Inputs from Member States and Regional Patent Offices to the Thirty-Eighth Session of the Standing Committee on the Law of Patents

Respondent Information

First Name:

[redacted]

Last Name:

[redacted]

Country:

United Arab Emirates

IP Office

Ministry of Economy and Tourism

Job title

Supervising Examiner

Email address:

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Disclaimer:

The information provided in response to this questionnaire is understood to be submitted on behalf of the Member State or regional organization concerned, through its competent authority and in accordance with its applicable official internal procedures.
It is assumed that the person completing and submitting the questionnaire is duly authorized to do so and that the information reflects the official position or practice of the Member State or organization, to the extent possible.

I confirm that I have read and understood the statement above and that I agree with its contents.

A. Prior Art

1. How is prior art defined under the applicable national or regional law?

UAE patent law does not explicitly define the prior art. However, the meaning of a prior art is indirectly defined as "any invention disclosed to the public in writing or orally, or by use or any other means by which the recognition of the invention is achieved prior to the date of filing or of the legally claiming priority". in article 5(3) of Federal law No.11 of 2021.

2. Against which date is prior art assessed under the applicable law?

The earliest effective date, which is the earliest of filing date, PCT international date, and priority date.

3. Which types of information may constitute prior art under the applicable law, and how is it determined whether such information is considered to form part of the prior art?

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4. Does the applicable law provide for any category of prior art that is taken into account for patentability purposes notwithstanding that it was not publicly available before the relevant filing or priority date (sometimes referred to as “secret prior art”)?

No

If yes, please indicate, where applicable, the types of information or documents concerned (for example, earlier-filed patent applications), the relevant date(s) for determining such prior art, as well as any limitations, exclusions, or special rules applicable to such prior art. :

5. Please provide any additional information that may be relevant to the understanding or application of prior art under the applicable law, including where applicable, any guidance (for example, patent office manuals or guidelines) or key judicial decisions in your jurisdiction with general relevance to applicants or interested parties, captured by patent office practice.

Not available.

6. Please indicate whether any legal provisions, including those applicable to utility models or any other similar system (where different from those applicable to patents of invention), are relevant to the subject matter of this section and, if so, kindly provide the relevant information and references.

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This is applicable for utility model also.

B. Novelty

1. How is the requirement of novelty defined under the applicable national or regional law?

Article 5(3) of Federal law No.11 of 2021 stipulates " an invention is new if it has not been anticipated by a prior art by disclosing it to the public in writing or orally, or by use or any other means by which the recognition of the invention is achieved prior to the date of filing or of the legally claiming priority".

2. For the purposes of assessing novelty under the applicable law, are there any novelty-specific considerations regarding the relevant date or the scope of information taken into account, beyond those addressed in the Prior Art section of this survey?

Grace period of 12 months is allowed regardless of location and manner of disclosure except for the publications from patent offices.

3. Does the applicable law apply an absolute novelty requirement, or does it provide for any limitations or qualifications to novelty (for example, relative novelty or other restricted approaches), apart from any grace period mechanisms addressed separately in this survey?

UAE adopts absolute novelty requirement.

4. Apart from the approach described in question 3, are there any specific rules or contextual factors that affect what is taken into account as prior art for the purposes of assessing novelty under the applicable law?

No specific element.

5. Please provide any additional information relevant to the requirement of novelty under the applicable law, to the extent not already addressed in questions 1 to 4, including, where applicable, any guidance (for example, patent office manuals or guidelines) or key judicial decisions in your jurisdiction with general relevance to applicants or other interested parties, captured by patent office practice.

Not available

6. Please indicate whether any legal provisions, including those applicable to utility models or any other similar system (where different from those applicable to patents of invention), are relevant to the subject matter of this section and, if so, kindly provide the relevant information and references.

Same rule applies to utility model.

C. Inventive Step

1. How is the criterion of inventive step or non-obviousness defined under the applicable national or regional law?

Article 5(5) of federal law No.11 of 2021 stipulates "invention shall be considered to involve an inventive step, according to an ordinary person in the relevant art, if it is not an intuitive procedure as a result of prior arts related to the patent application."

2. For the purposes of assessing inventive step or non-obviousness under the applicable law, what is the relevant date and what prior art or information is taken into account?

The earliest effective date, which is the earliest of filing date, PCT international date, priority date is the relevant date over disclosure to the public in writing or orally or by use, or by any other means by which the recognition of the invention is achieved.

3. What is the standard applied under the applicable law to determine whether an invention involves an inventive step or is non-obvious, in particular as reflected in the concept of the "person skilled in the art", focusing on how the standard is understood or applied, rather than its formal legal definition?

An ordinary person in the art shall be interpreted as a person who has access to all publicly known prior art available at the earliest effective date and can perform routine experiments and minor variations but lacks inventive imagination.

4. Are there any specific rules, limitations, or contextual factors that apply to the assessment of inventive step or non-obviousness under the applicable law?

No

Please indicate, where relevant, whether such rules or factors include geographic or territorial considerations affecting the relevance of prior art (for example, distinctions between domestic and foreign disclosures, uses, or publications, or territorial conditions applicable to particular categories of prior art) or any other particular considerations relevant to the assessment.

***Responses should be limited to such contextual factors asthey relate to the assessment of inventive step or non-obviousness, without restating general rules on what constitutes prior art.*:**

5. Please provide any additional information relevant to the requirement of inventive step or non-obviousness under the applicable law, to the extent not already addressed in questions 1 to 4, including, where applicable, any guidance (for example, patent office manuals or guidelines) or key judicial decisions in your jurisdiction with general relevance to applicants or interested parties, captured by patent office practice.

No specific considerations

6. Please indicate whether any legal provisions, including those applicable to utility models or any other similar system (where different from those applicable to patents of invention), are relevant to the subject matter of this section and, if so, kindly provide the relevant information and references.

Inventive step not qualified for patent registration might be accepted for registering utility model according to article 6(1) of federal law No.11 of 2021.

D. Grace Period Mechanisms and Pre-Filing Disclosures

1. Does the applicable law provide for any mechanism under which certain disclosures made before the filing or priority date do not prejudice the patentability of an invention, in particular with respect to novelty and/or the legal effect on prior art?

Yes

If yes, please identify the relevant legal provisions (in primary and/or secondary legislation) and describe their operation.: Article 5(4) of federal law no.11 of 2021 and Article 17 of cabinet resolution No.6 of 2022.

2. What is the duration of the mechanism referred to in question 1, during which the covered disclosures do not prejudice the patentability of the invention?

12 months

3. Where such a mechanism exists, which categories of disclosures are covered by it?

Any location and mode of disclosure except for the publications from patent offices is accepted.

4. Are there any formalities or procedural requirements that must be fulfilled in order to rely on the mechanism identified in question 1?

No

Please describe any such requirements, where applicable, including, for example, the need to file statements, declarations or notices, to submit certificates or other supporting evidence, or to comply with any timing or notification requirements or any information relating to the burden of proof. **:** Grace period may be allowed according to the request of applicant or by ex-officio decision.

5. Does the applicable law provide for prior user rights or other protections for third parties who may be affected by an invention that has benefited from a graced pre-filing disclosure?

Yes

If yes, identify the relevant legal provisions (including any provisions in primary and/or secondary legislation), and describe the conditions under which such rights or protections arise (for example, good-faith use of the invention prior to the filing or priority date), as well as how such rights or protections operate. **:** Article 20 of federal law no.11 of 2020.

6. Please provide any additional information that may be relevant, including, where applicable, any guidance (e.g. patent office manual/guidelines) or key judicial decisions in your jurisdiction with general relevance to applicants or interested parties, captured by patent office practice.

Not available.

Please upload any document that may be relevant to grace period mechanisms and/or pre-filing disclosures.

7. Please indicate whether any legal provisions, including those applicable to utility models or any other similar system (where different from those applicable to patents of invention), are relevant to the subject matter of this section and, if so, kindly provide the relevant information and references.

Same rule applies to utility model.

Submission of information concerning other aspects of national/regional patent law

E. Sufficiency of Disclosure

Sufficiency_of_disclosure.docx

F. Exclusions from Patentable Subject Matter

Non-patentable_matters.docx

G. Exceptions and Limitations to Patent rights

Exceptions_for_patent_right.docx

Final review before submission

Confirmation of submission

I am aware that by clicking "Submit" below, my responses will be sent to the SCP Secretariat.