHINE Applicant:

University of Bahrain and Dr.

Salwa Baserrah Inventor: Dr.

Salwa Baserrah Filing:

EP2317633, Publication

Number: 2317633

The power of innovation

Appreciating the distinction between “invention” and “innovation” is important. In this guide, the word **innovation** is used to mean the process of **creating a commercial product from an invention**. In other words, an invention brings something new into being, while an innovation brings something new into use. Accordingly, technical criteria are used to determine the success of an invention, whereas commercial criteria are used to determine the success of an innovation. Invention occurs when the technical solution to a problem meets the specific legal requirements for patenting. Innovation may or may not be based on patentable ideas.

Some of the main reasons why companies are interested in technological innovations include:

- improving manufacturing processes in order to save costs



and increase productivity;

- introducing new products that meet customer needs;
- staying ahead of the competition and/ or expand market share;
- ensuring that technology is developed to meet actual and emerging needs of the business and its clients; and
- preventing technological dependence on other companies' technology.

In today's economy, managing technological innovations requires a good knowledge of the patent system in order to ensure that the company draws maximum benefit from its own inventive and creative capacity, establishes profitable partnerships with other patent holders and avoids making unauthorized use of technology owned by others.

Historically, businesses managed the development of their inventions in-house. This **"closed" innovation** method ensured that the business

had complete control over its invention process and relied solely on its own development of ideas for success in the market. In contrast, **"open" innovation** recognizes that developing inventions solely in-house does not take advantage of external experts, other innovative businesses and the enormous wealth of worldwide R&D. Small and medium-sized businesses should keep the **"open"** innovation concept in mind when developing their business strategy. If more profits can be realized, risk reduced and time to market saved because of ideas accessed within the framework of trusted environments created through the application of trade secret management principles (see box after No. 5) then the concept of **"open"** innovation may be of value.

2. What is an invention?

An **invention** is generally defined in patent law as a **new and inventive solution to a technical problem**. It may relate



to the creation of an entirely new device, product, method, or process, or may simply be an **incremental improvement** of a known product or process. Merely finding something that already exists in nature generally does not qualify as an invention; a substantial amount of human ingenuity, creativity and inventiveness must be involved.

While most inventions are the result of considerable effort and long-term investment in R&D, many simple and inexpensive technical improvements have yielded significant income and profits for their inventors or companies.

3. Why should you consider patenting your inventions?

The exclusivity provided by a patent may make the difference between success and failure in a challenging, risky, and dynamic business climate. Key reasons for patenting include:

⇒ **Preventing others from patenting.** By obtaining a patent,

the patent holder will be able to prevent others from obtaining a patent for the same invention anywhere in the world.

⇒ **Strengthening market position.** A patent gives its owner the exclusive right to prevent or stop others from using the patented invention, thereby reducing uncertainty, risk, and competition from free riders and imitators. Rights to a patented invention may make it more difficult for new competitors to enter the market. This will help stretch lead time and enable the patent holder to become well established.

⇒ **Increasing profit or return on investment.** If the company has significantly invested in R&D, patent protection can help recover that cost and increase return on investment.

⇒ **Gaining additional income from licensing.** A patent owner may license the rights in the invention to others in exchange for lump-sum payments and/or



continuing royalties. Selling (or assigning) a patent transfers ownership, whereas licensing implies only permission to use the invention under specified conditions (see Nos. 31–39).

⇒ **Gaining access to technology through cross-licensing.** If a company needs access to technology owned by others, it may use its own patents to negotiate cross-licensing agreements, meaning each party agrees to authorize the other to use all relevant patents under specified conditions (see No. 39).

⇒ **Accessing new markets.** Licensing out patents to other businesses (or even pending patent applications) may provide access to new markets which are otherwise inaccessible due to business regulatory barriers. In order to take advantage of new international markets, the invention must also be protected in the relevant foreign market(s). The Patent Cooperation Treaty (PCT) provides an option for seeking protection for an invention

in member countries of the PCT through a single application (see Nos. 27–30).

⇒ **Reducing the risk of others copying the invention unlawfully.** Obtaining patent protection entails publishing information about the invention so that other people can see that it is patented. This may reduce the chances of infringement or, at the very least, provide a basis to stop competitors from infringement and seek compensation for damages (see No. 40).

⇒ **Enhancing the ability to raise funds.** Investors value the certainty that comes with patenting. Securing patent rights – or even pending applications – can enhance the ability of a company to raise the capital required to take a product to market. Indeed, in some sectors such as biotechnology, a strong patent portfolio is often a requirement to attract investors.

⇒ **Gaining a powerful tool**

against imitators and free riders.

In order to effectively enforce patent exclusivity, notice of infringement may have to be given or a lawsuit filed. Owning a patent improves the ability to take successful legal action against copiers and imitators (see No. 42).

⇒ Boosting the corporate image.

Business partners, investors and customers will often see patent portfolios as a demonstration of the high level of expertise, specialization, and technological capacity of the company. This may prove useful in finding business partners and otherwise raising the company's profile and market value. In fact, some companies describe their patents in advertisements to project an innovative image to the public.

4. What other legal instruments are available to protect the assets of a business?

This guide focuses on **patents**. However, depending on what

goods or services are by offered by the business, there may be other intellectual property (IP) rights suitable for protecting innovative features, including:

- **Utility models** (also known as “short- term patents,” “petty patents” or “in- novation patents”). In many countries, some types of incremental inventions or small adaptations of existing products are protectable as utility models (see box after No. 6). In the Kingdom of Bahrain, utility models are regulated under title two of Law No. (1) of 2004 on Patents and Utility Models, as amended by Law No. (14) of 2006. In accordance with the provisions of the law, a utility model patent shall be granted for new technical additions in “form or composition for methods, tools, equipment, parts thereof, products, compositions, or the methods of production thereof and other things used in trade.”²

² See Article 30 of Law No. (1) of 2004 on

Patents and Utility Models, as amended



- **Trade secrets.** All sorts of confidential business information, including secret designs, machines and processes, may be protected as trade secrets so long as the information is not generally known, its commercial value derives from its secrecy, and reasonable steps have been taken to keep it secret (for example, restricting access on a “need to know” basis, and entering into confidentiality or non-disclosure agreements; see box after No. 5).

- **Industrial designs.** Exclusivity over the ornamental or aesthetic features of a product can be protected through laws on industrial designs, in some countries referred to as “design patents.” Whereas in Bahrain, they are referred to as industrial drawing or models.

- **Trademarks.** Trademark protection provides exclusivity over words, marks and colors used

to distinguish the products of one company from those of another.³

- **Copyright and related rights.** The form of expression of original literary, artistic, and technical works (such as software) may be protected by copy- right and related rights.⁴

- **New varieties of plants.** In many countries, a breeder of a new plant variety may obtain protection in the form of “plant breeder’s rights.”⁵ In Bahrain, Law No. (31) of 2021 on the protection of New Plant Varieties defines a plant breeder as “a person who has created, discovered or developed a new plant variety, or the employer of the said person who assigned him to undertake this work, or who was a successor to any of these persons.” Every protected variety or plant species is subject to the plant breeder's right if the conditions stipulated in Law No.

by Law No. (14) of 2006.

³ See Making a Mark, WIPO publication no. 900.1.

⁴ See Creative Expression, WIPO publication no. 918.

⁵ See www.upov.int.



(31) of 2021 and its executive regulations are met.⁶

▪ **Layout-design (or topography) of integrated circuits.**

An original lay- out-design of an integrated circuit may be protected against copying. In the Kingdom of Bahrain, Law No. (5) of 2006 on Design of Integrated Circuits defines an *integrated circuit* as “every product in its final or intermediate form, which components –at least one of them is active - and all its connections, or some of them are integrated or placed on a sheet of material, whereas the objective of this product is to deliver an electronic function.” While *design* is defined as “every three-dimensional array, regardless of method of expression, for components of which one is at least active, and some or all of connections has an integrated circuit, or any three-dimensional array prepared for an integrated circuit for purposes of manufacturing.”

5. If an invention is patentable, should you apply for a patent?

Not always. Just because a technological idea is patentable doesn't mean that it will be a commercial success. In fact, the vast majority of patented inventions are not commercialized, and a product or techno- logical innovation can often be protected more effectively by other means. Therefore, a careful cost/benefit analysis, including consideration of possible alternatives, is essential before filing a patent application. A patent may be expensive and difficult to obtain, maintain and enforce. The decision should be based primarily on the probability of obtaining commercially useful protection for the invention.

Questions to ask when deciding to file a patent application include:

- Is there a market for the

the protection of New Plant Varieties.

⁶ See Article 1 of Law No. (31) of 2021 on



invention?

- What are the alternatives, and how do they compare with the invention?
- Is the invention useful for improving an existing product or developing a new product? In the latter case, does that fit with the company's business strategy?
- Are there potential licensees or investors who would be willing to help take the invention to market?
- How valuable will the invention be to the business and to competitors?
- Is it easy to "reverse engineer" the invention from a marketed product or to "design around" it?
- How likely are others, especially competitors, to invent and patent what has been invented?
- Do the expected profits from an exclusive position in the market justify the costs of patenting (see No. 17 on patenting costs)?

- How broadly can patent coverage be claimed, and will this provide commercially useful protection?

- Will it be easy to identify infringement of the patent (process patents, for example, are easier to infringe secretly), and are you ready to invest time and financial resources in enforcing it?

Patents vs. secrecy vs. disclosure

If the invention is likely to fulfill the patentability requirements (see No. 6), the company will face a choice: keep the invention as a trade secret, patent it, or ensure that no one else is able to patent it by disclosing it (commonly known as **defensive publication**), thereby assuring its place in the "public domain."

Depending on the legal system of the country, trade secrets may be protected under legislation against unfair competition, through specific provisions of one or more laws, through case law on the protection of confidential information, through contractual provisions in agreements with employees, consultants,



customers, and business partners, or through a combination of the above. In the Kingdom of Bahrain, Law No. (7) of 2003 on Trade Secrets, and its amendments, states that it is prohibited for every natural or corporate person to disclose information in his/her possession if:

1. "The information is confidential. Confidentiality is thereto fulfilled if the information in its final form or its specifics is neither unknown nor circulated and is not accessible for those who usually deal with such type of information.
2. If it was of a commercial value due to its confidentiality.
3. If its confidentiality was dependable on the effective measures undertaken by its legal holder to preserve it."⁷

Therefore, its confidentiality depends on the effective measures undertaken by its legal holder to preserve it. There is no formal registration process for protecting trade secrets. However,

reasonable measures must be put in place to qualify for protection.

Trade secret protection has several potential **advantages**:

- It involves no registration costs.
- It does not require disclosure or registration with a government office and the invention is not published.
- It is not limited in time.
- It has immediate effect.

But it also has significant potential **disadvantages**:

- Trade secret laws do not prohibit independent invention or discovery, only improper acquisition, use or disclosure.
- If a secret is publicly disclosed, anyone who obtains access will be free to use it.
- If the secret is embodied in an innovative product, others may be able to "reverse engineer" it, discover the secret and use it without permission.

⁷ Article 1 of Law No. (7) of 2003 on Trade

Secrets, and its amendments.

- A trade secret can be difficult to enforce, depending on the laws that apply.
- A trade secret may be patented by others who might then seek to stop your use of it.

While patents and trade secrets may be perceived as alternative means of protecting inventions, they are often complementary. This is because patent applicants generally keep inventions secret until the patent application is published by the patent office. Moreover, a lot of valuable know-how on how to successfully exploit a patented invention is often kept as a trade secret.

Case study: 3D Photovoltaic Panel, invented by Wittig Solar Technologies and Laboratories in Bahrain



Founder of Wittig Solar: Thomas Wittig

Wittig Solar is a company resident in the Kingdom of Bahrain and has invented and patented solar products in the Kingdom of Bahrain and the Kingdom of Saudi Arabia.

Wittig Solar Bahrain recently announced the successful test results of its newest invention, the new generation bifacial 3D solar panel with proven 1,430Wp new Stand-of-Technology with a new world record of 48.3% efficiency (1,430Wp, over footprint 2,380mm x 1,303mm).

The new generation of bifacial 3D solar panel only needs less than half the land requirements as opposed to conventional solar panels and has more than double yield vs. flat traditional solar panels, and the installation cost is cut by half.

All except PERC cell made of 100% recycled materials. Pre-

production samples are in the certification process to ensure full acceptance in regional and international markets. The 3D solar panel is planned to be all manufactured in the Kingdom of Bahrain, mainly focusing on export sales globally.

The global market segment in PV panel manufacturing globally was USD 250 billion+ in 2023. Wittig Solar's dedicated goal is to overtake up to 3% of global market share by 2030, according to its business plan. Wittig Solar found a Bahraini igniting investor supporting their goal to produce and export 3D photovoltaic panels. Wittig Solar is currently inviting local investors to join the second funding round to participate in this exceptional and rare local investment opportunity.

3d Photovoltaic Panel

The One & Only, invented by Wittig Solar in Bahrain

MONO BI-FACIAL

فيثيغ سولار
WITTIG SOLAR

1,430Wp

MAXIMUM POWER OUTPUT

0~+73W

POSITIVE POWER TOLERANCE

48.3%

MAXIMUM EFFICIENCY



HALF LAND REQUIREMENT HALF INSTALLATION COSTS

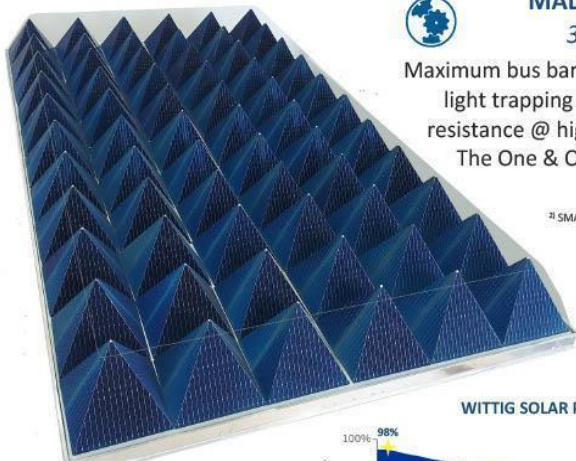
3d PV Module vs. flat Module.
Respectively Land Cost and
installation costs cut by half.



WORLD-RECORD EFFICIENCY HIGHEST YIELD EVER REALIZED¹⁾

More than double yield / efficiency than
traditional made flat-type panels.

¹⁾ Stand July 2023



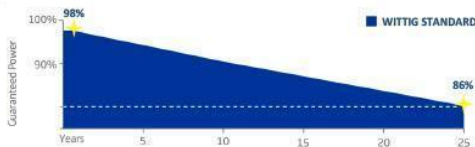
MADE OF 210 PERC CELL 3D PYRAMID SHAPED

Maximum bus bar technology for highest
light trapping effect, minimum series
resistance @ high current harvesting²⁾.

The One & Only Pyramid shaped PV
Module, patented.

²⁾ SMA Inverter Sunny Highpower PEAK3 compatible

WITTIG SOLAR PERFORMANCE GUARANTEES



German Wittig Product Inventions & Technologies, since 1989

Product and System Certification in process



IEC61215 / IEC61730 / IEC61701 / IEC62716

ISO 9001: Quality Management System

ISO 14001: Environmental Management System

ISO14064: Greenhouse Gases Emissions Verification

ISO45001: Health and Safety Management System

Model No. 3dSP-1430.01

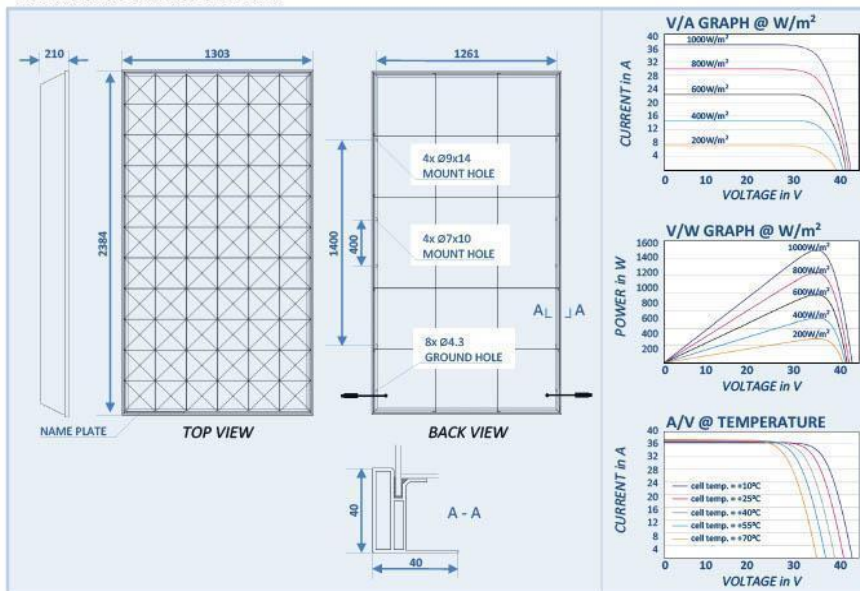
Wittig Solar Company WLL
Kingdom of Bahrain
info@bahrain.wittig.it
<http://bahrain.wittig.it>

3d Photovoltaic Panel

MONO BI-FACIAL

The Next Generation

DIMENSIONS 3D PV MODULE in mm



ELECTRICAL DATA (STC)

Peak Power Watts- P_{MAX} (Wp) ¹	1,430
Power Tolerance- P_{MAX} (%)	0 ~ +5
Maximum Power Voltage- V_{MPP} (V)	41.1
Maximum Power Current- I_{MPP} (A)	34.79
Open Circuit Voltage- V_{OC} (V)	47.3
Short Circuit Current- I_{SC} (A)	36.5
Module Efficiency η_m (%)	48.3

STC: Irradiance 1000W/m², Cell Temperature 25°C,
Air Mass AM1.5. ¹Measuring tolerance: ±3%.

ELECTRICAL DATA (NOCT)

Maximum Power- P_{MAX} (Wp) ¹	1,076
Maximum Power Voltage- V_{MPP} (V)	38.3
Maximum Power Current- I_{MPP} (A)	28.11
Open Circuit Voltage- V_{OC} (V)	44.6
Short Circuit Current- I_{SC} (A)	29.41

NOCT: Irradiance at 800W/m², Ambient Temperature 20°C,
Wind Speed 1m/s.¹

WARRANTY

- 10 year Product Workmanship Warranty
- 25 year Power Warranty
- 2% first year degradation
- 0.48% Annual Power Attenuation

PACKAGING CONFIGURATION

Modules per box	10 pieces
per 40' cube container	90 pieces (MQO)

MECHANICAL DATA

Solar Cells	Monocrystalline
No. of cells	132 cells
Module Dimensions	2384 × 1303 × 210 mm ³ (93.86×51.30×8.27 inches ³)
Weight	39.3 kg (86.6 lbs.)
Glass	2.9 mm (0.11 inches), Ultra High Transmission Acrylic ²⁾
Main Chamber	Vacuum, access valve supported
Back sheet	2.0 mm (0.08 inches), Ultra High Transmission Acrylic ²⁾
Frame	40 mm (1.57 inches), 6063 Aluminum Alloy
Cables	Photovoltaic Technology Cable 8.0mm ² (0.012 inches ²), Portrait: 350 mm (13.78 inches), Length can be customized
Connector	MC4 EVO2 / TS4 ¹⁾

¹⁾ Refer to regional datasheet for specified connector. ²⁾ 25 years warranty on full transmission

TEMPERATURE RATINGS

NOCT (Nominal Operating Cell Temperature)	43°C (±2°C)
Temperature Coefficient of P_{MAX}	-0.34% / °C
Temperature Coefficient of V_{OC}	-0.25% / °C
Temperature Coefficient of I_{SC}	0.04% / °C

MAXIMUM RATINGS

Operational Temperature	-40 ~ +90°C
Maximum System Voltage	1500Voc (IEC & UL)
Max. Series Fuse Rating	50A

CAUTION: READ SAFETY AND INSTALLATION INSTRUCTIONS
BEFORE USING THE PRODUCT. © 2023 Wittig Solar Co., WLL.
All rights reserved. Preliminary Specifications in this datasheet,
Stand August 2023, are subject to change without notice.
Patented, designed and made in the Kingdom of Bahrain.

6. What can be patented?

To be eligible for patent protection, the claimed invention must:

1. consist of **patentable subject matter** (see No. 7);
2. be **new** (novelty requirement) (see No. 8);
3. **involve an inventive step** (non-obviousness requirement) (see No. 9);
4. **be capable** of industrial application (or be useful) (see No. 10); and
5. be **disclosed** in a clear and complete manner in the patent application (disclosure requirement) (see No. 11).

The best way to understand these requirements is to study what has been patented by others in a technical field of interests. For this, patent databases may be consulted (see Nos. 14–15).

Utility models

Some key characteristics of utility models:

- The conditions for granting utility models are less stringent than patent requirements, as the “inventive step” requirement may be lower or absent altogether.
- Procedures for granting utility models are generally faster and simpler than patenting.
- Acquisition and maintenance fees are generally lower.
- The maximum duration of utility models is usually shorter. In Bahrain, the term of protection for utility model patents is ten (10) years from the date of application in the Kingdom, or the date of priority, as the case may be. Whereas the term of protection for patents is twenty (20) years.⁸
- Utility models may, in some countries, be limited to certain fields of technology and may only be available for products rather than processes. In Bahrain, utility model patents may be granted for new technical

⁸ The term of protection for patents is twenty (20) years from the date of application in the Kingdom, or the date

of priority, as the case may be. *Contra* Article 14, 32 of Law No. (1) of 2004 on Patents and Utility Models, as amended by Law No. (14) of 2006.



additions in form or composition for methods, tools, equipment, parts thereof, products, compositions, or the methods of production thereof and other things used in trade.⁹

Usually, a utility model application or a granted utility model may be converted into a regular patent application. Therefore, in Bahrain, the applicant may transfer the application for a utility model patent to an application for a patent when satisfying the conditions of Law No. (1) of 2004 on Patents and Utility Models, as amended. Likewise, the applicant for a patent may also transfer his/her application into an application for a utility model patent.¹⁰

7. What is patentable subject - matter?

In most national or regional patent laws, patentable subject matter is defined negatively, i.e., by providing a list of what cannot be patented. While there are considerable differences between countries, the following are

examples of some of the areas that are excluded from patentability in many jurisdictions:

- abstractions and scientific theories;
- aesthetic creations;
- schemes, rules, and methods for performing mental acts;
- substances as they naturally occur in the world;
- inventions the exploitation of which may affect public order, good morals, or public health;
- diagnostic, therapeutic, and surgical methods of treatment for humans or animals;
- plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological
- processes; and computer programs

⁹ *Id.* at 30.

¹⁰ *Id.*



In the Kingdom of Bahrain, a patent shall not be granted in respect of:

1. “Any invention which prohibition of commercial use in the Kingdom of Bahrain is imperative for the protection of public order or principles of morality; including the protection of human’s life or health or that of animals or plants or to avert causing serious harm to the environment.
2. Animals
3. Diagnostic, therapeutic, and surgical methods necessary for the treatment of humans and animals. This provision however shall not apply to products used in any of these methods.”¹¹

Protecting computer software

In some countries, the mathematical algorithms that are the basis of improved functionality of a computer program may be protected by **patents**, while in others they are

expressly excluded as **unpatentable subject matter**. In some of the latter countries, software-related inventions may still be patentable, provided the software is considered to make a **technical contribution** to the state of the art. For more information on the patentability of computer software in a particular country, contact the relevant national or regional patent office (see www.wipo.int/directory/en/urls.jsp for a list of websites of patent offices).

In the GCC, and specifically in Bahrain, the main IP vehicles for computer software related innovations are copyright, patents, and trade secrets. Under Bahrain’s Copyright Law, copyright protection covers computer software, whether written in a source language or a machine language.¹² Features, processes, and inventive steps or concepts may be patentable. While trade secrets are most

¹¹ Article 3(a) of Law No. (1) of 2004 on Patents and Utility Models, as amended by Law No. (14) of 2006.

¹² Article 2(2) of Law No. (22) of 2006

with respect to the Protection of Copyright and Neighboring Rights (the "Copyright Law"), as amended by Bahrain Law No. (12) of 2008, Law No. (3) of 2011, and Law No. (5) of 2014.



appropriate for confidential data, algorithms, and formulas underlying the computer software. As stated in the preceding paragraphs, reasonable measures must be put in place to qualify for trade secret protection. Therefore, a trade secret loses protection if it has been discovered by others, if no effective measures to protect its confidentiality were undertaken by its legal holder, or if it has been reverse engineered.

In most countries, the object and source code of computer programs can be protected by **copyright**. Copyright protection is not contingent upon registration, but optional registration is possible and desirable in some countries. Copyright protection is more limited in scope than patent protection, as it only covers the expression of an idea and not the idea itself. Many companies protect the object code of computer programs by copyright,

while the source code is kept as a **trade secret**.

8. How is an invention judged to be new or novel?

An invention is new or novel if it does not form part of the **prior art**. In general, **prior art** refers to all the relevant technical knowledge available to the public **anywhere in the world** prior to the first filing date of the relevant patent application. It includes patents, patent applications and non-patent literature of all kinds.

The definition of prior art can differ from country to country. In many countries, any information disclosed to the public anywhere in the world in written or oral form, by display or through public use constitutes prior art. As such, for example, the publication of the invention in a scientific journal, its presentation at a conference, its use in commerce or its display in a company's catalogue could thus destroy the novelty of the



invention and render it unpatentable.

It is therefore important to treat inventions from the outset as trade secrets and to prevent their accidental disclosure before filing the patent application. Likewise, in Bahrain, the patent shall not be granted if the invention subject was disclosed to the public in the Kingdom of Bahrain or abroad, whether:

1. In writing; or
2. Verbally; or
3. By use; or
4. By any other method of realizing the contents of the invention prior to the date of submitting the patent application. However, the following exceptions apply:

1. Official Exhibitions: Temporary protection is granted to patents and utility models that satisfy the registration

requirements of Bahrain's Patent Law while being displayed in official international exhibitions or officially recognized exhibitions held in the Kingdom.¹³

2. Grace Period: Disclosure of an invention is inconsiderable, if it was disclosed by the applicant or by the applicant's permission, all of which the disclosure was conducted within the twelve (12) months preceding submitting a patent application or date of priority upon request.¹⁴

To get a reliable understanding of what is included in the prior art, consult a competent patent agent. Prior art often includes "secret prior art" such as manuscripts and pending unpublished patent applications, provided they are published later.

¹³ Article 2(e)(1), Article 34 of Law No. (1) of 2004 on Patents and Utility Models, as amended by Law No. (14) of 2006.

¹⁴ Article 2(e)(2) of Law No. (1) of 2004 on Patents and Utility Models, as amended by Law No. (14) of 2006.



9. When does an invention involve an “inventive step?”

An invention is considered to involve an inventive step (or to be **non-obvious**) when, taking into account the prior art, the invention would not have been obvious to a person skilled in that particular field of technology. The non-obviousness requirement is meant to ensure that patents are granted only for truly creative and inventive achievements, and not for developments that a person with ordinary skill in the field could easily deduce from what already exists.

Some examples of what may not qualify as inventive, as established by past court decisions in some countries, include: mere change of size; making a product portable; the reversal of parts; the change of materials; or the mere substitution by an equivalent part or function.

10. What is “capable of industrial application?”

To be patentable, an invention must be capable of being used for an industrial or business purpose. An invention cannot be a mere theoretical phenomenon; it must be useful and provide some practical benefit. The term “industrial” is meant here in the broadest sense as anything distinct from purely intellectual or aesthetic activity, and includes, for example, agriculture. In Bahrain, a patent shall be given for inventions that are new, involves an inventive step, and is industrially applicable. An invention is considered industrially applicable if it is possible to apply it in agriculture, fishing, services, handcrafts, or any kind of industry in the broadest sense of the word; whether it is related to new industrial products, imported, or locally produced, industrial methods or a new application of already known

industrial methods.¹⁵

11.What is the disclosure requirement?

According to the national legislation of most countries, a patent application must disclose the invention in a manner **sufficiently clear and complete** for it to be carried out by a person skilled in the specific technical field. In some countries, patent law requires the inventor to disclose the “**best mode**” for practicing the invention. For patents involving microorganisms, many countries require the microorganism to be deposited at a **recognized depositary institution**. In Bahrain, patent applications must include a detailed specification of the invention that gives full account of the subject invention and the “best ways” for one skilled in the art to implement and use, without the need for

unnecessary experiments upon filing the application. The invention shall be considered sufficient in terms of disclosure when such specification appears “reasonable for one skilled in the art.”¹⁶

Patents in the life sciences

In recent years, there has been a significant rise in the number of patents in the life sciences, particularly in biotechnology. Countries differ on what can be patented in this area.

Almost all countries allow patenting of inventions involving **microorganisms**, requiring the deposit of a sample of the organism at a recognized depositary institution when the microorganism is not yet publicly available and cannot be properly described otherwise. In this case, in Bahrain, the patent application involving microorganisms must include a

¹⁵ Article 1, 2(c) of Law No. (1) of 2004 on Patents and Utility Models, as amended by Law No. (14) of 2006.

¹⁶ Article 16(b) of Law No. (1) of 2004 on Patents and Utility Models, as amended by Law No. (14) of 2006.

Certificate of Deposit of microorganism culture.

Many countries, including Bahrain, exclude **plants and animals** from patentability but allow the patenting of biological materials that have been purified and isolated from their natural environment or produced by means of a technical process. Other types of invention may be excluded, such as processes for cloning human beings or modifying the germ line genetic identity of human beings. In addition to diagnostic, therapeutic, and surgical methods necessary for the treatment of humans and animals. Such exclusion in the Bahraini Patent Law does not apply to products used in any of these methods.¹⁷ Furthermore, for the protection of public order and morality, inventions that are prohibited from commercial use in the Kingdom of Bahrain may

not be patented; including the “protection of human life or health or that of animals or plants or to avert causing serious harm to the environment.”¹⁸

Depending on the country, **new varieties of plants** are protected either by the patent system, a specific system for the protection of new varieties of plants (see www.upov.int for further information) or a combination of the two. Plant varieties in the Kingdom of Bahrain are legally protected, provided they fulfill the following conditions:

1. Novelty;
2. Uniqueness;
3. Homogeneity;
4. Stability;
5. Has an acceptable designation as per the provisions of Law No. (31) of 2021 on the protection of New Plant Varieties; and
6. Meets the formalities stipulated under the

¹⁷ See Article 3(a)(3) of Law No. (1) of 2004 on Patents and Utility Models, as amended by Law No. (14) of 2006.

¹⁸ See Article 3(a)(1) of Law No. (1) of 2004 on Patents and Utility Models, as amended by Law No. (14) of 2006.

aforementioned law's executive regulations.¹⁹

In Bahrain, the duration of protection of the plant breeder's right is twenty-five (25) years for trees and grapes, and twenty (20) years for other agricultural crops.²⁰

12. What rights are granted by patents?

A patent grants its owner the **right to exclude** others from commercially using the invention. This includes the right to prevent or stop others from making, using, offering for sale, selling, or importing a product or process based on the patented invention without the owner's permission.

Importantly, a patent does not grant the owner the "freedom to use" or the right to exploit the technology covered by the patent, only the right to exclude others. While this may seem a subtle distinction, it is essential in understanding the patent system

and how multiple patents interact. In fact, patents owned by others may overlap, encompass, or complement the patent. The patent holder may therefore need to obtain a license to use other people's inventions in order to commercialize its own patented invention.

Moreover, before certain inventions (such as pharmaceutical drugs) can be commercialized, other governmental clearances may be required (e.g., marketing approval from the relevant regulatory body). Therefore, before pharmaceutical drugs and products can be commercialized in the Kingdom of Bahrain, an application must be made to Bahrain's National Health Regulatory Authority. Such an application must contain the necessary information supporting the quality, safety, and efficacy of the product, all in

¹⁹ See Article 4 of Law No. (31) of 2021 on the protection of New Plant Varieties.

²⁰ *Id. at* Article 9.



accordance with the authority's guidelines and procedures.²¹

13. Who is an inventor and who owns the rights over a patent?

The person who conceived the invention is the **inventor**, whereas the person (or company) that files the patent application is the **applicant, holder, or owner** of the patent. While in some cases the inventor may also be the applicant, the two are often different entities; the applicant is often the company or research institution that employs the inventor.

⇒ **Employee inventions.** In many countries, inventions developed in the course of employment are automatically assigned to the employer. In some countries, this is only so if it is stated in the employment contract. In some cases (e.g., if there is no employment

agreement) the inventor may retain the right to exploit the invention, but the employer is given a non-exclusive right for its internal purposes (called “shop rights”). In Bahrain, the ownership of a patent shall be assigned to the employer if the invention was the result of a contract or commitment; however, the employee must be named in the patent as the inventor. Whereas if the employee was not entrusted with an invention activity by virtue of the employment contract but still creates an invention relevant to the activity of the employer using “expertise, documents, tools, or raw materials put under the disposal of the same employee, belonging to the employer, the employee must notify the employer in writing of his/her intention of filing a patent. The employer may decide within a

²¹ See Bahrain's National Health Regulatory Authority's Pharmacy and Pharmaceutical Product Regulation, [https://www.nhra.bh/Dep](https://www.nhra.bh/Departments/PPR/?page=102#:~:text=Before%20a%20pharmaceutical%20product%20can,the%20current%20guidelines%20and%20procedures.)

[artments/PPR/?page=102#:~:text=Before%20a%20pharmaceutical%20product%20can,the%20current%20guidelines%20and%20procedures.](https://www.nhra.bh/Departments/PPR/?page=102#:~:text=Before%20a%20pharmaceutical%20product%20can,the%20current%20guidelines%20and%20procedures.)



period of three (3) months of receiving the notification either to exploit the invention or to purchase the acquired rights thereof, either of which action shall be in return of a fair remuneration.²²

It is important to find out about the specific legislation in the relevant country and to ensure that employment contracts deal with issues of ownership over employee inventions to avoid possible disputes.

⇒ **Independent contractors.** In most countries, an independent contractor hired by a company to develop a new product or process owns all rights to the invention, unless otherwise specifically agreed in writing. This means that unless the contractor has a written agreement with the company assigning the invention to that company, the company will have no ownership rights in what is developed, even if it paid for its

development.

⇒ **Joint inventors.** When more than one person contributes in significant ways to the conception of an invention, they must be treated as joint inventors and mentioned as such in the patent application. If the joint inventors are also the applicants, the patent will be granted to them jointly.

⇒ **Joint owners.** Different countries and institutions have different rules concerning the exploitation or enforcement of patents that are owned by more than one entity or person. In some cases, no single co-owner may license a patent or sue third parties for infringement without the consent of all other co-owners. In Bahrain, the right to a patent shall be granted to the inventor, and if the invention is a result of the joint efforts of a number of persons, the ownership of the patent shall be equally assigned to them, unless agreed otherwise. If there is more than one independent applicant for the patent, the right

²² Article 8, 9 of Law No. (1) of 2004 on

Patents and Utility Models, as amended by Law No. (14) of 2006.



to the patent shall be given to the first applicant.²³

developing the invention.

Summary checklist

- **Should an invention be patented?** Consider the advantages of patent protection, look into alternatives (secrecy, utility models, etc.) and make a cost/ benefit analysis. Read more about patents in the following sections to make sure an informed decision is reached.
- **Is the invention patentable?** Consider the patentability requirements, find out details of what is patentable in the Kingdom of Bahrain²⁴ and conduct a prior art search (see No. 14).
- **Make sure you understand who has rights over the invention,** between the company, its employees, and any other business partner who may have participated either financially or technically in

²³ Article 7 of Law No. (1) of 2004 on Patents and Utility Models, as amended by Law No. (14) of 2006.

²⁴ See Law No. (1) of 2004 on Patents and

Utility Models, as amended by Law No. (14) of 2006,
<https://bahrainbusinesslaws.com/laws/Patents-and-forms-of-benefits-Law>

How to Obtain a Patent



14. Where should you start?

Generally, the first step is to perform a **prior art search**. With over 40 million patents granted worldwide, and millions of printed publications which are potential prior art against the patent application, there is a serious risk that some reference, or combination of references, may render the invention non-novel or obvious and therefore unpatentable.

A prior art patentability search can prevent money being wasted on a patent application if the search uncovers prior art references that are likely to preclude patenting. A prior art search should cover both patent and non-patent literature, including technical and scientific journals, textbooks, conference proceedings, theses, websites, company brochures, trade publications and newspaper articles.

Patent information is a unique source of organized technical information which can be

valuable for strategic business planning. Patents and published patent applications often provide a means of learning about current research and technological innovations long before the relevant innovative product appears on the market.

The importance of searching patent databases

Aside from revealing whether an invention is patentable, searching patent databases may provide very useful information on:

- the R&D activities of current and future competitors;
- current trends in a given field of technology;
- technologies available for licensing;
- potential suppliers, business partners or researchers;
- possible market niches at home and abroad;
- relevant patents of others to ensure that your products do not infringe them

(“freedom to operate”);

- expired patents that have contributed technology to the public domain; and
- possible new developments based on existing technologies.

15. How and where can you conduct a prior art search?

Patents and patent applications published by many patent offices are accessible online, making it easier to conduct prior art searches. Bahrain’s Ministry of Industry and Commerce offers two IP databases in its e-Services portal:

1. Internal IP database: On Bahrain’s Ministry of Industry and Commerce’s IP e-Services portal, a request can be made and fees applied to be able to access the IP platform to conduct an IP search on trademarks, industrial designs, and patent applications.²⁵ Thus, to conduct prior art searches, you would

need to submit a request to create a user account, in addition to paying the fees applicable for such a service.

2. Public database: Bahrain’s Ministry of Industry and Commerce’s IP e-Services portal also offers a free public database called “WIPO Publish.” Unlike industrial designs and trademarks that are freely published on WIPO Publish, patent publications are not freely published. However, the Ministry is working on adding patent applications to be freely and publicly available on its WIPO Publish portal.²⁶

WIPO offers free online access to all published international patent applications processed through the PCT System, together with millions of patents from the collections of many national and regional offices, through its **PATENTSCOPE search service**

²⁵ See Bahrain’s Ministry of Industry and Commerce’s IP e-Services portal, at <https://service.moic.gov.bh/ipd/login>

²⁶ See Bahrain’s Ministry of Industry and

Commerce’s public IP e-Services portal, WIPO Publish, at <https://service.moic.gov.bh/wipopublish/>



at www.wipo.int/patent-scope.

Access to patent information is considerably simpler thanks to the Internet. However, it is not easy to perform a high-quality patent search. Patent jargon is often complex and obscure, and professional searching requires considerable knowledge and expertise. While preliminary searches may be performed through free online patent databases, most companies requiring patent information to make key business decisions (e.g., whether or not to apply for a patent) will generally rely on the services of patent professionals and/or use more sophisticated commercial databases.

The PATENTSCOPE search service

The PATENTSCOPE search service provided by WIPO is free of charge. Its main features include:

- access to the **first publication**

worldwide of PCT applications and patent documents from participating **national and regional** offices;

- **full-text search**;
- **cross-lingual search and translation tools** to allow searching of foreign language databases;
- **word stemming** (automatically generating common variants from the stem of a word, e.g., “electric,” “electrical” and “electricity”);
- **graphical analysis** of search results;
- **national phase entry data** to track the status of an international application at the national level in specific countries;
- **embedded images**; and
- **RSS feeds** to monitor patenting activities and updates in areas of interest.²⁷

²⁷ RSS stands for “Really Simple Syndication” and is used to share content from a website or web log.

A prior art search can be done based on keywords, patent classification or other search criteria. The prior art uncovered will depend on the search strategy employed, the classification system used, the technical expertise of the person who conducts the search and the patent data- base being used.

The International Patent Classification

The International Patent Classification (IPC) is a hierarchical classification system used to classify and search patent documents. It also serves as an instrument for the orderly arrangement of patent documents, a basis for selective dissemination of information and for investigating the state of the art in given fields of technology. The IPC consists of **eight sections**, which are divided into **120 classes**, **628 subclasses** and approximately **70,000 groups**. The eight sections are:

- . Human Necessities;
- . Performing Operations;

Transporting;

- . Chemistry; Metallurgy;
- . Textiles; Paper;
- . Fixed Constructions;
- . Mechanical Engineering; Lighting; Heating; Weapons; Blasting;
- . Physics; and
- . Electricity.

Currently, over 100 countries use the IPC to classify their patents. For more information, *see: www.wipo.int/classifications/ipc*.

16. How do you apply for patent protection?

After a prior art search has been performed and the decision to seek patent protection has been made, a **patent application** has to be prepared and submitted to the relevant **national patent office** (The Directorate of Foreign Trade and Industrial Property, at the Ministry of Industry and Commerce). The application will include a full description of the invention, the patent claims that determine the scope of protection, drawings and an



abstract (see No. 21).

However, in order to obtain a filing date in the Kingdom of Bahrain, a patent application must contain the applicant and inventor's details, the specifications (title of the invention, claims, abstract) together with the explanatory diagrams (if any), a notarized and legalized copy of the Power of Attorney, deed of assignment if the applicant is not the inventor, a certified copy of the priority document (if claimed), payment of the filing fee, and the Commercial Registration or Memorandum of Association if the applicant is an enterprise. In which the power of attorney, deed of assignment document, and commercial registration, or Memorandum of Association, may be filed within three (3) months from the filing date.

Some patent offices make it possible to submit applications through the Internet. Bahrain's

Ministry of Industry and Commerce offers e-services for patent applications. The portal facilitates online filing for patents and permits the applicant to upload all required documents.²⁸ Patent applicants are also able to process all their "Requests for changes" such as change of owner, change of agent, change of owner details, or change of agent details, as well as annual payments for all of their applications. Through the portal, applicants can view the status of their applications, send requests, receive replies, notifications, certificates, and reminders through this portal.

Patent applications are usually prepared by a patent attorney or agent who will represent your interests during the application process. The process on the next page provides a basic overview of the application process, step by step in the Kingdom Bahrain. Note that there may be important

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See

<https://service.moic.gov.bh/ipd/login>

variations between countries, and it is always best to check with the national patent office or with a patent law firm in the relevant country to obtain up-to-date information on the procedures and applicable fees.

Generic overview of processing an application in Bahrain:

1. Conditions. Inventors are required to file their patent applications subject to the conditions stipulated under Law No. (1) of 2004 on Patents and Utility Models, which was subsequently amended by Law No. (14) of 2006. In addition to its Implementing Resolution No. (101) of 2018, issuing the executive regulations of Law No. (1) of 2004 regarding Patents and Utility models.

2. Language. Arabic is the official language of patent prosecution in Bahrain. However, applicants may file a patent application in English while furnishing the national patent office (The Directorate of Foreign Trade and Industrial

Property, at the Ministry of Industry and Commerce) with an authorized Arabic translation within four (4) months from the date of filing the application.

3. Application. In order to obtain a filing date, a patent application must contain the applicant and inventor's details, the specifications (title of the invention, claims, abstract) together with the explanatory diagrams (if any), a notarized and legalized copy of the Power of Attorney, deed of assignment if the applicant is not the inventor, a certified copy of the priority document (if claimed), payment of the filing fee, and the Commercial Registration or Memorandum of Association if the applicant is an enterprise. In which the power of attorney, deed of assignment document, and commercial registration, or Memorandum of Association, may be filed within three (3) months from the filing date.

4. Formal and Substantive Examinations. In Bahrain, patent

applications are subject to formal and substantive examinations. Once the formal examinations have been successfully completed, substantive examination should be requested. In which it is examined with adherence to the patentability and formalities stated in Bahrain's Patent and Utility Models Law and its amendments.

5. Amendments. The applicant may amend the specifications before the official grant, provided that the amendments do not exceed what has been disclosed in the original patent application. Patent applications are examined by the directorate concerned at the Ministry of Industry and Commerce, and it may request the applicant, within thirty (30) days from receiving the application, to conduct further modifications as it deems appropriate.

6. Grant and Appeals. The directory concerned at the Ministry of Industry and

Commerce issues a decision on the patent application within sixty (60) days from the receipt of the complete application or from conducting the modifications and receipt of the fees necessary. The decision issued awarding the patent must be published in the Official Gazette, and third parties may oppose the grant of a patent after such publication with no specified time limit to file an opposition. If such a grant is rejected, the grounds for rejection must be communicated to the applicant immediately by virtue of a registered letter. The applicant may file a grievance in writing to the Minister of Industry and Commerce within thirty (30) days from the date of receiving the notification of rejection, and such decision on the grievance submitted shall be issued within sixty (60) days from filing the grievance. If the grievance was rejected, the applicant may appeal the rejection decision before the High Civil Court within sixty (60) days from the date of notifying the

applicant of the rejection of his grievance.

The patent process in Bahrain is as follows²⁹

Filing of patent application at the Directorate of Foreign Trade and Industrial Property, at the Ministry of Industry and Commerce

Formal examination

Publication of application

Search and substantive examination

Grant and publication in the official gazette

Oppositions proceedings

17. How much does it cost to patent an invention?

The costs vary considerably from country to country and within a country depending on factors

such as the nature of the invention, its complexity, the attorney's fees, the length of the application and objections raised during the examination by the patent office. It is important to keep in mind the costs related to patenting, including payment of maintenance fees after the patent is granted, and to budget properly for them:

- There are generally costs associated with performing a **prior art search**, particularly if you rely on the services of an expert.
- There are **official filing fees** that vary widely from country to country. The relevant national or regional patent office will be able to provide details of their fee structure. Some countries have discounts for SMEs and/or for online filing. In addition, some countries allow expedited examination on payment of additional fees.

²⁹ This is a stylized representation of the patent procedure. Procedures may vary among patent offices.

- If a **patent agent/attorney** assists in the application process (e.g., to provide an opinion on patentability, draft the patent application, prepare the formal drawings, and correspond with the patent office), additional costs will be incurred.
- Once a patent has been granted by the patent office, **maintenance or renewal fees must be paid**, generally on an annual basis, to maintain the validity of the patent.
- Patenting the invention abroad is likely to entail extra costs including the **relevant foreign filing fees** for the countries in question, the translation costs, and the costs of using local **patent agents** (a requirement for foreign applicants in many countries;

see No. 25).

- In case of inventions involving micro-organisms, where the **deposit of the microorganism** or biological material with a recognized depositary institution is necessary, fees for filing, storage and viability testing of the deposited material will have to be paid.

In accordance with Bahrain's Minister of Industry and Commerce's Ministerial Decision No. (102) for the year 2018,³⁰ as amended by Ministerial Decision No. (82) for the year 2019; and Ministerial Decision No. (67) for the year 2023 updating the official fees of patent and utility model registration for individuals in Bahrain,³¹ the following fees for patents are as follow:

Models.

³¹ Ministerial Decision No. (82) for the year 2019; and Ministerial Decision No. (67) for the year 2023 updating the official fees of patent and utility model registration for individuals in Bahrain https://drive.google.com/file/d/1VbGpAvkwwkvTnpfd8Z9D8omdxNBsnL_6/view

³⁰ Bahrain's Minister of Industry and Commerce's Ministerial Decision No. (102) for the year 2018, <https://wipo.lexres.wipo.int/edocs/lexdocs/laws/ar/bh/bh045ar.pdf>, See also Bahrain's Minister of Industry and Commerce's Ministerial Decision No. (101) of 2018 by issuing the executive regulations of Law No. (1) of 2004 on Patents and Utility



**Applicable fees for Patents in
the Kingdom in Bahrain in Bahraini Dinar ("BHD")³²**

Service	For Individuals	For Companies
Patent application filing and formal examination*	BHD 40 (approx. USD 106)	BHD 540 (approx. USD 1,436)
Substantive examination of an application by National Patent Office (MoIC)*	BHD 250 (approx. USD 665)	BHD 560 (approx. USD 1,489)
Objective examination through patent agents or attorneys	Depends on the application as determined by patent agent or attorney	
Publication and grant fees*	BHD 50 (approx. USD 133)	BHD 320 (approx. USD 851)
Patent renewal/maintenance fees for the 2 nd year	BHD 100	BHD 200
Patent renewal/maintenance fees for the 3 rd year	BHD 110	BHD 220
Patent renewal/maintenance fees for the 4 th year	BHD 130	BHD 260
Patent renewal/maintenance fees for the 5 th year	BHD 150	BHD 300
Patent renewal/maintenance fees for the 6 th year	BHD 180	BHD 360
Patent renewal/maintenance fees for the 7 th year	BHD 240	BHD 480
Patent renewal/maintenance fees for the 8 th year	BHD 260	BHD 520

³² Ministerial Decision No. (67) for the year 2023 updating the official fees of patent and utility model registration for individuals in Bahrain aims to encourage inventors and individuals to file patent applications. The Minister of Industry and Commerce's decision implemented a fee reduction for certain patent-related services tailored for individual applicants:



Patent renewal/maintenance fees for the 9 th year	BHD 280	BHD 560
Patent renewal/maintenance fees for the 10 th year	BHD 300	BHD 600
Patent renewal/maintenance fees for the 11 th year	BHD 350	BHD 699
Patent renewal/maintenance fees for the 12 th year	BHD 360	BHD 720
Patent renewal/maintenance fees for the 13 th year	BHD 380	BHD 760
Patent renewal/maintenance fees for the 14 th year	BHD 400	BHD 800
Patent renewal/maintenance fees for the 15 th year	BHD 450	BHD 900
Patent renewal/maintenance fees for the 16 th year	BHD 500	BHD 1,000
Patent renewal/maintenance fees for the 17 th year	BHD 550	BHD 1,100
Patent renewal/maintenance fees for the 18 th year	BHD 590	BHD 1,180
Patent renewal/maintenance fees for the 19 th year	BHD 630	BHD 1,260
Patent renewal/maintenance fees for the 20 th year	BHD 670	BHD 1,340
Submit a request to grant a compulsory license to exploit a patent	BHD 1,240	BHD 2,480
Granting a compulsory license for a patent	BHD 450	BHD 900
Appealing MoIC's patent decision	BHD 100	BHD 200
Request a patent search	BHD 20	BHD 40
Publishing, mortgaging, seizing, or licensing ownership of the patent	BHD 20	BHD 39
Additional fees due to delayed payments of the annual patent fees	BHD 80	BHD 160
Amending patent ownership data or agency data in the register.	BHD 50	BHD 100

Recording the (optional) license contract in MoIC's register	BHD 210	BHD 420
Instructions to transfer ownership, mortgage, or seize the patent in MoIC's register	BHD 20	BHD 40
Request for temporary protection of patent	No fees	
Obtaining extracts and images from records, applications, and patents	BHD 40	BHD 80
Patent cancellation	No fees	

Service	official fees	Previous Current official fees
Patent application filing and formal examination	BHD 270	BHD 40
Substantive examination of an application by National Patent Office (MoIC)*	BHD 280	BHD 250
Publication and grant fees	BHD 160	BHD 50

18. When should patent application be filed?

In general, an application for patent protection should be made as soon as all the information required to draft the application is available. In addition, there are a number of other reasons to file early:

- In virtually all countries, including Bahrain³³ (with, until recently, the notable exception of the United States of America;³⁴ see box after No.

19), patents are granted on a **first-to-file basis**. Thus, filing an application early helps to ensure that the invention is not lost to others.

- Applying for patent protection early will make it easier to get **financial support** or to **license** the invention to others.
- Generally speaking, the earlier an application is filed, the earlier the patent will be issued and the earlier the rights



can be enforced; getting an application through to issuance can take a long time (see No. 22). Nevertheless, rushing to file a patent application may also create problems:

- If the application is made too early and the invention evolves, it will generally is not possible to make significant changes to the original description of the invention.
- Once an application has been filed in the Kingdom of Bahrain, the applicant normally has **12 months** to file for the same invention in other countries in order to enjoy the benefit of the filing date of the first application (see No. 28).

But filing in multiple foreign countries, especially before it is known whether the invention will be commercially successful, may be too expensive. One way of

mitigating this problem is by **postponing** payment of translation and national fees for an additional 18 months by using the **PCT** (see box after No. 30).

As important as any other consideration, the application should be filed **before** the invention is disclosed to anyone.

Any pre-filing disclosure (e.g., for test- marketing, to investors or other business partners) should be made only after signing a confidentiality or non-disclosure agreement as important as any other consideration, the application should be filed **before** the invention is disclosed to anyone.

Any pre-filing disclosure (e.g., for test marketing, to investors or other business partners) should be made only after

signing a confidentiality or non-disclosure agreement.

19. How important is it to keep an invention confidential prior to filing a patent application?

Keeping an invention **confidential** prior to filing the application is absolutely essential. In many circumstances, pre-filing public disclosure can destroy the novelty of the invention, rendering it unpatentable, unless the applicable law provides for a “**grace period**” (see No. 20).

It is therefore critical that inventors, researchers, and companies avoid any disclosure of an invention that might affect its patentability until the patent application has been filed.

First-to-file versus first-to-invent patent systems

In almost all countries, patents are granted to the **first person to file a patent application** on

an invention. A notable exception was the United States of America, where a first-to-invent system applied until March 15, 2013, under which the patent was granted to the **first inventor** who conceived and reduced the invention to practice, whether or not their patent application has been filed first. In order to prove inventorship within a first-to-invent system, it is crucial to maintain bound, duly witnessed, and dated **laboratory notebooks**, which may be used as evidence in case of a dispute with another company or inventor.

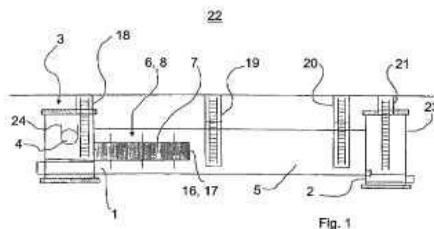
20. What is a “grace period?”

The legislation of some countries provides for a “**grace period**” of 6 or 12 months, from the moment an invention was disclosed by the inventor or applicant until the application is filed, in which the invention does not lose its patentability

because of such disclosure. In such countries, a company may disclose its invention, for example by displaying it in a trade show or publishing it in a company catalogue or technical journal and file the patent application within the grace period. In the Kingdom of Bahrain, the novelty grace period constitutes twelve (12) months prior to the filing date or the date of priority if the invention was disclosed by the applicant or with his permission. However, if the disclosure took place during an official international exhibition or an officially recognized exhibition, pursuant to Article (34) of Bahrain's Patents and Utility Models Law, such disclosure to the public shall be inconsiderable.

However, as the grace period does not apply in all countries, relying on it in your own country may preclude you from patenting the invention in other

markets of interest where a grace period is not available.



RETENTION ASSEMBLY FOR
PRECIPITATION AND
WASTEWATER Applicant:
FLOWTITE TECHNOLOGY
BAHRAIN WLL
Inventors: UWE NAPIERSKI,
DENNIS TAUFENBACH
Filing: EP2508686, Publication
Number: 2508686

Provisional patent applications (PPAs)

In a few countries (such as, Australia, Canada, India, and the United States of America), applicants have the opportunity to file a provisional patent application (PPA). The PPA is intended as a relatively low-cost entry point to the patent system. While details of how

PPAs work vary from country to country, common features include:

- **Early priority date.** In order to obtain patent protection, the inventor who files a PPA must file a regular patent application within one year of the filing date of the PPA. That regular patent application can “claim the benefit” of the corresponding PPA, meaning that it will be treated as if it had been filed on the filing date of the PPA.
- **A relatively low-cost entry point** to the patent system. PPAs are less expensive to file, since they generally do not undergo substantive examination and need not include claims, although they do require a full description of the invention.
- **Extra time to decide if a patent makes sense.** Once a PPA is filed, the applicant has 12 months to test the idea and seek funding before filing a

corresponding regular patent application. PPAs can provide significant value for start-up businesses which have something that could be protected immediately but are continuing to work on refining, perfecting and supplementing it. Protecting what they have establishes their rights before they seek outside assistance, funding, or partnerships.

- **Stake a claim on your invention.** PPAs allow the term “Patent Pending” to be used on the invention or in advertisements so as to deter others from copying the invention.

However, there are also certain risks and disadvantages associated with PPAs. These include a possible increased overall cost of obtaining a patent, potential loss of trade secrets and a false sense of security.

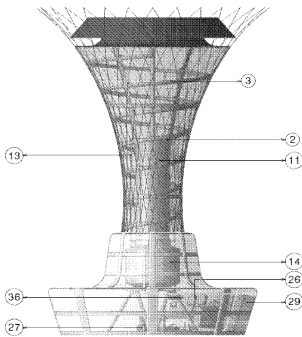


Figure 1

AUTOMATED DECARBONIZING ALGAE

REACTOR Applicant:

GREENGROVES

BAHRAIN WLL [BH]

Inventors:

RAJEEV KUMAR,

Ramachandran

RIAIN, Liam Sean

CHINNASAMY, Senthil

KALLAM PARAMBIL,

Shanavas

Filing: WO/2022/175984,

Publication Number:

WO/2022/175984

21. What is the structure of a patent application?

A **patent application** has a range of functions:

- It determines the legal scope of patent protection.

- It describes the nature of the invention, including instructions on how to implement it.

- It gives details of the inventor, the patent owner and other legal information.

Patent applications follow a similar structure all over the world and consist of a **request**, a **description**, **claims**, **drawings** (if necessary) and an **abstract**. A patent document may be a few pages or hundreds of pages long, depending on the nature of the specific invention and the technical field.

Request

The Request shows the title of the invention, date of filing, priority date and “bibliographic data” such as the name and address of the applicant and inventor.

Abstract

The abstract is a brief summary of the invention. When the

patent is published by the patent office, the abstract is included on the front page. The abstract can sometimes be improved or drafted by the patent examiner in the relevant patent office.

Description

The written description of an invention must provide sufficient details so that anyone skilled in the same technical field can reconstruct and practice the invention from the description and the drawings without putting in any inventive effort. If the description falls short of this standard, the patent may be denied or may be revoked after it is challenged in court.

Claims

The claims determine the scope of protection of a patent. The claims are absolutely crucial since if they are badly drafted, even a truly valuable invention

could result in a worthless patent that is easy to “design around” or circumvent.

In patent litigation, interpreting the claims is generally the first step in deciding whether the patent is valid and whether it has been infringed. The advice of an expert should be sought to draft patent claims.

Example of claims:

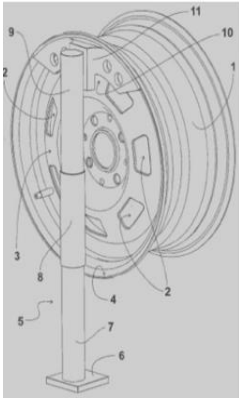
First two claims of Patent No. US4641349 entitled “Iris Recognition System”:

- A method of identification of a person, comprising: storing image information of at least a portion of the iris and pupil of the person’s eye; illuminating an eye, of an unidentified person having an iris and a pupil; obtaining at least one image of at least the same portion of the iris and pupil of the eye of the unidentified person; and comparing at least the iris portion of the obtained

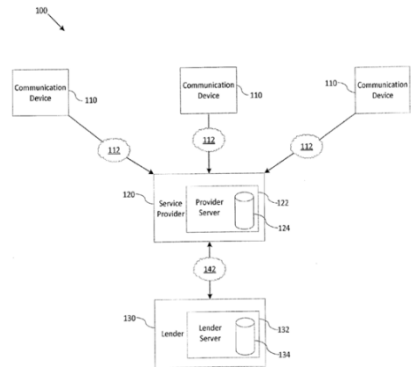
image with the stored image information to identify the unidentified person.

- The method of claim 1 in which illuminating comprises driving the pupil of the eye to at least one predetermined size, comparing at least the iris portion of the obtained image with stored image information obtained from an eye with its pupil having the same predetermined size

Example of a drawing:



Patent No. DE10230179 for a jack or "Tire release device." The invention provides a novel jack for lifting spring-mounted wheels of a vehicle. It uses a support structure (11) that engages with the outer rim (4) of the wheels (1). The jack directly moves the wheels, and not the body, of the vehicle. Therefore, less jack lift is sufficient to free the wheels from the ground.



SYSTEMS AND METHODS FOR
DETERMINING
CREDITWORTHINESS OF A
POTENTIAL BORROWER BASED
ON INCOMING INTERNATIONAL
CALLING DATA Applicant: Viva
Bahrain B.S.C., Bahrain Inventor:
Karim Tabbouche

Filing: US20170193599, Publication
Number: US20170193599

Drawings

The drawings show the technical details of the invention in an abstract and visual way. They help to explain some information, tool or result set out in the disclosure. Drawings are not always a necessary part of the

application.

If the invention is for a process or method of doing something, drawings are usually not required.

If drawings are required, formal rules govern their acceptability.

22. How long does it take to obtain patent protection?

The time for processing a patent application varies significantly from country to country and between fields of technology and may range from a few months to a few years – generally from two to five years.

In Bahrain, the average processing time from patent filing to the grant of a patent, if the prosecution process goes smoothly, is 4 years from the filing date.

Some patent offices have established a procedure for accelerated examination that can be requested by applicants in

specific circumstances.

Proofreading a granted patent

Once a patent is granted you should proofread the document thoroughly to ensure that there are no mistakes or missing words, particularly in the claims.

23. When does patent protection begin?

Patent rights are effective from the date of **grant** of the patent.

In some countries, infringers may be sued at that time for infringement that occurred since the date of publication of the patent application (generally **18 months** after filing). But this is not the case in all countries (see Nos. 40–43).

In some countries, it is possible to file a patent application and a utility model application for the same invention.

This is sometimes done in order to benefit from utility model protection (which is generally



granted faster) until the patent is granted.

24. How long does patent protection last?

The current international standard, including the Kingdom of Bahrain, provides protection for **20 years** from the date of filing the application, provided the renewal or maintenance fees are paid on time and no request for invalidation or revocation succeeds during this period.

While this defines the legal life of a patent, the **business or economic life of a patent** is limited by the commercial success of the covered technology.

It often turns out that an apparently valuable invention has become obsolete or cannot be successfully commercialized for some other reason.

In such circumstances, the patent holder may decide to

stop paying maintenance or renewal fees, leaving the patent to expire earlier, and allowing the product or technological innovation to fall into the public domain.

In some countries, protection may be extended beyond 20 years, or in very specific circumstances a **Supplementary Protection Certificate** (SPC) may be granted. Such extensions are typically available for patents suffering from delayed commercialization resulting from the time required to obtain marketing approval from the appropriate governmental authorities (e.g., pharmaceuticals or agrochemicals). SPCs have a limited duration and generally cannot exceed five years. Such extension on patent protection does not exist in Bahrain and the other GCC states.

Patent pending

Many companies in Bahrain label their products embodying the invention with the words “Patent Pending” or “Patent Applied For,” sometimes followed by the number of the patent application. Similarly, once the patent is granted, it is increasingly common for companies to place a notice indicating that the product is patented, sometimes including the patent number. While these terms do not provide any legal protection against infringement, they may serve as a warning to dissuade others from copying the product or its innovative features.

They may also affect the remedies available for infringement, depending on the law of the country where enforcement is sought. In the case of infringement or to prevent threats of infringement on any of the rights prescribed by Bahrain’s Patent Law, the

right owner may request an order in a petition from the competent court to take one or more of the preventive measures stated in Article 40 of Bahrain’s Patent and Utility Models Law, and its amendments.

25. Is a patent agent needed to file a patent application?

Preparing a patent application and following it through to the grant stage is a complex task. Applying for patent protection involves:

- making a **search** to identify any prior art that may render the invention unpatentable (this step is often desirable but not required as a patent office that does substantive examination will conduct its own search);
- writing the **claims** and a full **description** of the invention that may combine legal and technical terminology.
- **corresponding** with the national or regional patent office, especially during the substantive examination of the



patent application; and

- making **amendments** to the application as requested by the patent office.

All these aspects require in-depth knowledge of patent law and patent office practice and a full understanding of the invention. Therefore, **even if legal or technical assistance is generally not mandatory, it is strongly recommended.** The assistance of a patent agent who has both the relevant legal knowledge and experience and a technical background in the field of the invention should be relied upon. Most laws require foreign applicants to be represented by a registered patent agent who is resident in the country. In Bahrain, patent applications are submitted to the National Patent Office at the Ministry of Industry and Commerce by the applicant, whether a citizen or a resident in the Kingdom of Bahrain. Whereas foreign applicants who are non-residents of the Kingdom of Bahrain must submit their application

through an IP registration agent or a law firm in Bahrain.

Dedicating a staff member to manage the business's IP assets

Depending on the size of the business, it may be beneficial to have an in-house patent supervisor or coordinator to manage the business' patents in addition to an outside patent agent. Such a person should handle coordination with outside experts while ensuring best practices are uniformly followed within the business. These include maintaining necessary secrecy of the patent application and related information, informing employees of their role in protecting IP, and coordinating patent efforts with the company's other IP assets such as trade secrets, trademarks, and copyright.

26. Is it possible to seek protection for multiple inventions through a single application?

Most patent laws limit the number of different inventions that may be included in one

patent application. These include the so-called requirement of unity of invention. While some countries (for example, the United States of America and the Kingdom of Bahrain) enforce this requirement rather strictly, others (e.g., the European Patent Convention) permit groups of inventions so linked as to form a single “inventive concept” to be included in a single application. In such countries, in case of lack of unity of invention, the applicant may be required to either restrict the claims or divide the application (creating “divisional” applications). In Bahrain, divisional applications and double patenting are not an option. As a result of differences in the applicable law, one patent application may suffice in some countries, while in others, two or more applications may have to be filed to cover the same ground.

When filing under the PCT, it is common to link groups of inventions according to the European approach, and to divide the application as

necessary after entering the national phase.

Summary checklist

▪ Is the invention patentable?

First, review the list of what can and cannot be patented and determine if the invention falls into one of those categories. Second, conduct a **prior art search** and make good use of patent databases.

▪ Filing a patent application.

Consider using a patent agent/attorney with expertise in the relevant field of technology, particularly for drafting the claims.

▪ Timing of application.

Consider carefully the best timing for filing the patent application and pay close attention to the required filing dates.

▪ Do not disclose information

too early in order not to compromise its patentability.

▪ Maintenance fees.

Remember to pay **maintenance or renewal fees** in time to maintain the patent(s) in force.

Patenting Abroad

27. Why apply for foreign patents?

Patents are **territorial rights**, which means that an invention is protected only in the countries or regions where patents have been issued. In other words, if a patent has not been granted in a given country, the invention will not be protected in that country, enabling anybody else to make, use, import or sell that invention in that country.

Patent protection in foreign countries enables the patent owner to enjoy exclusive rights over the patented invention in those countries. In addition, the owner may be able to license the invention to foreign firms, develop outsourcing relationships and access those markets in partnership with others.

28. When should an application be made for patent protection abroad?

The date of the first application for a given invention is called the **priority date**. Any subsequent applications in other countries

filed within **12 months of that date** (i.e., within the **priority period**) will benefit from this priority date. This means that the first application will have priority over other applications for the same invention filed by others after that date. It is critical that foreign patent applications be filed within the priority period or under the PCT by that time – filing under the PCT will give an additional 18 months to decide whether to enter the national phase in any PCT member country.

After the expiration of the priority period, and until the patent is first published by the patent office (generally 18 months after the priority date), it is still possible to apply for protection for the same invention in other countries, but priority from the earlier application cannot be claimed. **Once the invention has been disclosed or published, it may not be possible to obtain patent protection in foreign countries** due to loss of novelty. See also the discussion of grace periods, No. 20.

Case study: MAJFARA REEF REPLACEMENT SYSTEM by Halel Engineer



❖ **Business Name:** Reef Arabia for Marine Wealth WLL

❖ **Owner / Founder:** Halel Khalid Yousif Abdulrahman Engineer

❖ **Website:** www.reefara.com

Reef Arabia was established in 2012, as a sister company to Environment Arabia, and with its manufacturing base in Bahrain, Reef Arabia comprises local and international-based marine biologists who provide trusted solutions to mitigating marine environmental

impacts. Reef Arabia is the first authorized supplier in the Gulf Cooperation Council (GCC) to offer a wide range of artificial reef units, including both licensed Reef Ball units and unique manufactured designs.

The *Majfara Reef Replacement System* – patented in:

- The United States - granted.
- Australia - granted.
- The GCC, including Bahrain – pending.

Inventors:

- Halel Khalid Engineer
- Michael Kevin Arora
- David James Lennon

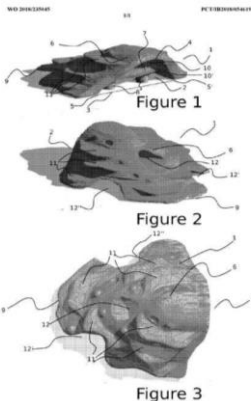
Applicant: Reef Arabia For Marine Wealth Co. WLL

MAJFARA REEF REPLACEMENT SYSTEM

Bahrain's First Official Artificial Reef Design (Patented)

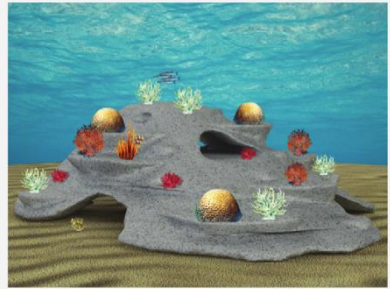


The *Majfara* Reef Replacement System is an artificial reef system designed as both a fish habitat (via the double cavern system) and specifically to host coral communities via both natural colonisation and human relocation efforts. In this regard the *Majfara* Unit maximises surface area (of high rugosity) to facilitate coral relocation efforts via a low profile aesthetic design, featuring precast concrete platforms/ledges, and a gently sloping rear face.



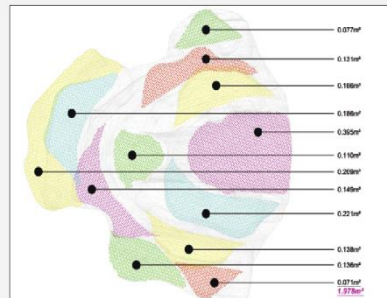
Coral relocation efforts often demand the estimation (via surveys) of coral communities required to be relocated, but also their base dimensions. Knowledge of this, and the platform size of the *Majfara* Unit, facilitates the calculation of the number of modules required, and also the number of corals which can be placed on each module.

This represents a huge benefit over existing artificial reef systems, or use of natural rock, and further facilitates in water activities by increasing efficiencies, hence cost.



BENEFITS

- Provides vertical relief from seabed; looks like natural caprock sea caves and topography found in the Gulf
- Increased attractiveness to fish
- Provides Essential Fish Habitat (EFH)
- Provides suitable surface for coral relocation
- Easy to deploy



FEATURES

- Large gentle sloping back with multiple openings linking to central caverns
- High strength marine pH reduced concrete (tested up to 70 MPA)
- No steel used in fabrication (fibreglass reinforced)



APPLICATIONS

- General fisheries habitat enhancement
- Dredge impact mitigation
- Coral reef restoration
- Enhancement of coastal structures and jetties
- Lobster enhancement / aquaculture
- Diving and snorkelling reefs / trails

info@reefarabia.com
www.reefarabia.com



Reef Arabia



reefarabia



Reef Arabia
ريف العربية

29. Where should an invention be protected?

Because obtaining foreign patents is expensive, companies should carefully select the countries in which they require protection. Consider these key questions:

- Where is the patented product likely to be commercialized?

- What are the main markets for similar products?
- What are the costs involved in patenting in each target market?
- Where are the main competitors based?
- Where will the product be manufactured?
- How difficult will it be to enforce a patent in a given country?

30. How can an application for patent protection abroad be made?

There are three main ways of filing for foreign patents:

First: The national route. Apply to the national patent office of each country of interest by filing a patent application in the required language, complying with the national formality requirements, and paying the required fees. This path may be very cumbersome and expensive for multiple countries.

Second: The regional route. When countries are members of a regional patent system,



protection with effect in the territories of all or some of these may be sought by filing an application with the relevant regional office. The regional patent offices are:

- the African **Intellectual Property Organization** (OAPI) (www.oapi.wipo.net);
- the African **Regional Industrial Property Organization** (ARIPO) (www.aripo.org);
- the Eurasian **Patent Organization** (EAPO) (www.eapo.org);
- the European **Patent Office** (EPO) (www.epo.org);³³ and
- the Patent Office of the **Cooperation Council for the Arab States of the Gulf** (GCC Patent Office) (www.gccpo.org).

³³ For more information about the unitary patent, see <https://www.epo.org/law-practice/unitary.html>.

Third: The international route.

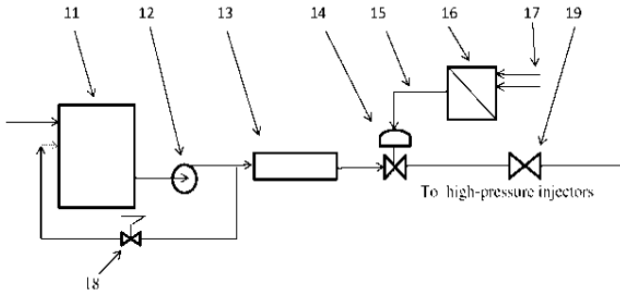
If a company wants to have the option of protecting an invention in the member countries of the PCT, it should consider filing a PCT application.

To do so, at least one inventor must be a national or resident of a PCT Contracting State, or the business must have an effective industrial or commercial presence in one of these countries.

By filing one international application under the PCT, the applicant may later seek patent protection in any of the 150+ member countries.³⁴

This application may be filed at the relevant national or regional patent office and/or at the PCT receiving office at WIPO in Geneva, Switzerland.

³⁴ A list of member countries is available at www.wipo.int/pct/en/pctcontracting_states.ml



(Fig. 1)

- 11- Water supply reservoir
- 12- High-pressure pump
- 13- Water heater
- 14- Control valve
- 15- Computing system output signal
- 16- Computing unit
- 17- Computing system input and feedback signals
- 18- Minimum flow relief valve
- 19- Main Isolation valve

GAS TURBINE COMPRESSOR LOAD REDUCTION AND TURBINE MASS FLOW MAXIMIZING DEVICE Applicant: Fuad Al-Mahmood [BH] Inventors: Fuad Al-Mahmood Filing: PCT/IB2015/056096, Publication Number: WO/2017/025774

Summary checklist

- **Territorial rights.** Remember that patent rights apply only in the country where they were obtained.
- **Priority period.** Make use of the priority period to apply for protection abroad but pay careful attention to deadlines and to the need for secrecy before filing.
- **Where to apply.** Consider

where it will be most beneficial to have protection, taking into account the costs of patenting in various countries.

- **How to apply.** Consider using the PCT to facilitate the application process, gain time and receive valuable patentability information to help inform decisions about where to apply for patent protection.

Advantages of the PCT

- ⇒ The PCT provides at least



18 addition- al months on top of the 12-month priority period during which applicants can explore the commercial potential of their product in various countries and decide where (and whether) to seek patent protection. Payment of the fees and translation costs associated with national applications is thus delayed. The PCT is widely used by applicants to keep their options open for as long as possible.

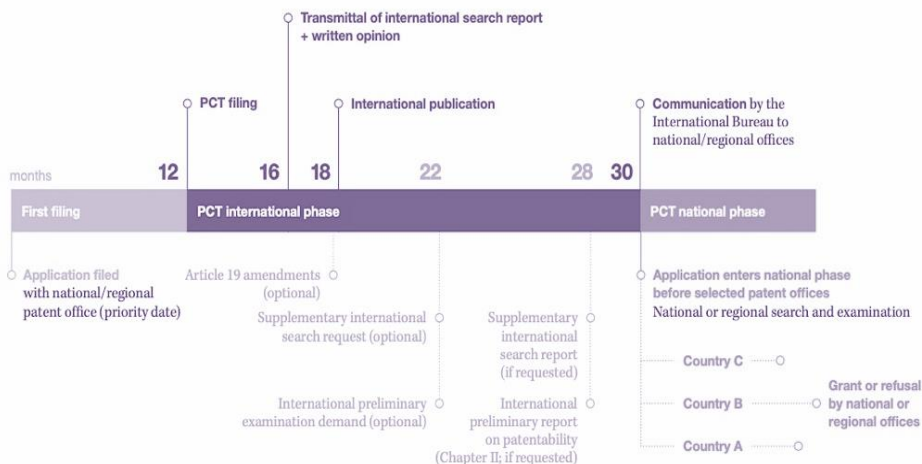
⇒ PCT applicants receive **valuable information** about the potential patentability of their invention, in the form of the **PCT International Search Report** and the **Written Opinion of the International Searching Authority**. These documents provide PCT applicants with a strong basis on which to make their decisions about whether and where to pursue patent protection. The International Search Report contains a list of prior art documents which have been identified as relevant to the invention. The Written Opinion of the International Searching Authority analyzes the potential

patentability in light of the results of the International Search Report.

⇒ A single PCT application has legal effect in all designated PCT member countries. This effect significantly **reduces the initial transaction costs** of submitting separate applications to each patent office. The PCT may also be used to file applications under some of the regional patent systems. Guidance on how to submit an international application under the PCT can be obtained from national patent offices and at www.wipo.int/pct



Outline of the PCT Application Process



Benefits

- One PCT application with legal effect in all PCT Contracting States
- Harmonized formal requirements
- Receive patentability information to support strategic decision-making
- Postpone significant costs for national processing by 18 months

Commercializing Patented Technology

31. How can patented technology be commercialized?

A patent on its own is no guarantee of commercial success. It is a tool that enhances a company's capacity to benefit from its product or technological innovation. In order to provide a tangible benefit, a patent needs to be exploited effectively, and will generally make money only if the relevant product or process is successful.

To take a patented invention to market, a company has a range of options:

- commercialize the invention directly;
- sell the patent to someone else;
- license the patent rights to others; or
- establish a joint venture or other collaboration with others who have complementary assets.

32. How do you take a patented product to market?

The commercial success of a

new product does not hinge only on its technical features.

As great as an invention may be from a technical point of view, if there is no effective demand for it or if the product is not properly marketed, it is unlikely to attract consumers. Commercial success therefore also depends on a range of other factors, including the design of the product, the availability of financial resources, the development of an effective marketing strategy and the price of the product in comparison with competing or substitute products.

To take an innovative product to market, it is generally helpful to develop a **business plan**. Business plans are effective tools for examining the feasibility of a business idea. A business plan is essential for approaching an investor to obtain financial resources to take a new patented product to market.

Including information on the company's patents and patent strategy in the business plan is

important, as this indicates the novelty of the company's products, provides evidence of due diligence, and identifies the risk of infringement of other companies' patents.

33. Can a patent be sold?

Yes. Selling a patent is called **assigning** it, and it will transfer ownership of the patent to another person. Such a decision must be considered very carefully.

Licensing a patent instead of assigning it means that the rights are "rented" to others in return for royalty payments. Licensing can be a very financially rewarding strategy for that reason. **Assignment**, on the other hand, commonly means that an agreed-upon payment is received once, with no future royalties, regardless of how profitable the patent

ends up being avoided. In addition, assignment of the patent to a start-up company

may be a precondition for funding, if the patent does not belong to the company.

In each case, it is a decision based on the needs and priorities of the company. A patent attorney should be consulted for advice as to which approach best fits the company's business strategy.

34. How is a patent licensed?

A patent is licensed when the owner of the patent (the licensor) grants permission to another (the licensee) to use the patented invention for mutually agreed purposes. In such cases, a **license agreement** is generally signed between the two parties, specifying the terms and scope of the agreement.

Authorizing others to commercialize the patented invention through a licensing agreement will enable the business to obtain an **additional source of revenue** and is a common means of exploiting a company's exclusive rights over an invention.

Licensing is particularly useful if the company that owns the invention is not in a position to make the product at all or in sufficient quantity to meet a given market need, or to cover a given geographical area.

It is advisable to seek the assistance of a licensing practitioner in negotiating the terms and conditions and drafting the licensing agreement, as this requires skill and knowledge.

In some countries, license agreements need to be registered with a government regulatory authority.

License out, license in or both?

SMEs lacking resources for R&D, production or marketing can take advantage of the "open" innovation model (see box after

No. 1) by considering opportunities to license in or license out their inventions. Licensing out simply means a business license its own invention to other businesses; licensing in is the exact opposite, where a business agrees to use another business's invention.

The table on the next page compares the benefits and drawbacks of each.



Licensing out	
Benefits	Drawbacks
<ul style="list-style-type: none"> • Retention of ownership • Involvement in future developments • No involvement required to manufacture • New channels to market • Turns a potential infringer/competitor into an ally. 	<ul style="list-style-type: none"> • Limited return if a larger profit could be made by the business taking the invention to market itself • May create a potential competitor if using a sole license or a non-exclusive license • Future obligations if the technology is incomplete • Critically dependent on the licensee if the licensee is the sole source of profit.
Licensing in	
Benefits	Drawbacks
<ul style="list-style-type: none"> • May be able to reach the marketplace faster • Limited R&D can save costs • Merging technologies to create stronger services and more products. 	<ul style="list-style-type: none"> • Technology may not be finalized • Additional costs if the market cannot handle the price that will need to be charged. • Too reliant on technologies developed outside the business.



35. What royalty rate can be expected?

In licensing transactions, the owner of the right is generally compensated through lump-sum payments and/or recurring **royalties**, which may be based on sales volume of the relevant product (per-unit royalty) or on net sales (sales-based royalty). In many cases, payment under a patent license is a combination of a lump sum and royalties. In some instances, an equity stake in the licensee company may replace a royalty.

While standards for royalty rates exist in some industries and may usefully be consulted, remember that most license agreements are unique, and the royalty rate will depend on the particular factors of the underlying business. Therefore, industry standards may sometimes be unhelpful, or even misleading.

36. What is the difference between an exclusive, non-exclusive and sole license?

There are three types of license agreements, depending on the number of licensees that will be allowed to use the patent:

- **exclusive license** – a single licensee has the right to use the patented technology, which cannot even be used by the patent owner;
- **sole license** – a single licensee and the patent owner have the right to use the patented technology; and
- **non-exclusive license** – several licensees and the patent owner have the right to use the patented technology.

Within a single license agreement, there may be provisions that grant some rights on an exclusive basis and others on a sole or non-exclusive basis.

37. Should you grant an exclusive or a non-exclusive license for your patent?

It depends on the product and on the company's business strategy. For example, if the technology can become a standard that is needed by all players in a specific market to perform their business, a non-exclusive, widely held license would be the most advantageous. If the product needs one company to invest heavily to commercialize the product (e.g., a pharmaceutical product that requires investment in performing clinical trials), a potential licensee will not want to face competition from other licensees and may rightly insist on obtaining an exclusive license.

38. When is the best time to license an invention?

There is no best time to license an invention, as the timing will depend on a variety of factors. However, for an independent entrepreneur or inventor, it is often advisable to start the search for licensees as early as possible

in order to guarantee a revenue stream that can be used to cover the costs of patenting. There is no need to wait for the patent to be granted. More than the right time, it is critical to find the right partner(s) to generate profits from commercialization of the patented invention.

Patent valuation

There are many different reasons why it might be beneficial or necessary for a company to conduct a patent valuation, including for accounting, licensing, mergers or acquisitions, assignment or purchase of IP assets, or fundraising. While there is no single patent valuation method that is suitable in all circumstances, the following are widely used

- **Income method:** focuses on the income stream that the patent holder expects during the lifetime of the patent.
- **Cost method:** calculates the cost of developing a similar asset

either internally or externally.

- **Market method:** looks at comparable transactions made in the market.
- **Option-based methods:** employs models initially developed for use in pricing stock options.

There are factors that are difficult to quantify that may also impact on the value of a patent, such as the strength of the patent claims or the existence of close substitutes.

39. How can permission be obtained to use a competitor's patent?

This may not always be easy or affordable. However, if the competitor is also interested in the patents of the company, **cross-licensing** may be considered. **Cross-licensing** is very common in industries where a number of patents covering a wide range of complementary inventions are held by two or more competitors.

Such competing companies often seek to ensure their **freedom to operate** by granting rights to their patents in return for the grant of similar rights by competitors.

Summary checklist

- **Commercialization.** Consider the different options for commercializing the invention and make sure to put in place a convincing business plan.
- **Licensing.** Royalty rates and other features of license agreements are a function of negotiation, so expert advice should be sought.
- **Exclusive versus non-exclusive.** Consider exclusivity of license rights in the light of the maturity of the technology and the company's business strategy.
- **Cross-licensing.** Consider whether the patent(s) can be used to access useful technology owned by others.

Enforcing Patent

40. Why should patent rights be enforced?

If a new patented technology is brought to market, competitors may try to make products with technical features that are identical or very similar to that product. Not having had to spend the same resource or take the same risks, competitors would have an advantage and be able to make a similar or identical product at a cheaper price. That could put unfair competitive pressure on the patent-owning business.

The rights granted by a patent give the owner the opportunity to prevent or stop competitors from infringement and to seek compensation for damages. To prove that infringement has occurred, it must be shown that every element of a given claim, or its equivalent, is contained in the infringing product or process. Enforcing rights may be crucial to

maintaining competitive edge, market share and profitability

Patent risk management

Enforcing patents is just one aspect of business risk management, protecting the time and money that has been invested in R&D of innovative technology. Preparing a strong strategy before infringement happens can minimize the costs of enforcement later.

1. Decide who will have overall responsibility for managing the company's patent portfolio.
2. Build a system to ensure that all inventions are disclosed to an authorized individual or office within the company, and which ensures a decision is made as to whether these should be kept as trade secrets, defensively published, or protected through patents.
3. Undertake a risk analysis to decide whether a patent



information search should be carried out before a patent application is filed and, if so, what it should entail.

4. Determine if the patent, when granted, will be used (a) offensively, (b) defensively or (c) mainly for branding/marketing.
5. Identify partnering or licensing-in opportunities.
6. Regularly update the enterprise's documented inventory of owned and in-licensed patents.
7. Undertake periodic risk analysis by looking at the patent portfolios and patent strategies of competitors.
8. Develop a financial strategy to cover all the costs of creating, maintaining, using, enforcing, and defending the patent portfolio.
9. Periodically revisit and revise the patent strategy as part of a periodic or event-driven IP

audit.

41. Who is responsible for enforcing patent rights?

The main responsibility for identifying and taking action against infringers of a patent lies with its owner. Of course, educating employees on how to identify infringers can help a business in monitoring the marketplace. Nevertheless, a patent owner is responsible for monitoring the use of its invention in the marketplace, identifying any infringers and deciding whether, how and when to take action against them.

Independent inventors and SMEs may decide to shift this responsibility (or part of it) to an exclusive licensee.

A patent lawyer should be contacted to assist in enforcing the patent, both domestically and in foreign markets. A lawyer will also be able to advise on the costs



and risks involved and the best strategy to adopt.

42. What should you do if your patent is being used by others without your authorization?

If the patent owner believes that others are using their patented technology without authorization, then as a first step information must be collected as to who is infringing, how they are doing it and the effect of the infringement on the patent owner's business. A patent lawyer should be engaged to assist in analyzing this evidence and deciding what to do about the infringement.

In some cases, patent owners choose to send a letter (commonly known as a "**cease and desist letter**") informing the alleged infringer of a possible conflict between their rights and the other company's business activity. This procedure is often effective in the case of non-intentional

infringement since the infringer will either discontinue such activities or agree to **negotiate a licensing agreement**.

Sometimes, however, surprise is the best tactic in order to avoid giving the infringer time to hide or destroy evidence. In these circumstances, it may be appropriate to go to court without giving notice to the infringer and to ask for an "**interim injunction**" in order to surprise the infringer by a raid at their business premises, often with the help of the police. The court may order the alleged infringers to stop their infringing action pending the outcome of a trial (which may take months or years). In the case of infringement or to prevent threats of infringement in the Kingdom of Bahrain, the right owner may request an order in a petition from the competent court to take one or more preventive measures,

including the following:

1. A detailed investigation of the offence by making a detailed description of the goods –including the imported ones upon importation thereof– materials, machinery, and equipment used or that have been used in the infringement act and keeping the pertinent evidence.
2. Effecting precautionous seizure on the items mentioned hereinabove.
3. Cease and desist order.
4. To prohibit the products from entering the commercial channels.³⁵

However, the question whether a patent has been infringed may be very complex and the court may decide that the matter must await a trial on the merits. In the event of conviction, the court

may order the seizure or destruction of all infringing articles, as well as the machines and equipment used in committing the offense. Any person who suffered direct damage resulting from the violation of any rights prescribed in Bahrain's Patent Law, may file a complaint with the competent court, demanding the following:

1. Compensation to repair the damages caused by the violation.
2. The revenues gained by the offender from the infringement that were not taken into account when the compensation was calculated.³⁶

Where the company decides to initiate **civil proceedings**, the courts generally provide a wide range of remedies to compensate aggrieved owners

³⁵ Article 29(1) of Law No. (6) for the year 2006 on Industrial Designs and Models.

³⁶ *Id.* at Article 40(a).



of patent rights. A patent lawyer will be able to provide the relevant information.

The infringer may be compelled by the court to identify the persons involved in the production and distribution of the infringing goods or services and their channels of distribution. Therefore, in Bahrain, adequate evidence must be submitted to prove that the applicant is the right holder, that the right is being infringed, or that such infringement is imminent. As an effective deterrent to infringement, the court may also order, upon the patent holder's request, that infringing goods and materials be destroyed or disposed of without compensation.

In order to prevent the **importation of infringing goods**, measures at the international border may be

available in some countries through the national customs authorities. However, many countries provide such measures only in cases of importation of counterfeit trademark goods and pirated copyright goods. In the case of infringement or to prevent threats of infringement in the Kingdom of Bahrain, the right owner may request an order in a petition from the chief of the competent court to take one or more precautionary measures as appropriate, including the following:

"Prohibiting the infringing products which contain the claimed infringement from entering the commercial channels and prohibit their export, including the imported products that are released by the Customs Affairs."³⁷

³⁷ Article 40(1)(c) of Law No. (6) for the

year 2006 on Industrial Designs and



Furthermore, the GCC Unified Customs Law, the Customs Administration “prohibits admission, transit, or exit of prohibited goods, or *infringing goods*, as well as the entry, transit, or exit of any restricted goods, except under approval from the competent authorities in the country.”³⁸

As a general rule, if infringement is identified, professional legal advice should be sought.

43. What are the options for settling an infringement claim out of court?

If there is a contract (e.g., a license agreement) with the infringer, first check whether there is a clause calling for mediation or arbitration. These are alternative and often less

costly forms of dispute resolution than suing in court. Even if there is no such clause in the contract, or no contract at all, it may still be possible to take advantage of these private procedures, so long as both parties agree to submit to such a procedure. For example, if both parties agree, they may resort to alternative dispute resolution such as arbitration or mediation at the Bahrain Chamber for Dispute Resolution (BCDR)³⁹ or the GCC Commercial Arbitration Centre, which is a regional arbitration authority independent from the six GCC member states, including the host state, that is headquartered in the Kingdom of Bahrain.⁴⁰

Models.

³⁸ Article 24 of Legislative Decree No. (10) of 2002 of the Unified Customs Law for the Gulf Cooperation Council States (“GCC Unified Customs Law”); Article 2(14) the term goods means “any natural,

material or animal, agricultural, *industrial, or intellectual product*.”

³⁹ See <https://bcdr.org/introduction-to-bcdr/>

⁴⁰

See <https://www.gcccac.org/gccstg/en/about->



Arbitration is generally shorter and less expensive than court proceedings and, if the other party is foreign, an arbitral award is more easily enforceable internationally. An advantage of mediation is that the parties can keep the process informal and find an agreed solution that takes account of their interests. As such, it can help to preserve good business relations. The **WIPO Arbitration and Mediation Center** provides non-profit services for alternative dispute resolution. More information on arbitration and mediation can be found at:

<https://www.wipo.int/amc/en/>.

Summary checklist

- **Be vigilant.** Monitor the competition to detect possible infringement.
- **Risk management.**

Strategically manage patents to minimize risks and maximize profits.

- **Seek advice.** Consult a patent attorney before taking any action in response to suspected infringement.
- **Alternative dispute resolution.** Consider ways of settling disputes out of court by including mediation and/ or arbitration clauses in any license agreement.

Annexes

Annex I – Useful Websites

For more information on:

- IP issues from a business perspective:
www.wipo.int/sme
- Patents in general:
www.wipo.int/patents
- The practicalities of filing patent applications, see the list of websites of national and regional patent offices:
www.wipo.int/directory/en/urls.jsp
- Patent Cooperation Treaty (PCT):
www.wipo.int/pct
- International Patent Classification:
www.wipo.int/classifications/ipc
- WIPO Arbitration and Mediation Center:
www.wipo.int/amc
- WIPO's global collections of searchable IP data:
www.wipo.int/reference
- Membership of WIPO-administered treaties:
www.wipo.int/treaties
- Exchanging Value:
- Negotiating Technology Licensing Agreements
- A Training Manual, WIPO

publication no. 906:

<https://www.wipo.int/sme/en/assignment-licensing.html>

▪ Successful Technology Licensing, WIPO

publication no. 903:

<https://www.wipo.int/publications/en/details.jsp?id=296>



Annex II - Glossary

Term	Explanation* Selected	references
Art	Known subject matter in the field including issued patents, publications and knowledge deemed to be publicly available such as trade skills, trade practices and the like (see also prior art).	8, 9, 14-16
Best mode requirement	The requirement for a patent applicant to disclose the best method they know of performing the invention at the time of filing the application. Some countries, such as Bahrain, have such a requirement. In Bahrain, patent applications must include a detailed specification of the invention that gives full account of the subject invention and the “best ways” for one skilled in the art to implement and use, without the need for unnecessary experiments upon filing the application. See also disclosure requirement .	11
Cease and desist letter	A letter from an IP owner or their attorney which requests that alleged infringement be stopped immediately or else legal action will be taken.	42
Claims	Numbered statements at the end of a patent which define the invention for which patent protection is sought. In general, the claims must be clear, concise	16, 20 (box), 21

and fully
supported by the description.

Cross-licensing	<p>Cross-licensing occurs when companies exchange rights to use certain patents owned by each other. Often, the patents that each company owns cover different aspects of a commercial product. By cross-licensing, each company is free to bring the product to market. A cross-license may or may not involve payment by one side to the other to “balance” the value of rights transferred.</p>	3, 39
Confidentiality agreement	<p>Also known as non-disclosure agreement (NDA). A contract in which one or both parties agree not to disclose certain information and/or to use the information for a limited purpose.</p>	4, 18
Defensive publication	<p>Also known as defensive disclosure. An IP strategy to ensure that third parties do not gain patent rights over an invention. It involves publishing a description and/or drawing of the invention so that it becomes prior art, thus preventing others from patenting the invention.</p>	5 (box)



Description	<p>Also referred to as the specification. The part of a patent application that discloses the invention in a manner sufficiently clear and complete to enable a person skilled in the technology to understand the claimed invention and practice it without undue experimentation. The description forms the basis for the claims which define the legal boundaries of the invention. The description can cover subject matter broader than the claims, but the claims may never be broader than the description.</p>	21
Disclosure	<p>Disclosure can refer to either:</p> <ol style="list-style-type: none"> 1. sufficient disclosure of an invention as a requirement for patentability (see next entry); or 2. pre-filing public disclosure, which can destroy the novelty of an invention, rendering it unpatentable. 	5 (box), 8, 11, 18-20
Disclosure requirement	<p>Patent law imposes a general obligation on applicants to disclose the invention in a manner sufficiently clear and complete to enable a person skilled in the technology to understand the claimed invention and practice it without undue experimentation. In some countries, the patent laws also require disclosure of the inventor's "best mode" of making or practicing the invention.</p>	11

have such a requirement. Bahrain's Patent Law requires such disclosure. Therefore, the invention is considered sufficient in terms of disclosure when such specification appears reasonable for one skilled in the art.

Drawing	Illustrations in a patent application which may be necessary or helpful to understand the invention.	21
European Patent Convention (EPC)	A treaty instituting the European Patent Organization (EPOrg) and providing an autonomous legal system according to which European patents are granted. However, after grant a European patent is not a unitary right, but a group of essentially enforceable, nationally revocable patents. More information at www.wipo.int/wipolex/en/other_treaties/details.jsp?group_id=21&treaty_id=226 .	26, 30
Exclusive right	A right given to a patent owner (or to any party to whom they transfer ownership) to prevent others from making, using, selling, offering for sale, or importing for those purposes their invention without their consent for a limited period of time.	1, 3, 12

First-to-file	A system in which the first person to file a patent application will be awarded a patent, if more than one person files a patent application claiming the same invention.	18, 19 (box)
First-to-invent	A system in which the first inventor who conceives and reduces the technology or invention to practice is entitled to patent protection, if more than one person files a patent application claiming the same invention. The United States of America continues to employ a first-to-invent system for patent applications filed on or before March 15, 2013. As of March 16, 2013, it implemented a first-to-file system similar to most other countries.	18 (footnote 12), 19 (box)
Freedom to operate (FTO)	The condition in which a particular action, such as testing or commercializing a product, can be done without infringing valid patent rights of others.	14 (box)
Grace period	The legislation of some countries provides a grace period of (6) months, or (12) months – such as the Kingdom of Bahrain, from the moment an invention is disclosed by the inventor or applicant until the application is filed, in which the invention does not lose its patentability because of such disclosure. The grace period will not provide an applicant with an earlier priority date.	19, 20
Industrial	One of the criteria of patentability, requiring that the	10



applicability

invention can be made or used in some kind of industry, understood in its broadest sense. In some countries, instead of industrial applicability, **utility** is required.

In Bahrain, a patent is given for inventions that are new, involves an inventive step, and is industrially applicable.

Intellectual property (IP)

IP refers to creations of the mind: 4 inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.

International patent application

An application for the protection of an 30 invention filed under the Patent Cooperation Treaty (PCT).

International Patent Classification (IPC)

A hierarchical system in which the whole 15 (box) area of technology is divided into a range of sections, classes, subclasses and groups for the classification of patents and utility models. The IPC is an indispensable tool for the retrieval of patent documents in the search for prior art.
More information at www.wipo.int/classifications/ipc.

Invention

A solution to a specific problem in the field 2 of technology.
An invention may relate to a product or a process.



Inventive step	Also called non-obviousness . One of the criteria of patentability, requiring that the invention would not have been obvious to a person having ordinary skill in the relevant technical field.	1, 6, 9
Licensing agreement	A contract between a patent rights owner (licensor) and another (licensee) who is authorized to use such rights, under the agreed conditions, for example in exchange for some consideration, usually a payment (fee or royalty).	3, 33-35, 39
Non-disclosure agreement (NDA)	See confidentiality agreement .	4, 18
Non-obviousness	See inventive step .	1, 6, 9
Novelty	One of the criteria of patentability, requiring that the invention be new in comparison to the prior art. When the invention can be found in a single prior art reference, it is said to have been “anticipated.” Novelty is not something which can be proved or established; only its absence can be proved.	6, 8, 19, 28
The Paris Convention for the Protection of Industrial Property	Administered by the World Intellectual Property Organization (WIPO), the Paris Convention is the first major international agreement relating to the protection of industrial property rights, including patents. For example, it provides rules that help the people of one	



country
obtain protection in other countries for
their intellectual
creations and the right of priority (see
priority right).
More information at
[www.wipo.int/treaties/en/ip/paris/
index.html](http://www.wipo.int/treaties/en/ip/paris/index.html).

Patentable subject matter	The scope of technology for which a 6, 7 country's law allows patent protection. In general, patentable subject matter is established by statute and is often defined in terms of exceptions to patentability, the general rule being that protection is available for inventions in all fields of technology. In Bahrain, the exclusions from patentable subject matters include any invention that the Kingdom of Bahrain forbids its commercial exploitation in order to protect the public order or morality; animals; and diagnostic, therapeutic, and surgical methods necessary for the treatment of humans and animals; however, this provision does not apply to products used in any of these methods.
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Patent	A document issued upon application by a 1 government office (or a regional office acting for several countries) - in Bahrain, the Directorate of Foreign Trade and Industrial Property, at Bahrain's Ministry of Industry and Commerce; or the GCC Patent Office, which describes an invention and grants a time-limited exclusive right to make, use, or sell a product or process
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Patent application	<p>An application for the protection of an invention submitted to a patent office – in Bahrain, the Directorate of Foreign Trade and Industrial Property, at Bahrain's Ministry of Industry and Commerce. An application consists of a request, a description of the invention, one or more claims, one or more drawings (where necessary) and an abstract. The term may also refer to the process of applying for a patent.</p>	<p>5, 8, 11, 14,15, 16, 18,19, 21, 25, 26, 28</p>
Patent Cooperation Treaty (PCT)	<p>An international treaty administered by the World Intellectual Property Organization (WIPO). The PCT is a system facilitating the worldwide filing of patent applications, giving patent applicants more time to decide in which countries they ultimately want to seek patent protection. The PCT permits filing a single "international application" and preparation of a search report and opinion (by one of the major patent offices designated as an "International Authority") reflecting the likelihood of patentability. The applicant can then make an informed decision whether and where to file for a national patent. It is only at this time that translations of the application and payment of local fees are required. Patents resulting from a PCT application are national patents, granted by the competent local patent offices according to local patent laws. But each member country</p>	<p>27-30</p>



must recognize the applicant's original filing date for the purposes of establishing priority, including the determination of what prior art applies to the patentability analysis.

More information at www.wipo.int/pct.

Patent information

The technical and legal information 14-15 contained in patent documents that are published periodically by patent offices. About two-thirds of the technical information revealed in patents is never published elsewhere. This makes patent information the single most comprehensive collection of classified technological data.

Patent Scope

A free online search system including all 15 PCT applications as well as patent documents published by participating national and regional offices. More information at www.wipo.int/patentscope.

Person skilled in the art

A hypothetical person considered to have 9, 11, 21 the normal skills and knowledge in a particular technical field without being considered a genius. In most patent laws, the person skilled in the art is used as a reference for determining, or at least evaluating, whether an invention involves an inventive step and is sufficiently disclosed in the description of the patent or patent application.



Prior art	<p>All the relevant knowledge that existed 15 prior to the priority date of a patent application. In some countries there is a differentiation between printed publications, oral disclosures and prior use, and where the publications or disclosure occurred. In Bahrain, prior art includes everything disclosed to the public in the Kingdom or abroad, expressed in writing, oral discourse, by usage, or by any other means that demonstrates familiarity with the invention before the filing date of the patent. Novelty and inventive step must be assessed in view of the prior art.</p>
Priority date	<p>Also referred to as the effective filing date. 21, 28 It is the filing date of the earliest application of which priority is claimed. The date is particularly important to determine relevant prior art for evaluating novelty and inventive step.</p>
Priority right	<p>A time-limited right, triggered by the first 21, 28 filing of an application for a patent. The effect of the right of priority is that any subsequent filing of a patent application for the same invention in certain other countries before the expiration of the priority period shall not be invalidated by reason of any acts accomplished in the interval, for example another filing. When filing the subsequent</p>

application, the applicant must “claim the priority” of the first application in order to make use of the right of priority. The basis for priority rights is Article 4 of the Paris Convention.

Provisional patent application (PPA)

A PPA can be thought of as a “temporary lower-cost first patent filing.” It contains only a portion of the information required in a regular patent application and lets the applicant secure an initial filing date quickly. The key word in PPA, however, is provisional. A regular patent application must be filed within one year or the application will be deemed abandoned.

Publication

Publication may take place at different stages of the procedure. In some countries, the patent document is only published once a patent has been granted. For example, in Bahrain, the patent document is published in the official gazette and registered at Bahrain’s Ministry of Industry and Commerce once the patent has been granted. (Article 29 of Ministerial Decision No. (101) of 2018 by issuing the executive regulations of Law No. (1) of 2004 on Patents and Utility Models) In other countries, patent applications are published generally



after 18 months from the filing date or, where priority has been claimed, the priority date. The publication of a patent application marks the date at which it becomes available to the general public.

Public domain	In general, an invention or creative work is considered to be in the public domain if there is no legal restriction on its use by the public.	5 (box), 14 (box), 24
Regional patent application	An application for the protection of an invention filed with one of the regional patent offices.	30, Annex III
Royalty	A form of compensation based on a percentage of revenue or unit sales generated under an agreement, typically a licensing agreement.	33, 35
Territorial right	A right that can only be enforced in countries or regions where the right has been established and is in force.	1
Unity of invention requirement	Under most patent laws, including Bahrain's Patent Law, each application should relate to only one invention; including multiple inventions in a single application is only permitted if all are so linked as to form a single general inventive concept. The requirement seeks to avoid the filing of one patent application for several inventions while paying only one set of fees.	26

Unity of invention also makes the classification of patent documents easier.

Utility	One of the criteria of patentability used in some countries instead of industrial applicability . An invention is considered useful if it performs the function specified and provides some identifiable benefit.	10
Utility model	Also referred to as a short-term patent , petty patent , innovation patent , or utility model patent (as referred to in Bahrain). Utility models are a special form of IP rights for inventions granted by some countries, such as Bahrain, to an inventor or their assignee for a limited period of time. The term of protection is shorter than that for a normal patent, and the conditions for grant are less stringent. Utility models may be an important alternative to patents in the countries where they are available.	4, 6 (box), 23

* The explanations given here relate specifically to patent law.



Annex III – Patent Myths and Misunderstandings

I can get a patent for an idea.

An **idea** cannot be patented, because it is just a statement of the problem that needs to be solved and implemented technically (see No. 1). For example, you can say to yourself: “Wouldn’t it be great if my washing machine could wash my clothes without water and thus be more environmentally friendly?” At this point, you do not have an invention, merely the identification of a need or problem. An **invention** is a solution to that problem (see No. 2). You must design a washing machine that allows effective washing without using water. Inventions describe a tangible thing well enough so that someone else could build it.

You cannot patent an idea or suggestion for a new process, machine, manufacture, etc.

You can only patent the actual

invention, and you must

provide the patent office with a complete technical description of the actual operation of the invention (see No. 11).

Ideas may be taken by others, so it is wise to keep your idea secret or share it only in confidence until you develop it into an invention and file a patent application. If you need to express your idea to another party, you should first ask them to sign a confidentiality agreement (see box after No. 5).

I should file a patent before I’m done turning my idea into a workable invention.

Patenting should always be considered at the proper time. Before filing a patent application, take the following steps:

- Determine the technical feasibility and implementation of your idea through to the invention stage.
- Evaluate the invention for its commercial potential, i.e.,

decide whether the invention is likely to be valuable enough to justify the time, effort and expense involved in applying for a patent and following it through to grant (see No 5).

- Make a patentability search (see Nos. 6, 14 and 15).
- Collect and collate all the information that is required to draft the application (see No. 18).

Once I have filed the patent application, my invention will be protected by a patent immediately.

An invention is fully protected only from the date the patent is *granted* and not the date on which it is *filed* (see No. 23). Also, there is no guarantee that a patent will be granted, because the patent office may deny your application for a number of reasons – for example, if the claimed invention does not meet the patentability requirements (see No. 6) or if

someone else has already disclosed it to the public, such as by publishing a paper about it (see No. 19). However, in some countries there is “provisional protection” – rights conferred to a patent application that has been published but not yet granted. In Bahrain, an applicant can submit a request for temporary protection of a patent if it satisfies the registration requirements of Bahrain’s Patent Law while being displayed in an official international exhibition or officially recognized exhibitions held in the Kingdom. The applicant must submit the request for temporary protection and include the following:⁴¹

1. Date of submitting the request for temporary protection;
2. Name of the presenter;
3. Name of the exhibition, its headquarters, the date of its official opening, and its duration
4. A designation indicating

⁴¹ Article 44 of Bahrain’s Minister of Industry and Commerce’s Ministerial Decision No. (101) of 2018 by issuing the executive regulations of Law No. (1) of 2004 on Patents and Utility Models.



the subject of the invention or the utility model.

5. The date the invention or utility model was displayed at the exhibition.

6. The name of the invention.

7. The address of the inventor, by which the inventor will be granted a certificate stating the aforementioned details.

Upon submitting such a request, the applicant enjoys legal protection during the duration of the exhibition, and such protection does not exceed six (6) months from the date of the exhibition opening.⁴²

Moreover, Articles 6 and 7 of the Executive Regulations of the Patent Law of the Cooperation Council for the Arab States of the Gulf (GCC) sets out the requirements for filing a

certificate of temporary protection for a potentially patentable invention. Thus, if an applicant wishes to demonstrate their invention publicly in any GCC official exhibition, they may seek temporary protection. A register is maintained by the GCC Patent Office for such certificates “provisional documents” that are valid for a period not exceeding six (6) months from the official opening date of the exhibition.⁴³

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⁴² Article 45 Bahrain’s Minister of Industry and Commerce’s Ministerial Decision No. (101) of 2018 by issuing the executive regulations of Law No. (1) of 2004 on Patents and Utility Models.

⁴³ Executive Regulations of the Patent Law of the Cooperation Council for the Arab States of the Gulf (GCC) <https://www.wipo.int/wipolex/ar/text/586391>



GCC Patent Office for such certificates “provisional documents” that are valid for a period not exceeding six (6) months from the official opening date of the exhibition.

The grant of a patent means the government has certified that the invention will work or is commercially viable.

The government does not get involved in testing an invention to see if it works and/ or is commercially viable. Some patent offices only verify the formal documents and whether the claimed invention is statutory subject matter. While the patent office reviews applications to ensure they meet administrative and, in some countries, including Bahrain, patentability requirements

A patent will make me rich.

There is no guarantee that a patented invention will sell. In fact, over 90 percent of patents do not generate any income.

This is so for a variety of reasons, such as inadequate assessment of the commercial potential or insufficient promotion and advertising of the invention. Since there are many costs associated with patenting an invention and even more in taking it to market, it is important to do a cost/benefit analysis prior to investing in protecting your invention by a patent (see Nos. 17, 31 and 32).

A patent gives me the right to make, use and sell a product covered by my invention.

A patent only enables its owner to exclude others from making, using, and selling exactly what is covered by their patent claims. A holder of a prior patent with broader claims may prevent the inventor whose patent has narrower claims from using the inventor’s own patent (see No. 1).

I must get a patent to maximize the value of my invention.

Not necessarily. In fact,



depending on the nature of the invention, there may be other forms of legal protection that are better suited to your business strategy, such as utility models or trade secrets (see No. 4). But given the many benefits of a patent, you should do a cost/benefit analysis prior to filing a patent application, taking into account the time and cost of making periodic payments for its maintenance (see No. 3).

Once my invention is patented, the patent office will prevent others from infringing it.

National patent offices, including Bahrain's National Patent Office (Directorate of Foreign Trade and Industrial Property at the Ministry of Industry and Commerce), are responsible for examining and granting patents but do not enforce your patent rights. It is your responsibility as the patent holder to monitor and enforce your rights (see No. 41). This may require you to take legal

action for infringement in a national court."

If I get a patent in my country, my patent rights are enforceable worldwide.

At present, no "world patents" or "inter-national patents" exist that create one unitary patent right for the whole world.

In general, an application for a patent must be filed, and a patent granted and enforced, in **each country** in which you seek patent protection for your invention, in accordance with the law of that country. However, there are some **regional patent offices**, for example the European Patent Office (EPO) and the African Regional Intellectual Property Organization (ARIPO), which accept regional patent applications or grant patents which have the same effect as applications filed, or patents granted, in the member States of that region (see Nos. 27-30). The



term “**European Patent**” is only a short-form designation for a bundle of national and territorial patent rights resulting from a facilitated application under the European Patent Convention (EPC). This stands in contrast to existing regimes in the European Union regarding the so- called “Community trademark” and the “Community design” (and a pending regime that would establish a “Community patent”), which do create one unitary intellectual property right for the territory of the European Community.

Further, any resident or national of a Contracting State of the Patent Cooperation Treaty (PCT) may file an **international application** under the PCT. This system allows that application to have the same effect as national applications filed in each Contracting State of the PCT (see No. 30). The PCT international filing system does

not result in an “international” patent but provides a process for obtaining patents in multiple countries. Patents resulting from a PCT application are national/regional patents, granted by the competent local patent office according to local patent law. However, since all these patents are based on substantially the same application for the same invention, the claims and other content of PCT-based patents will generally be substantially similar (subject to modifications in the course of the prosecution in the national phase).

It is advisable to protect your invention in every country where the product is manufactured, distributed, and sold, or the process is used, and these regional and international systems for filing patents can facilitate and streamline multinational filings.

Procedural and substantive requirements for the grant of

patents as well as the amount of fees required are different from one country/region to the other. It is therefore recommended that a patent agent or attorney or the intellectual property offices of those countries of interest be consulted. A list of URLs and a directory of national and regional intellectual property offices are available at <https://www.wipo.int/directory/en/urls.jsp> ; <https://www.wipo.int/directory/en/urls.jsp>; and https://www.wipo.int/directory/en/contact.jsp?country_id=&type=admin_ip

For each country where I wish to protect my invention, I have to file applications on the same day to ensure they benefit from the earliest filing date.

When a patent application is filed in one country, the filing date for that first application is called the priority date. Any subsequent applications filed in

other countries that are members of the Paris Union and/or the World Trade Organization within 12 months (i.e., within the priority period), and which cover the same subject matter, will benefit from the date of the first application, for example for the later filing of an **international application** under the PCT. This enables subsequent applications filed within the priority period to have priority over other applications for the same invention filed by others after the priority date (see No. 28).

A patent attorney has to write and file your patent application.

For domestic applications, anyone can prepare and file a patent application, but this is a complex task and very risky to undertake without the assistance of a patent agent or attorney. Note that most laws, including Bahrain's Patent Law, require foreign applicants to be



represented by a patent agent or attorney resident in that country (see No. 25). Therefore, foreign applicants who are non-residents of the Kingdom of Bahrain must submit their application through an IP agent or a law firm in Bahrain.

A patent protects anything illustrated in its drawings.

It is the claims of the patent application that determine the scope of protection, not the drawings. The drawings can aid in illustrating technical details of the invention but are not always a necessary part of the application. The claims are critical to the application and must be carefully drafted to properly protect the invention (see No. 21).

I didn't copy any portion of my invention from existing products so I'm sure I'm not infringing any patents.

Claims for patent infringement are not based on whether the

infringers knew about the patent or deliberately copied the patented invention. The patents of others can be infringed even if the infringer had no idea that those patents existed. This is why it is important to conduct a prior art search before investing heavily in the invention and preparing it for market (see Nos. 14 and 15).

My invention is just an improvement on existing technology, so I cannot obtain a patent.

A lot of patented inventions are small improvements on existing technology. An invention does not need to be a major advance in the field to qualify for a patent. As long as the invention meets the patentability requirements, you are free to apply for a patent (see No. 6). However, if you are using other patented technology in your invention, you will need to obtain a license from the owner of the other patent in order to



commercialize your own patented invention (see No. 12).

A provisional patent application is the normal or preferred first step on the road to obtaining a patent.

Provisional patent applications are available only in some countries and, while the filing fees are lower, a full patent application will still need to be filed before the end of the 12-month provisional period in order to protect the invention. Depending on your business strategy, there are costs and benefits to utilizing a provisional patent application, and the details of how they work vary from country to country. A patent agent or attorney should be consulted. In Bahrain, this is not an option. However, an applicant can submit a request for temporary protection of a patent if it satisfies the

registration requirements of Bahrain's Patent Law while being displayed in an official international exhibition or officially recognized exhibition held in the Kingdom. Upon submitting such a request, the applicant enjoys legal protection during the duration of the exhibition, and such protection does not exceed six (6) months from the date of the exhibition opening.⁴⁴

If an applicant wishes to demonstrate their invention publicly in any GCC official exhibition, they may also seek temporary protection from the GCC Patent Office. A register is maintained by the GCC Patent Office for such certificates as "provisional documents" that are valid for a period not exceeding six (6) months from the official

⁴⁴ Article 45 Bahrain's Minister of Industry and Commerce's Ministerial Decision No. (101) of 2018 by issuing the executive regulations of Law No. (1) of 2004 on Patents and Utility Models.

opening date of the exhibition. ⁴⁵

Something shown and/or described in an expired patent can be re-patented.


Once a patent has expired, the invention is free to be used by the public and cannot be re-patented. In addition, since the expired patented invention has been disclosed to the public through the patent application, the invention no longer meets the “new or novel” patentability requirement (see No. 8)


⁴⁵ Executive Regulations of the Patent Law of the Cooperation Council for the Arab States of the Gulf (GCC) <https://www.wipo.int/wipolex/ar/text/586391>



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