

MOROCCO

Industrial Property Law

Law no. 17.97, as amended and supplemented
by Law No. 23.13 and 31.05
Promulgated by February 15th, 2015

TABLE OF CONTENTS

TITLE I GENERAL PROVISIONS

Chapter I Scope of Protection

Article 1

Article 2

Article 2.1

Article 3

Article 4

Chapter II Conditions governing the practice of industrial property
attorney

Article 4.1

Article 4.2

Article 4.3

Article 4.4

Article 4.5

Article 4.6

Article 4.7

Article 4.8

Article 4.9

Article 4.10

Article 4.11

Chapter III General provisions

Article 5

Article 6

Article 7

Article 8

Article 9

Article 10

Article 11

Article 12

Article 13

Article 14
Article 14.1
Article 14.2
Article 14.3
Article 14.4
Article 15

TITLE II PATENTS FOR INVENTION

Chapter I Scope of Application

Article 16
Article 17
Article 17.1
Article 17.2
Article 17.3
Article 17.4
Article 17.5
Article 17.6
Article 18
Article 19
Article 20
Article 21
Article 22
Article 23
Article 24
Article 25
Article 26
Article 27
Article 28
Article 29
Article 30

Chapter II Filing and Processing of Patent Applications

Section I Filing of Patent Applications

Article 31
Article 32
Article 33
Article 34
Article 35
Article 36
Article 37

Article 38
Article 38.1
Article 38.2
Article 39
Article 40
Article 41
Article 42
Article 43
Article 43.1
Article 43.2
Article 44
Article 45

Section II Grant of Patents

Article 46
Article 47
Article 48
Article 49
Article 50

SECTION III Validation of the application for a patent of invention and the patent of invention

Article 50.1
Article 50.2
Article 50.3
Article 50.4
Article 50.5

Chapter III Rights Deriving from Patents

Section I Exclusive Right to Work

Article 51
Article 52
Article 53
Article 54
Article 55

Section II Assignment and Loss of Rights

Subsection I General Provisions

Article 56
Article 57
Article 58

Article 59
Subsection II Compulsory Licenses
Article 60
Article 61
Article 62
Article 63
Article 64
Article 65
Article 66
Sub-section III Ex officio Licenses
Article 67
Article 68
Article 69
Article 70
Article 71
Article 72
Article 73
Article 74
Article 75
Sub-section IV Seizure
Article 76
Sub-section V Joint Ownership of Patents
Article 77
Article 78
Article 79
Article 80
Sub-section VI Miscellaneous Provisions
Article 81
Article 82
Article 83
Article 84
Article 85
Article 86
Article 87
Article 88
Article 88.1

CHAPTER IV Publication of Patents
Article 89

TITLE III LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS

Chapter I Scope of Application

Article 90

Article 91

Article 92

Chapter II Miscellaneous Provisions

Article 93

Article 94

Article 95

Article 96

Article 97

Article 98

Article 99

Article 100

Article 101

Article 102

Article 103

TITLE IV INDUSTRIAL DESIGNS AND MODELS

Chapter I Scope of Application

Article 104

Article 105

Chapter II Right to Protection

Article 106

Article 107

Article 108

Article 109

Article 110

Article 111

Article 112

Article 113

Chapter III Filing Procedure and Registration of Industrial Designs
and Models

Article 114

Article 114.1

Article 115

Article 116
Article 117
Article 117.1
Article 118
Article 119
Article 120
Article 121

Chapter IV Implications of industrial design registration

Article 122
Article 123
Article 124
Article 124.1

Chapter V Transfer and Loss of Rights

Section I General Provisions

Article 125
Article 126
Article 127

Section II Seizure

Article 128

Section III Miscellaneous Provisions

Article 129
Article 130
Article 131

Chapter VI Publication of Industrial Designs and Models

Article 132

TITLE V TRADEMARKS AND SERVICE MARKS

Chapter I Scope of Application

Article 133
Article 134
Article 135
Article 136
Article 137
Article 138
Article 139

Chapter II On the right to the mark and the filing procedure,
opposition and registration of the trade mark

Section I Right to Marks

Article 140

Article 141

Article 142

Article 143

Section II On the filing procedure, opposition, and registration of
the trade mark

Article 144

Article 145

Article 146

Article 146.1

Article 147

Article 147.1

Article 148

Article 148.1

Article 148.2

Article 148.3

Article 148.4

Article 148.5

Article 149

Article 150

Article 151

Chapter III The Effects of Trademark Registration

Article 152

Article 153

Article 154

Article 155

Chapter IV Transfer and Loss of Rights

Section I General Provisions

Article 156

Article 157

Article 158

Section II Seizure

Article 159

Section III Miscellaneous Provisions

Article 160

Article 161

Article 162

Article 163

Article 164

Article 165

Chapter V Collective Marks and Collective Certification Marks

Section I Scope of Application

Article 166

Section II Miscellaneous Provisions

Article 167

Article 168

Article 169

Article 170

Article 171

Article 172

Article 173

Article 174

Article 175

Chapter VI Publication of Marks

Article 176

Chapter VII On Boarder Measures

Article 176.1

Article 176.2

Article 176.3

Article 176.4

Article 176.5

Article 176.6

Article 176.7

Article 176.8

TITLE VI TRADE NAMES, GEOGRAPHICAL INDICATIONS, APPELLATIONS OF
ORIGIN AND UNFAIR COMPETITION

Chapter I Trade Names

Article 177

Article 178

Article 179

Chapter II On geographical indications and appellations of origin
and opposition

Article 180

Article 181

Article 182

Article 182.1

Article 182.2

Article 182.3

Article 183

Chapter III Unfair Competition

Article 184

Article 185

TITLE VII TEMPORARY PROTECTION AT EXHIBITIONS AND INDUSTRIAL AWARDS

Chapter I Temporary Protection

Article 186

Article 187

Article 188

Chapter II Industrial Awards

Section I Right to Protection

Article 189

Article 190

Article 191

Section II Filing and Registration Procedure for Industrial Awards

Article 192

Article 193

Article 194

Article 195

Article 196

Article 197

Section III Miscellaneous Provisions

Article 198

Article 199

Section IV Publication of Industrial Awards

Article 200

Chapter III The procedure for dating a creation under the
intellectual property

Article 200.1

Article 200.2

TITLE VIII LEGAL PROCEEDINGS

Chapter I General Provisions

Article 201

Article 202

Article 203

Article 204

Article 205

Article 206

Article 207

Article 208

Article 209

Chapter II Patents

Section I Civil Proceedings

Article 210

Article 211

Article 212

Section II Criminal Proceedings

Article 213

Article 214

Article 215

Article 216

Article 217

Chapter III Layout-Designs (Topographies) of Integrated Circuits

Article 218

Chapter IV Industrial Designs and Models

Section I Civil Proceedings

Article 219

Article 220

Section II Criminal Proceedings

Article 221

Chapter V Trademarks and Service Marks

Section I Civil Proceedings

Article 222

Article 223

Article 224

Section II Criminal Proceedings

Article 225

Article 226

Article 227

Article 227.1

Article 228

Article 229

Chapter VI Trade Names

Article 230

Chapter VII Indications of Source and Appellations of Origin

Article 231

Chapter VIII Industrial Awards

Article 232

Article 233

TITLE IX TRANSITIONAL PROVISIONS

Article 234

Article 235

Article 236

Article 237

Article 238

Article 239

TITLE I GENERAL PROVISIONS

Chapter I Scope of Protection

Article 1

Within the meaning of this Law, the protection of industrial property shall concern patents for invention, layout-designs (topographies) of integrated circuits, industrial designs and models, trademarks and service marks, trade names, geographical indications and appellations of origin and the repression of unfair competition.

Article 2

Industrial property shall be understood in its widest sense and shall apply not only to industry, commerce as such and to services, but also to all production in the field of the agricultural and mining industries and all manufactured or natural products such as cattle, minerals and beverages.

Article 2.1

See Arabic version of the law.

Note: This law refers only to the French version.

Article 3

The nationals of each of the countries' member of the International Union for the Protection of Industrial Property shall enjoy the protection of industrial property rights provided by this Law subject to complying with the conditions and formalities laid down herein.

The same protection shall be afforded to nationals of countries party to any other treaty concluded with respect to industrial property to which Morocco is party and which provides in its provisions for treatment of its nationals that is no less favorable than that enjoyed by the nationals of those countries.

Article 4

No obligation of domicile or establishment in Morocco, when protection is claimed in Morocco, may be required of the nationals of the Member States of the International Union for the Protection of Industrial Property.

Natural or legal persons who do not have a domicile or headquarters

in Morocco or do not have an industrial or commercial establishment in Morocco, shall be required to elect an address for service with a representative domiciled or having his headquarters in Morocco who will effect on their behalf any acts before the body responsible for industrial property.

Resident nationals and foreigners habitually residing in Morocco, whether natural or legal persons, may personally file their applications for an industrial property title, as also any subsequent acts relating thereto, or may designate for that purpose a representative domiciled or having his headquarters in Morocco. When the representative is registered on the list of industrial property attorneys, as provided for in CHAPTER II below, he is authorized to carry out all operations relating to industrial property provided for by this law with the body responsible for industrial property, except for all operations pertaining to the termination or transfer of rights relating thereto.

Chapter II Conditions governing the practice of industrial property attorney

Article 4.1

The industrial property attorney is to provide services to the public on a regular and remunerated basis to advise, assist and represent third parties with a view to obtaining, maintaining and exploiting industrial property rights.

Article 4.2

The candidate for industrial property attorney must:

- a. hold a Moroccan higher education university degree, the list of which is determined by rules and regulations, or any other diploma recognized as equivalent according to the rules and regulations in force;
- b. demonstrate proof of regular professional practice of at least three years in the field of industrial property, and approved by the selection committee of industrial property attorneys provided for in Article 4.7 below.

The candidate who has fulfilled the conditions set out above is registered on the list of industrial property attorneys kept by the body responsible for industrial property.

Article 4.3

No person may be entered on the list of industrial property attorneys if they have been:

- a. sentenced to a legal penalty, or punished by a disciplinary or administrative decision for acts contrary to honor, probity, or ethics;
- b. declared bankrupt unless discharged;
- c. suspended or expelled from a Moroccan or foreign professional entity or body, by disciplinary measure, whether made public or not.

Article 4.4

No person is authorized to use the title of industrial property attorney, an equivalent title or a title likely to lead to confusion, if they are not registered on the list of industrial property attorneys.

Any person who has usurped the profession of industrial property attorney in accordance with the legislative provisions in force shall be punished.

Article 4.5

The industrial property attorney may exercise the profession either individually, or with other attorneys within the framework of an organization or as an assistant who meets the conditions for exercising the profession provided for by this law.

However, the associate attorney(s) can only be appointed to a single firm.

Next to the name of each attorney who is a member of an organization, the list mentions that of their partner(s).

Article 4.6

All industrial property attorneys must provide proof of insurance coverage guaranteeing their civil and professional liability. Proof of insurance guaranteeing civil and professional liability must be submitted each year to the body responsible for industrial property.

Article 4.7

A commission responsible for examining applications for the exercise of the profession of industrial property attorney, hereinafter referred to as the commission, is hereby established.

This commission meets, upon the invitation of its chairperson, at least once every six months or whenever necessary. The commission constitutes a quorum when the majority of its members are present. If the quorum is not reached, the commission may constitute a quorum, regardless of the number of its members present, at a second meeting held for this purpose thirty days after the date of the first meeting.

Decisions are made by a majority of the members present, where the chairperson shall have the casting vote in the event of equality of votes.

Article 4.8

Candidates whose files have been accepted by the commission are automatically registered on the list of industrial property attorneys, kept by the body responsible for industrial property. Decisions rejecting registration must be justified and notified to the applicant by registered letter with acknowledgment of receipt or by any means of communication permitting proof of receipt.

Article 4.9

The commission of industrial property attorneys is appointed for a fixed term of five years and consists of the following members:

1. a judge appointed by the government authority responsible for justice;
2. representatives of the administration;
3. the representative of the body responsible for industrial property;
4. representatives of the most representative professional employer associations;
5. the representative of industrial property attorneys.

The membership and method of working of the commission are determined by rules and regulations.

Article 4.10

Any violation to the provisions of this law, the rules or regulations of the profession and its uses committed by any natural or legal person exercising the profession of industrial property attorney shall be referred to the commission. Sub-commissions may be set up to evaluate the events mentioned in paragraph 1 and recommend appropriate measures. Sub-commissions are chaired by a judge that

falls within the mandate of the commission of industrial property attorneys.

The commission shall decide the disciplinary measures against the offending natural or legal persons.

Article 4.11

Once the body responsible for industrial property has examined and approved the registration applications, any natural or legal persons practicing on the date of entry into force of this law are automatically registered on the list referred to in Article 4.8 above. A period of 3 months is granted to submit applications.

Chapter III General provisions

Article 5

Nationals of countries not party to the International Union for the Protection of Industrial Property shall enjoy the benefit of the provisions of this Law if they are domiciled or have a real and effective industrial or commercial establishment on the territory of one of the countries of the Union.

Article 6

Anyone who has duly filed an application (original application) for a patent of invention, layout-designs (topographies) of integrated circuits, industrial designs or trade or service mark, in one of the countries of the International Union for the Protection of Industrial Property, or their beneficiary, will be in full possession of a right of priority during the time limits provided for in Article 7 below to file the said application in Morocco (subsequent application).

Article 7

The priority period mentioned above is twelve (12) months for patents of inventions and layout-designs (topographies) of integrated circuits, and six months for industrial designs, trade and service marks. The deadline period begins on the filing date of the first application deposited to one of the countries of the Union. The filing date is not included in the deadline period. If the last day of the deadline period is a public holiday or a non-working day, the period shall be extended until the first following working day.

Article 8

Any person wishing to avail himself of the priority of an earlier filing made in one of the countries of the Union shall be required to make a written priority declaration stating the date, number and country of origin of such filing. The declaration must be made on the date of the filing of the application in Morocco.

Within a period of four months beginning on the date of expiry of the earliest priority period, the applicant must provide the documents justifying the previous deposit under the conditions which will be determined by rules and regulations.

The same formalities and time limits as laid down in the first and second paragraphs of this Article shall apply to any natural or legal person who claims more than one priority right in one and the same application for filing in Morocco.

Article 9

Where a priority right is duly claimed, a filing may not be invalidated by acts accomplished during the periods of time laid down in Article 7 of this Law, in particular by another filing, by the publication or working of a patent for invention or of a layout-design (topography) of an integrated circuit, by the selling of copies of an industrial design or model or by the use of a trademark.

Article 10

The acts accomplished during the priority period by third parties acting in good faith shall not generate any right beyond the filing date of an application filed with priority in Morocco. Such acts may not lead to any action for damages.

Article 11

Failure to comply with the time limits and formalities laid down in Articles 7 and 8 above shall lead to loss of enjoyment of the priority right in Morocco.

Article 12

Patents for inventions, layout-designs (topographies) of integrated circuits, industrial designs and models and trademarks and service marks filed with the benefit of a priority shall enjoy a term of protection equal to that provided for filings made without a claim to priority.

Article 13

Patents, for inventions, layout-designs (topographies) of integrated circuits, industrial designs and models and trademarks and service marks applied for during the priority period shall be entirely independent of the titles obtained in one of the countries of the Union, for the same subject matter, both as regards the causes of nullity and cancellation as regards the term of protection.

Article 14

All operations concerning the filing of applications for industrial property titles and all acts concerning such titles shall be entered in the registers kept for that purpose by the body responsible for industrial property. The list and content of such registers, to be conserved indefinitely by that body, shall be laid down by regulation.

The body responsible for industrial property shall keep the elements of the files of applications for industrial property titles, in the original or as a copy, up to the end of a ten-year period following termination of the relevant rights.

Article 14.1

For any act or operation provided for by this law, with the exception of any legal process, when a deadline period is set:

- > as one or more years, it starts on the day following that on which this act or operation took place and shall expire in the relevant subsequent year in the month having the same name and on the day having the same number as the month and the day where said act or operation took place, provided that if the relevant subsequent month has no day with the same number the period shall expire on the last day of that month.
- > as one or more months, it starts on the day following that on which this act or operation took place and shall expire in the relevant subsequent month, on the day having the same number as the day the said act or operation took place. However, if the said month does not have a day with the same number, the said time period expires on the last day of that month.
- > as number of days, it starts on the day following that on which this act or operation took place and expires on the day when the last day of the account is reached.

Where the time limits fixed in this law regarding the fulfilment of the application operations for industrial property titles have not

been met, a motion to extend the procedure pertaining to the said operations may be initiated by the applicant or his representative with the body in charge of industrial property within a period of two months from the expiry date of the said deadlines.

It may not be possible, however, to initiate a motion to extend the procedure mentioned in the 2nd paragraph, in case of failure to meet a deadline:

- for which a motion to extend the procedure has already been initiated;
- for which payment of the appropriate fees for renewal of the registration of a design or an industrial model or a mark or for the payment of appropriate fees for continuance of patent rights;
- pertaining to the opposition procedure, in accordance with the provisions of articles 148 -2 to 148-5 under this law;
- for the provision of documents in support of the right of priority referred to in article 8 above.

A motion to extend the procedure may also be initiated by the applicant or his representative in case of a decision of refusal taken by the body in charge of industrial property within a period of two months from the date of the said decision.

The modalities for the administration of the provisions of the present article shall be determined by normal channel.

Article 14.2

Within a period of two months starting on the date of notification of a decision of rejection taken by the body responsible for industrial property, the applicant or his representative may issue observations concerning the said decision.

If the observations made are such as to change the decision of rejection, a new decision shall be established in view of the said observations.

Article 14.3

Within a period of two months starting on the date of publication of any application for registration of an industrial property title, third party observations may be submitted to the body responsible for industrial property. These observations may concern the criteria necessary to validate the registration.

The body responsible for industrial property shall immediately inform the applicant or his representative, who shall have a period of two months to provide feedback, if necessary.

Article 14.4

The applicant requesting registration or the holder of an industrial property title who misses one of the deadline periods set by the body responsible for industrial property, may submit a request for reinstatement of rights, if he provides proof of a legitimate reason or if the non-observance of this deadline period has the direct consequence of rejection of the application, the disqualification or loss of any other right.

A request for the reinstatement of rights must be submitted to the body responsible for industrial property within one of the following two deadline periods:

- > a period of two months starting from the date of removal of the cause of the failure to meet the applicable time limit for the action in question;
- > a period of twelve months starting on the date of expiry of the deadline period set for the action in question, starting on the date of submission, of a request relating to the failure to pay the required fees for the maintenance of rights or starting on the date of expiry of the grace period provided for in this law.

It may not, however, be the subject of a request for the restoration of rights, upon failure to observe:

- > a deadline period for which a request for the continuation of proceedings or restoration of rights has already been submitted;
- > a deadline period for the payment of required fees to renew the registration of an industrial design or mark;
- > a deadline period relating to the objection procedure in accordance with Articles 148.2 and 148.5 of this law;
- > one of the deadline periods provided for in Articles 8, 14.2 and 14.3 of this law.

The terms of application of the provisions of this article are determined by rules and regulations.

Article 15

Any dispute arising from the application of this Law, with the exception of criminal actions and the administrative decisions laid down herein, shall be heard exclusively by the commercial courts.

TITLE II PATENTS FOR INVENTION

Chapter I Scope of Application

Article 16

An industrial property title may be granted by the body responsible for industrial property to any invention. Such title shall confer on the holder or his successors in title an exclusive right to work the invention. The right to the industrial property title shall belong to the inventor or his successors in title, subject to the provisions of Article 18 below.

If two or more persons have made an invention independently of each other, the right to the industrial property title shall belong to the person who can prove the earliest date of filing.

Article 17

The industrial property title protecting inventions is the patent of invention, issued for a protection period of twenty years from the date of filing the application.

Article 17.1

Notwithstanding the provisions under article 17 above, the duration of protection of the invention patent shall be extended in accordance with the provisions of the 2nd paragraph below, should the patent be delivered after a period of four years from the filing date of the patent application with the body in charge of industrial property, subject to the provisions under article 42 below.

The extension of the duration of an invention patent shall be equal to the number of days elapsed between the expiry date of the four years period, mentioned under the 1st paragraph above, and the actual date of delivery of the said patent.

Any delay due to the responsibility of the applicant is subtracted from the number of days mentioned above.

Mention of the extension of the term of protection for the patent shall be registered in the National Patent Register.

Article 17.2

Notwithstanding the provisions under article 17 above, the term of protection for a patent of invention of a pharmaceutical product, which, inasmuch as it is a drug, should be subject to a drug license in accordance with the relevant legislation and regulations in

force, shall be extended at the request of the patent holder or his representative, after payment of the appropriate fees, for a period equal to the number of days elapsed between the expiry date of the deadline prescribed for granting the drug license and the actual date of its issuance.

The extension request referred to in the 1st paragraph above must be submitted by the patent holder or his representative with the body in charge of industrial property, within a period of three months from the date on which the product, inasmuch as it is a drug product, has been subject to the abovementioned drug license.

The formalities for filing the extension request, referred to in the 1st paragraph above, shall be fixed by normal channel.

Article 17.3

The extension of the term of protection referred to in the 1st paragraph of article 17.2 above shall be effective upon expiry of the legal term of the patent protection without exceeding two years and a half.

The extension of the term of the patent protection shall be subject to a certificate established by the body in charge of industrial property, and delivered to the applicant or his representative.

Mention of this extension shall be registered in the National Register of Patents.

This certificate shall vest the same rights as those vested by the patent and shall be subject to the same limitations and to the same obligations.

Article 17.4

The certificate for the extension of the term of the patent referred to in the 2nd paragraph of article 17.3 above shall only be delivered if, at the filing date of the extension request referred to in the 1st paragraph of article 17.2 above:

- a. the product inasmuch as it is a drug is protected by an unexpired patent;
- b. the product inasmuch as it is a drug has been subject to an unexpired drug license in accordance with the relevant legislation and regulations in force;
- c. the product has not already been subject to a certificate of extension; and and that the authorization mentioned in b) is the first marketing authorization.

Within the limits of protection vested by the unexpired patent, the

protection vested by the certificate referred to in the 2nd paragraph of article 17.3 above shall extend to the sole product covered by the drug authorization.

Provisions under article 50 below shall apply to the certificate for the extension of the term of the patent.

Article 17.5

The certificate referred to in the 2nd paragraph of article 17.3 above shall not be effective:

- a. should its holder renounce it;
- b. should its holder not settle the appropriate fees in accordance with article 82 below;
- c. within the period during which the product covered by the said certificate is no longer licensed due to withdrawal of the drug license on a temporary or permanent basis.

Article 17.6

The certificate referred to in the 2nd paragraph of article 17.3 above shall be void if:

- a. its holder has not settled the appropriate fees in accordance with article 82 below;
- b. the patent to which it is related is void or limited in such a way that the product for which it has been delivered is no longer protected by the patent claims.

Article 18

Where the inventor is a salaried person, the right to the industrial property title, failing any contractual clause more favorable to the salaried person, shall be defined in accordance with the following provisions:

- a. Inventions made by a salaried person in the execution of a work contract comprising an inventive mission corresponding to his effective functions or of studies and research which have been explicitly entrusted to him shall belong to the employer. The conditions under which the salaried person who is the author of such invention shall enjoy additional remuneration shall be determined by the collective agreements and individual employment contracts.

Any dispute relating to the additional remuneration shall be submitted to the court.

b. All other inventions shall belong to the salaried person.

However, where an invention is made by a salaried person during the execution of his functions or in the field of activity of the company or by reason of knowledge or use of technologies or specific means of the company or of data acquired by the company, the salaried person shall be required to inform his employer thereof immediately by a written declaration sent by registered letter with advice of delivery.

Where there is more than one inventor, a joint declaration may be made by all such inventors or by some of them only.

The contents of the declaration shall be laid down by regulation. The employer shall enjoy a period of six months as from the date of receipt of the written declaration referred to above to claim ownership or enjoyment of all or some of the rights deriving from the invention made by his employee by filing a patent application with the body responsible for industrial property.

However, if the employer has not filed a patent application within the aforementioned period, the invention shall revert as of right to the salaried person.

The salaried person shall be entitled to obtain a fair price which, failing agreement between the parties, shall be stipulated by the court; the latter shall take into consideration all elements which may be supplied, in particular by the employer or by the salaried person, to compute the fair price as a function of both the initial contributions of either of them and the industrial and commercial utility of the invention.

c. The salaried person and the employer shall communicate to each other all relevant information concerning the invention. They shall refrain from making any disclosure which would compromise, in whole or in part, the exercise of the rights afforded under this Title.

Any agreement between the salaried person and his employer concerning an invention made by the salaried person shall be recorded in writing, on pain of nullity.

Article 19

Where an application for the grant of an industrial property title has been made either for an invention unlawfully taken from an inventor or his successors in title or in violation of a statutory or contractual obligation, the injured party may claim ownership of

the title granted before the court.

Actions claiming ownership shall be barred after three years from entry of the title in the national patent register referred to in the first paragraph of Article 58 below.

However, in the event of bad faith at the time the title was granted or acquired, the time limit for prescription shall be three years as from the expiry of the title.

Article 20

The inventor, whether salaried or not, shall be named as such in the patent. He may also oppose such identification.

Article 21

An invention may concern products, processes or any new application or combination of known means to achieve a result unknown in the prior art.

An invention may also concern pharmaceutical compounds, pharmaceutical products or remedies of all kinds, including processes and apparatus serving to obtain them.

Article 22

Any invention that is new, involves an inventive step and is susceptible of industrial application may be patented.

Article 23

The following shall not be regarded as inventions within the meaning of Article 22 above:

1. Discoveries, scientific theories and mathematical methods;
2. Aesthetic creations;
3. Presentation of information;
4. plans, rules and methods for the pursuit of intellectual activities, for the playing of games or for economic and business activities, and also computer programs or software. However, patentable inventions include inventions whose execution involves the use of a computer, a computer network or other programmable device and features which are realized wholly or partly by means of a computer program or computer programs To involve an inventive step, a computer-implemented invention must make a technical contribution.

The provisions of this Article shall exclude patentability of the

elements listed in those provisions only to the extent to which a patent application or patent relates to one such element considered as such.

Article 24

Not patentable:

- a. Inventions which would be contrary to public order or morality;
- b. Diagnostic, therapeutic and surgical methods used on the human or animal body. This provision shall not apply to products, in particular substances or compositions, for use in any of these methods.
- c. plant or animal varieties or essentially biological processes for the production of plants or animals; This provision does not apply to micro-biological processes and the products thereof.

Article 25

By way of derogation from paragraph (c) of Article 24 above, inventions relating to plant varieties or animal breeds are patentable when their purpose is:

- a. biological material which is isolated from its plant variety or an animal breed by means of a technical process;
- b. plant or animal inventions are patentable if the technical feasibility of the invention is not restricted to a given plant or animal variety:
- c. a new plant variety which has not been the subject of an application for a plant variety certificate in accordance with the legislation in force regarding the protection of plant varieties.

Article 26

An invention is considered new when it is not already part of the technical state-of-the-art.

The state of the art consists of everything that has been made accessible to the public by a written or oral description, use or any other means, before the date of filing of the patent application in Morocco, or of a patent application filed abroad and whose priority is validly claimed.

Additionally, the content of patent applications filed in Morocco, of which the dates of filing are prior to the date referred to in paragraph 2 and which were published on or after that date, shall be considered as comprised in the state of the art.

Paragraphs 2 and 3 above do not exclude the patentability of a substance or composition included in the state of the art for the implementation of a method referred to in paragraph 1 b) of Article 24 above, provided that its use for any of these methods is not included in the state of the art.

Paragraphs 2 and 3 shall also not exclude the patentability of any substance or composition referred to in Paragraph 4 for any specific use in a method referred to in Article 24 b) above, provided that such use is not comprised in the state of the art.

Article 27

Notwithstanding the provisions of article 26 above, disclosure of the invention shall not be not taken into consideration in the following cases:

1. if it occurs within the twelve months prior to the filing date of the patent application and has been made, authorized or obtained from the applicant of the patent.
2. if it results from the publication, after the filing date, of a patent application for a previous invention which results directly or indirectly from an obvious abuse toward the applicant or his predecessor in title.
3. in view of the fact that the invention has been disclosed for the first time by the applicant or his predecessor in title in official or officially recognized exhibitions and on the territory of one of the International Union for Industrial Property Protection countries.

However, in this case, disclosure of the invention must be declared at the time of the filing of the application.

Article 28

An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.

If the state of the art also includes the documents referred to Paragraph 3 of Article 26 above, these are not taken into account in the assessment of the inventive step.

Article 29

During the whole validity of a patent, the patentee or his successors in title may make improvements or additions to the invention, that shall be recorded by a certificate of addition

granted under the same formalities and conditions as the main patent and having the same effects as the latter.

The provisions of this Law on patents shall apply to certificates of addition, with the exception of the provisions relating to the term of a patent and the payment of the fees required for maintaining the validity of the patent, provided for, respectively, in Articles 17(a) and 82 of this Law.

The term of protection of a certificate of addition shall end at the same time as that of the main patent.

Certificates of addition granted to a successor in title, and for which the application has been filed by that person, shall be enjoyed by all other successors in title.

Article 30

Any application for a certificate of addition may, prior to grant, at the request of the applicant or his representative, be converted to a patent application. Conversion to a patent application shall take effect as of the filing date of the application for the certificate of addition.

Chapter II Filing and Processing of Patent Applications

Section I Filing of Patent Applications

Article 31

To file a patent of invention application, the file must include:

- a. a patent of invention application form, the content of which is determined by rules and regulations;
- b. a description, or part of the description, of the invention, which appears to consist of one, and/or a reference to a previously filed application, provided that it is accessible. This description can be provided in any language at the time of filing.
- c. one or more claims;
- d the drawings to which the description or patent claims refer;
- e. an abstract

The date of filing of the patent application is the date on which the applicant or his representative produced the documents provided for in (a) and (b). The patent application file that does not include the said documents is not admissible.

When the patent application file includes the documents referred to in (a) and (b) above, the patent application, as provided for in (a)

above, is registered in the National Patent Register referred to in Paragraph 1 of Article 58 below with a date and filing number.

The following are determined by rules and regulations:

- > the formalities and documents to be attached to the document referred to in (a) of this article,
- > the terms of application of the referral and access to the documents referred to in (b) of this article.

Article 32

When, on the date of filing, the patent application file does not include one or more items to be attached to the documents referred to in paragraphs (a) and (b) of Article 31 above, the applicant or his representative has a period of three months from the date of filing to eliminate any shortcomings in the file, subject to the provisions of Paragraph 2 of Article 8 above.

The application file thus corrected within the deadline period preserves the date of its original filing.

Any application for a patent of invention which is not corrected within the period provided for in this Article shall be considered withdrawn.

Article 33

A receipt establishing the date on which the elements referred to in the second and fourth paragraphs of Article 31 above have been submitted shall be issued immediately to the applicant or to his representative after the filing of the application.

Article 34

The description of the invention shall comprise:

1. the indication of the technical area to which the invention is related;
2. a statement of the prior art, as known to the applicant, where it may be considered useful to understand the invention;
3. a description of the invention as characterized in the claims enabling the technical problem and the solution provided to be understood; where appropriate, the advantages of the invention with relation to the prior art shall be stated;
4. a brief description of the drawings, if any;
5. a detailed description of at least one manner of implementation of the invention; the description shall normally be accompanied by examples and by references to drawings, if any;

6. a statement of the manner in which the invention is susceptible of industrial application if such application is not evident from the description or from the nature of the invention.

The description of the invention shall disclose sufficient information allowing a person skilled in the art, without excessive experience, to perform the known invention of the inventor at the filing date.

If an invention concerns the use of a microorganism which is not available to the public, the description shall only be regarded as disclosing the invention in an adequate manner if the microorganism has been filed with an authorized body. The terms of application of this paragraph are determined by rules and regulations.

Article 35

The claims shall define the matter for which protection is sought by stating the technical characteristics of the invention. A claim may not be based, except where absolutely necessary in order to express the technical characteristics of the invention, on simple references to the description or to the drawings.

Claims must be clear and concise and be supported by the description.

A claimed invention is adequately supported by the information disclosed when the information reasonably shows a person skilled in the art that the applicant was in possession of the claimed invention at the date of filing the application for the patent of invention.

Article 36

The abstract constitutes the technical content of the invention and is established exclusively for information purposes. It cannot be taken into consideration for other purposes, in particular to assess the extent of protection requested or its novelty.

This abstract must be concise and may be supplemented with a technical drawing.

The description shall characterize the subject matter of the invention. It shall clearly and concisely show the technical designation of the invention and shall not contain any fancy denomination.

Article 37

The application may not contain:

1. any elements or drawings whose publication or implementation would be contrary to public policy or morality;
2. disparaging statements concerning the goods or processes of other persons or the merits or validity of the patent applications or patents of other persons. Simple comparisons with the state of the art are not in themselves considered disparaging;
3. elements that are manifestly foreign to the description of the invention.

The application may comprise neither restrictions nor conditions nor reservations.

Article 38

The patent application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.

Article 38.1

Before payment of the fees required to grant the patent of invention, the applicant or his representative may, on his own initiative, divide or limit the original patent application. If the application for the patent of invention does not fulfill the provisions of Article 38 above, the body responsible for industrial property shall call upon the applicant or his representative to divide or limit the original application for the patent of invention. The applicant or his representative has a period of 3 months from the date of notification to divide the application.

Article 38.2

Divisional applications can only be filed for matters which do not extend beyond the content of the earlier application as filed. Divisional applications retain the date of filing and, where appropriate, the priority date of the earlier application and are subject to the same requirements and formalities.

Article 39

Prior to grant of a patent and on a reasoned request, the applicant or his representative may request rectification of linguistic or transcription errors and of material errors discovered in the elements and documents filed.

If the request for rectification concerns the description, the claims or drawings, rectification shall be authorized only if it is

evident and no other wording or tracing could obviously have been intended by the applicant.

The request for rectification referred to in the first paragraph of this Article shall be filed in writing and shall contain the subject matter of the proposed amendments.

A decision on the request for rectification shall be taken by the body responsible for industrial property within 15 days as from the filing date of the request.

Article 40

The holder of a patent application or his representative holding special powers, may, as from the filing date of the application and prior to the date of grant of a patent, withdraw his application by means of a written declaration, subject to the following provisions:

- a. If real property rights under a license or a pledge have been entered in the national patent register referred to in the first paragraph of Article 58 below, the withdrawal declaration shall be admissible only if it is accompanied by the written consent of the holders of such rights;
- b. If the patent application is jointly owned, withdrawal of the application may be effected only if requested by all the joint owners.

A notice of the withdrawal of the application shall be entered in the national patent register referred to in the first paragraph of Article 58 below by the body responsible for industrial property.

Article 41

Any patent application, in whole or in part, shall be rejected if:

1. it is not considered an invention within the meaning of Article 23 above;
2. it is not patentable within the meaning of Article 24 above;
3. presents an obvious lack of novelty or inventive step within the meaning of Articles 26 and 28 above;
4. it is not considered an invention which could be given industrial application within the meaning of Article 29 above;
5. it has not been divided or limited within the meaning of Article 38.1 above,
6. it does not comply with the provisions of paragraph 3 of Article 43.1 below.

Where the reasons for refusal concern only a part of the patent application, the corresponding claims only shall be refused.

In case of partial non-compliance of the application with the provisions of Article 37 above, the corresponding parts of the description and drawings shall be removed.

The refusal of a patent application shall be reasoned and shall be notified to the applicant or his representative by registered letter with advice of delivery. A notice of such refusal shall be entered in the national patent register referred to in the first paragraph of Article 58 below.

Article 42

For national defense requirements, the disclosure and use of inventions that are subject to patent applications may be permanently or temporarily prohibited.

For this reason, any application for a patent of invention, and this, for a period of thirty days from the date of filing of said application, may be consulted by the governmental authority responsible for the administration of national defense, on a confidential basis, at the premises of the body responsible for industrial property.

Within five months from the date of filing the application for a patent of invention, the governmental authority responsible for the administration of national defense shall decide on the prohibition of the disclosure and use of said application either permanently or temporarily, and notifies its decision to the government authority responsible for trade and industry and to the body responsible for industrial property.

Applications for patents of inventions that are subject to the decision to permanently prohibit disclosure and use cannot be made public and the procedures provided for in Articles 43 to 48 below cannot be instituted.

In case of a temporary prohibition decision, within the aforementioned five-month period, and if no final permanent prohibition decision has been pronounced within the eighteen-month period provided for in paragraph 1 of Article 44 below, the procedures of Articles 43 to 48 below shall be instituted.

The body responsible for industrial property shall be required to notify the applicant or his representative in writing of any decision taken under this Article.

Definitive or provisional prohibition to disclose and work an invention shall give rise to compensation to be laid down in

agreement with the holder or holders of the application or their representative.

Any dispute concerning compensation shall be heard by the Administrative Court of Rabat.

Article 43

The body responsible for industrial property shall draw up a preliminary research report and on the basis of the claims include an opinion on the patentability of the invention referred to in the patent application, while taking into account the description and drawings, if any.

When the preliminary research report is drawn up, the body responsible for industrial property decides on the final content of the abstract and title of the invention.

The content of the preliminary research report with opinion on patentability and the manner in which it is drawn up are determined by rules and regulation.

Article 43.1

As soon as the preliminary research report and the opinion on patentability are drawn up, they are notified to the applicant or his representative with the title of the invention and abstract as finally adopted.

The applicant has a period of three months from the date of notification of the preliminary research report accompanied by the opinion on patentability, to modify the claims, and, where appropriate, submit observations in support of the maintained claims.

The claims may not be amended so that the subject matter of the invention extends beyond the content of the patent application as filed.

Article 43.2

A final research report is drawn up on the basis of the preliminary research report, taking into account, where applicable, the final claims filed, any applicant observations filed in support of the maintained claims and any third-party observations.

Article 44

Any application for a patent of invention which has not been rejected or withdrawn is published after a period of eighteen months

from the date of filing has elapsed or, if one or more priorities have been claimed, from the earliest priority date.

The publication of the application for a patent of invention includes the description, claims and drawings, if any, as these documents were filed or, where applicable, amended, as well as the abstract as finally adopted and the preliminary research report together with the opinion on patentability. If the preliminary report and the abstract are not published on the same date as the application, they shall be published separately.

This publication temporarily gives the applicant the protection provided in Article 51 below.

The publication reference of the application is published in the official catalog referred to in Article 89 below.

Article 45

Only the holder or holders of a patent application, or their representatives, may obtain, before the patent of invention is granted and upon written request, an official copy of the application for a patent of invention.

Section II Grant of Patents

Article 46

After the period of eighteen months provided for in paragraph 1 of Article 44 above, the body responsible for industrial property issues the patent of invention after payment of the required fees and subject to Articles 14.3 and 41 above.

Patents shall be granted as a function of the filing date of the corresponding application in accordance with a calendar and periodicity laid down by regulation.

Article 47

The body responsible for industrial property publishes the granted patent of invention including the description, final claims, drawings if any, and the final research report accompanied by the opinion on patentability. Upon the request of the applicant or his representative, the body responsible for industrial property issues the title of the patent of invention to the said applicant.

Article 48

The number of the patent and the date of grant shall be entered in the national patent register referred to in the first paragraph of

Article 58 below.

Article 49

Any interested person may, after the publication of an application for a patent of invention, or granting of the patent of invention, obtain, upon written request, a copy of the said application or patent of invention.

Article 50

The reference confirming that the patent of invention has been granted is published in the official catalog referred to in Article 89 below.

SECTION III Validation of the application for a patent of invention and the patent of invention

Article 50.1

An application for a patent of invention and a patent of invention coming from a body responsible for industrial property of a State or Community of States, as designated by rules and regulations, hereinafter referred to as validation body, produce, upon request of the applicant, the same implications and are subject to the same terms and conditions as the application for a patent of invention or a patent of invention filed with the body responsible for industrial property, subject to the provisions of the Articles below.

Article 50.2

A validation request must be filed with the validation body. This request is subject to payment of the required fees. Starting from the date of filing and once the period of eighteen months has elapsed, or starting from the earliest priority if a priority has been claimed, the body responsible for industrial property shall publish, without delay, any verification request, after having been informed by the validation body of the payment of the required fees referred to in paragraph 1 above.

Article 50.3

The body responsible for industrial property shall publish, at the request of the applicant or his representative, the claims of the patent application filed with the validation body in Arabic or French, after payment of the required fees.

The publication of these claims, in accordance with Article 44

above, temporarily provides the application with the protection provided for in Article 51 below. This protection is ineffective immediately when the validation request has been withdrawn, deemed withdrawn or when the patent application has been rejected by the validation body.

Article 50.4

To acquire the protection provided for by this law, the holder or his representative must provide the body responsible for industrial property with the claims in Arabic or French, within three months starting from the date of publication of the patent issued by the validation body, and pay the required fees. When the application or patent in the translated language provides less extensive protection than that provided by the said application or patent in the language of the proceedings before the validation body, the translation mentioned in paragraph 1 is upheld, except in cases of invalidity actions where the language of the proceedings before the validation body is considered.

The body for industry property publishes the claims of the verified invention patent referred to in the first paragraph above.

The protection mentioned in the first paragraph above is without effect from the outset, when the verified invention patent has been canceled during proceedings before the validation body.

Article 50.5

The fees required to maintain a verified patent of invention in force are paid to the body responsible for industrial property in accordance with Article 82 of this law.

Chapter III Rights Deriving from Patents

Section I Exclusive Right to Work

Article 51

The rights deriving from a patent application or a patent shall take effect as from the filing date of the application and shall afford to their owner or his successors in title the exclusive right to work referred to in the first paragraph of Article 16 above.

Article 52

The extent of the protection afforded by a patent shall be determined by the terms of the claims. However, the description and

drawings shall be used to interpret the claims.

Where the subject matter of the patent is a process, the protection afforded by the patent shall extend to the products directly obtained by such process.

Article 53

The following shall be prohibited, save consent by the owner of the patent:

- a. Making, offering, putting on the market or using a product which is the subject matter of the patent or importing or stocking a product for such purposes;
- b. Using a process which is the subject matter of the patent or, when the third party knows or it is obvious in the circumstances, that the use of the process is prohibited without the consent of the owner of the patent, offering the process for use on Moroccan territory;
- c. Offering, putting on the market or using the product obtained directly by a process which is the subject matter of the patent or importing or stocking for such purposes.

Article 54

It shall also be prohibited, save consent by the owner of the patent, to supply or offer to supply, on Moroccan territory, to a person other than a person entitled to work the patented invention, the means of implementing, on that territory, the invention with respect to an essential element thereof where the third party knows, or it is obvious from the circumstances, that such means are suited and intended for putting the invention into effect.

The provisions of the preceding paragraph shall not apply where the means of implementation are staple commercial articles, except where the third party induces the person supplied to commit acts prohibited by Article 53 above.

Persons carrying out the acts referred to in Article 55 below shall not be deemed persons entitled to work the invention within the meaning of the first paragraph above.

Article 55

The rights afforded by a patent shall not extend to:

- a. acts done privately and for non-commercial purposes;
- b. acts done for experimental purposes relating to the subject matter of the patented invention;

- c. the extemporaneous preparation for individual cases in a pharmacy of a medicine in accordance with a medical prescription or acts concerning the medicine so prepared;
- d. the studies and trials required to obtain a marketing authorization for a medicinal product, as well as the documents necessary to carry out these studies and trials and to obtain the authorization;
- e. acts in relation to the product covered by the patent carried out on Moroccan territory after the product has been placed on the market in Morocco by the patentee or with his express consent;
- f. the use of patented subject matter on board aircraft, land vehicles or vessels of member countries of the International Union for the Protection of Industrial Property which temporarily or accidentally enter the airspace, the territory or the territorial waters of Morocco;
- g. acts performed by any person who, in good faith, at the filing date or, where priority is claimed, the priority date of the application on the basis of which the patent was granted on the territory of Morocco, was using the invention or making effective and serious preparation to use it, to the extent that such acts do not differ in their nature or purpose from the previous effective or envisaged use. The right of the earlier user may not be transferred except with the enterprise to which it is related.

Section II Assignment and Loss of Rights

Subsection I General Provisions

Article 56

The rights deriving from a patent application or a patent shall be assignable in whole or in part.

They may be subject in whole or in part to the grant of an exclusive or non-exclusive license to work the invention or to pledging.

The rights afforded by a patent application or a patent may be asserted against a licensee who infringes the limitations on his license imposed under the preceding paragraph.

Subject to the provisions of Article 19 above, assignment of the rights referred to in the first paragraph of this Article shall not affect rights acquired by third parties prior to the date of assignment.

Acts comprising assignment or licensing, referred to in the first two paragraphs above, shall be recorded in writing, on pain of

nullity.

Article 57

Failing contractual provisions, the licensee shall automatically enjoy any certificates of addition relating to the patent that is the subject matter of the license which may be granted subsequently to the patentee or his successors in title after the date on which the licensing contract was concluded.

Likewise, the patentee or his successors in title shall enjoy the benefit of any certificates of addition relating to the patent which may be subsequently granted to the licensee as from the date on which the licensing contract was concluded.

Article 58

All acts assigning, amending or affecting rights deriving from a patent application or a patent may be asserted against third parties only if entered in a register, known as "the National Patent Register", kept by the body responsible for industrial property.

However, prior to such entry, an act shall be invokable against third parties who have acquired rights after the date of such act, but who gained knowledge of it on acquisition of the rights.

Acts modifying the ownership of a patent application or the enjoyment of the rights deriving therefrom, such as assignment, licensing, constitution or transfer of a pledge or renunciation of a pledge, seizure, validation and lifting of seizure, shall be entered at the request of one of the parties to the act.

Any changes to the name or address of the owner affecting a patent application or a registered patent of invention shall be recorded in the National Patent Register.

For entry of notices following a court decision that has become final, the registrar of the court shall communicate within 15 days of such decision to the body responsible for industrial property, a full and free copy of decisions relating to the existence, extent and exercise of rights attaching to the protection laid down in this Title.

The formalities to be complied with and the elements to be attached to the request for entry shall be laid down by regulation.

Article 59

Any concerned person may obtain an extract from the National Patent Register.

Subsection II Compulsory Licenses

Article 60

On expiry of a period of three years from the grant of a patent or four years from the filing date of an application and subject to the conditions laid down in Articles 61 and 62 below, any public or private legal person may be granted a compulsory license under the patent provided that, at the time of the request and failing legitimate reasons, neither the owner of the patent nor his successor in title:

- a. has begun to work or has made real and effective preparations for working the invention that is the subject matter of the patent on the territory of the Kingdom of Morocco;
- b. has marketed the product that is the subject matter of the patent in a quantity sufficient to satisfy the needs of the Moroccan market; or
- c. if working or marketing of the patent in Morocco has been abandoned for more than three years.

Article 61

The application for a compulsory license is requested from the court. It must be accompanied by proof that the applicant has not been able to amicably obtain from the owner of the patent an operating license, in particular under reasonable business terms and conditions, and that said applicant is efficiently working the invention.

Article 62

A compulsory license may only be non-exclusive.

Any compulsory license shall be granted mainly for the supply of the Moroccan market.

It shall be granted on conditions laid down by the court, particularly in respect of its duration and its field of application, which shall be limited to the purposes for which the license has been granted, and to the amount of royalties to be paid in respect thereof. Those royalties shall be laid down on a case-by-case basis, taking into account the economic value of the license. Those conditions may be amended by the court on a request by the owner or by the licensee.

Article 63

Where the circumstances that led to the grant of a compulsory

license cease to exist and are unlikely to reoccur, the license to work may be withdrawn, subject to adequate protection of the legitimate interests of the licensees. The court may review, at the reasoned request of any party having an interest therein, whether the circumstances continue to exist.

If the holder of a compulsory license does not comply with the conditions under which such license was granted to him, the owner of the patent and, where appropriate, the other licensees may request the court to withdraw that license.

Any assignment of rights deriving from a compulsory license shall be subject, on pain of nullity, to the authorization of the court.

Article 64

Any judicial decision that has become final and that has been taken in application of the provisions of this Sub-section II shall be immediately notified by the registrar to the body responsible for industrial property, which shall enter it in the National Patent Register.

Article 65

The holder of a compulsory license may be granted by the court, under the conditions laid down in Articles 60 to 62 above, failing amicable agreement, a compulsory license under a certificate of addition relating to the patent even if the certificate was granted prior to expiry of the time limits laid down in Article 60 above.

Article 66

Where an invention protected by a patent cannot be worked without infringing rights deriving from an earlier patent of which the owner refuses a license under reasonable conditions and commercial terms, the owner of the later patent may obtain from the court a compulsory license under the same conditions as set out in Articles 60 to 62 above, with the proviso that:

- a. the invention claimed in the later patent represents substantial technical progress and economic interest in relation to the invention claimed in the earlier patent;
- b. the owner of the earlier patent shall be entitled to a reciprocal license under reasonable conditions in order to use the invention claimed in the later patent;
- c. the license relating to the earlier patent shall be assignable only if the later patent is also assigned.

Sub-section III Ex officio Licenses

Article 67

Where the interests of public health demand, patents granted for medicines, for processes for obtaining medicines, for products necessary in obtaining such medicines or for processes for manufacturing such products may be worked ex officio in the event of such medicines being made available to the public in insufficient quantity or quality or at an abnormally high price.

Ex officio working shall be ordered by administrative act at the request of the office responsible for public health.

The aforementioned provisions also apply to medicines intended to be exported to a country with no manufacturing capacity or with insufficient manufacturing capacity in accordance with international agreements on the subject duly ratified by the Kingdom of Morocco.

Article 68

The administrative act referred to in Article 67 above shall be notified to the owner of the patent, to the holders of licenses, where appropriate, and to the body responsible for industrial property, which shall enter it ex officio in the National Patent Register.

Article 69

As from the day of the publication of the administrative act ordering ex officio working of a patent, any qualified person may request the grant of a license to work, known as an "ex officio license".

It shall be applied for and granted in the form laid down by regulation.

An ex officio license shall be granted under fixed conditions, particularly in respect of its duration and field of application. The royalties under the license shall be agreed by the parties and, failing agreement, their amount shall be laid down by the court. It shall take effect as from the date of notification of the act of grant to the parties.

The act shall be entered ex officio in the National Patent Register. Such license may only be non-exclusive. The rights deriving from an ex officio license may be neither assigned nor transferred nor mortgaged.

Article 70

Amendments to the licensing clauses, requested by either the patent owner or the holder of the license, shall be decided on and published under the procedure laid down for the grant of such license. Where they concern the amount of the royalties, they shall be decided in accordance with the procedure laid down for the initial setting of the amount.

Withdrawal of the license requested by the patent owner for failure to carry out the obligations imposed on the holder of the license shall be effected in accordance with the provisions laid down in the regulatory text referred to in Article 69.

Article 71

The competent administration may issue formal notice to the owners of patents other than those referred to in Article 67 above to work them in such a manner as to satisfy the needs of the national economy.

Article 72

The decision to issue formal notice under Article 71 above shall be reasoned and notified to the patent owner and, where appropriate, the holders of licenses entered in the National Patent Register or to their representatives.

Article 73

If the formal notice referred to in Article 71 above remains without effect within a period of one year starting with the day of receipt of notification and if the lack of working or insufficient quality or quantity of the working undertaken seriously prejudices economic development and the public interest, the patents that are the subject matter of the formal notice may be worked ex officio. Ex officio working shall be determined by an administrative act. The one-year period referred in the first paragraph above may be extended by administrative act of the competent administrative authority if the owner of the patent can give evidence of legitimate reasons that are compatible with the demands of the national economy.

The additional period referred to in the preceding paragraph shall begin on the day on which that one-year period expires. The decision granting such period shall be taken and notified in accordance with the procedure and with the form laid down for the decision to give

formal notice.

Article 74

Where ex officio working of patents is applied under the provisions of the first and second paragraphs of Article 73 above, the provisions of Articles 68 to 70 above shall apply.

Article 75

The State may at any time obtain ex officio, in order to meet its defense requirements, a license to work an invention that is the subject matter of a patent application or a patent, whether the working is to be done by the State itself or on its behalf. The ex officio license shall be granted at the request of the administration responsible for national defense by means of an administrative act.

That act shall lay down the conditions of the license, but excluding those relating to the amount of royalties to be paid in consideration thereof. The license shall take effect on the date of the request for an ex officio license.

Failing amicable agreement between the patent owner and the administration concerned, the amount of the royalties shall be laid down by the Administrative Court of Rabat.

Sub-section IV Seizure

Article 76

Seizure of a patent shall be effected on the basis of an order issued by the presiding judge of the court acting in chambers and notified to the owner of the patent, to the body responsible for industrial property and to any persons holding rights in the patent. As a result of seizure, no subsequent changes to the right deriving from a patent may be invoked against the creditors effecting seizure.

On pain of nullity of the seizure, the execution creditor shall be required, within a period of 15 days as from the date of the seizure order, to institute court proceedings for validation of the seizure and for the purpose of offering the patent for sale.

Sub-section V Joint Ownership of Patents

Article 77

Subject to the provisions of Article 80 below, joint ownership of a patent application or of a patent shall be governed by the following

provisions:

- a. Each joint owner may work the invention for his own benefit subject to equitably compensating the other joint owners who do not personally work the invention or who have not granted a license. Failing amicable agreement, such compensation shall be laid down by the court;
- b. Each joint owner may take action for infringement for his own exclusive benefit. The action for infringement shall be notified to the other joint owners. Judgment shall be deferred until such notification has been proved;
- c. Each joint owner may grant to a third party a non-exclusive license for his own benefit subject to making equitable compensation to the other joint owners who do not personally work the invention or who have not granted a license. Failing amicable agreement, such compensation shall be laid down by the court.

However, the draft licensing agreement must be notified to the other joint owners accompanied by an offer for transfer of the share at a specified price.

Within three months of such notification, any of the joint owners may oppose the granting of a license on condition that he acquires the share of the joint owner wishing to grant the license.

Failing agreement within the time limit as provided above, the price shall be laid down by the court. The parties shall have 30 days from notification of the court decision to forego the sale or the purchase of the joint ownership share, without prejudice to any damages that may be due; costs shall be borne by the renouncing party.

- d. An exclusive license may only be granted with the agreement of all the joint owners or by the authorization of the court;
- e. Each joint owner may, at any time, assign his share. The joint owners shall have the right of pre-emption for a period of three months from the notification of the intended assignment. Failing agreement on the price, such price shall be fixed by the court. The parties shall have a period of 30 days as from notification of the court decision, to forego the sale or the purchase of the joint initial share, without prejudice to any damages which may be due; costs shall be borne by the renouncing party.

Article 78

The provisions of Articles 960 to 981 of the DOC shall not apply to the joint ownership of a patent application or of a patent.

Article 79

A joint owner of a patent application or of a patent may notify the other joint owners that he relinquishes his share in their favor. As of the date of entry of such relinquishment in the National Patent Register, that joint owner shall be relieved of all obligations towards the other joint owners if they accept the relinquishment. The remaining joint owners shall divide the relinquished share between them in proportion to their rights in the joint property, except where otherwise agreed.

Article 80

The provisions of Articles 77 to 79 above shall apply where not otherwise agreed.

The joint owners may derogate therefrom at any time by means of a joint ownership agreement.

Sub-section VI Miscellaneous Provisions

Article 81

The exclusive right of working deriving from a patent protected under this Title shall terminate on expiry of its term of validity. It may at any time be renounced by its owner with relation to the whole of the invention or to one or more of the patent claims. Renunciation shall be effected by means of a written declaration by the patent owner or his representative. In the latter case, special powers of renunciation shall be attached to the declaration.

Where a patent is the subject of joint ownership, renunciation may be made only if requested by all the joint owners.

Where real property rights, under a pledge or license, have been entered in the National Patent Register, the declaration of relinquishment shall only be admissible if accompanied by the consent of the holders of such rights.

Relinquishment shall be entered in the National Patent Register. It shall take effect on the date of such entry.

Article 82

A patent owner who has not paid the required fees for maintaining his rights within the prescribed time limits shall forfeit those rights.

However, payment of the required fees may be validly made during an additional period of six months starting with their due date.

Where the required fees are not paid on their due date, a warning

shall be addressed by the body responsible for industrial property, by registered letter with advice of delivery, to the patent owner, or to his representative, advising him that he will forfeit his rights if payment is not made before the expiry of the six-month period provided for in the preceding paragraph.

The absence of a warning shall not involve the liability of the body responsible for industrial property and shall not constitute grounds for restoral of the rights of the patent owner.

Article 83

A patent owner who has not paid the required fees on expiry of the six-month period provided for in the second paragraph of Article 82 above shall forfeit his rights.

Article 84

Forfeiture shall be recorded by means of a written, reasoned decision by the body responsible for industrial property, notified to the patent owner or his representative in the form laid down by regulation.

Forfeiture shall take effect as of the date on which the payment not made became due. A notice of the decision to record forfeiture shall be entered in the National Patent Register.

However, the patent owner may, within three months as from the date of receipt of notification of the decision referred to in the preceding paragraph, file an appeal with the body responsible for industrial property for restoral of rights if he can furnish a legitimate reason for failure to pay the prescribed fees.

Restoral of rights may be granted by written decision of the body responsible for industrial property on condition that the prescribed fees be paid prior to expiry of the three-month period referred to in the preceding paragraph.

Notice of the decision to restore rights shall be entered in the National Patent Register in which shall also be noted the date on which the prescribed fees were paid. The decision to restore rights shall be notified to the patent owner or his representative.

Forfeiture of a patent shall also imply forfeiture of any certificates of addition related to that patent.

Article 85

A patent may be revoked by the court at the request of any concerned person:

- a. if the invention is not patentable within the terms of Articles 22 to 28 of this Law;
- b. if the description of the invention does not disclose the invention in a manner sufficient to enable a person skilled in the art to carry it out;
- c. if the subject matter of the invention extends beyond the application as filed;
- d. if the claims do not define the scope of protection sought.

Where the grounds for revocation concern only a part of the patent, revocation shall be ordered in the form of a corresponding limitation of the claims.

Article 86

Revocation proceedings may be instituted by any concerned person. In any proceedings to establish nullity of a patent, the public prosecutor may intervene as a party and submit pleadings for the absolute nullity of the patent.

He may even institute main proceedings directly to obtain nullity.

Article 87

A patented invention of which the owner has forfeited his rights and an invention for which the patent has been revoked may not be the subject matter of any other application for a patent.

Article 88

Certificates of addition shall terminate together with the main patent except in the case of a patent revoked pursuant to Article 85 above where certificates of addition are not affected by revocation if the improvements of which they consist constitute an invention.

Article 88.1

The provisions of this chapter apply to the validated patent referred to in Section III of Chapter II of this document.

CHAPTER IV Publication of Patents

Article 89

The body responsible for industrial property shall publish an official catalog of granted patents. The acts referred to in the first paragraph of Article 58 above shall be shown therein.

TITLE III LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS

Chapter I Scope of Application

Article 90

For the purposes of this Law:

- "layout-design (topography)" means the three-dimensional disposition, however expressed, of the elements, at least one of which is an active element, and of some or all of the interconnections of an integrated circuit, or such a three-dimensional disposition prepared for an integrated circuit intended for manufacture:
- "integrated circuit" means a product, in its final form or an intermediate form, in which the elements, at least one of which is an active element, and some or all of the interconnections are integrally formed in and/or on a piece of material and which is intended to perform an electronic function.

Article 91

Layout-designs (topographies) of integrated circuits that are original in the sense that they are the result of their creator's own intellectual effort and are not commonplace among creators of layout-designs (topographies) and manufacturers of integrated circuits at the time of their creation may enjoy the protection provided by this Law.

A layout-design (topography) of an integrated circuit that consists of a combination of elements and interconnections that are commonplace shall be protected only if the combination, taken as a whole, fulfils the conditions referred to in the preceding paragraph.

Article 92

The protection afforded a layout-design (topography) of an integrated circuit shall apply only to the layout-design (topography) of an integrated circuit as such, to the exclusion of any concept, process, system, technique or coded information embodied in the layout-design.

Chapter II Miscellaneous Provisions

Article 93

The provisions of Chapters II and III of Title II of this Law shall apply to layout-designs (topographies) of integrated circuits subject to the special provisions that follow.

Article 94

Any layout-design(topography) of an integrated circuit may be the subject matter of an industrial property title known as a "certificate for a layout-design (topography) of an integrated circuit".

Layout-designs (topographies) of integrated circuits shall be protected for a term of ten years as from the filing date of the corresponding application.

Article 95

The right to the title shall belong to the creator or his successors in title, subject to the provisions of Article 18 above.

The provisions of Articles 19 and 20 above shall apply to the layout-designs (topographies) of integrated circuits.

Article 96

The application for a certificate for a layout-design (topography) of an integrated circuit shall be accompanied at the time of filing by a copy or a drawing of the layout-design (topography) of an integrated circuit and, where the integrated circuit has been commercially exploited, of a sample of such integrated circuit, together with the information defining the electronic function that the integrated circuit is intended to perform.

Article 97

The filing of the application referred to in Article 96 above, unless the layout-design is commonplace, may not be made two years after the layout-design is first commercially exploited anywhere in the world. Such filing may also, in no event, be made 15 years after the final or intermediate topography of the integrated circuit has been fixed or encoded for the first time if it has never been commercially exploited.

Article 98

Any application for a certificate for a layout-design (topography) of an integrated circuit that does not comply with the provisions of Article 96 above and of Section I of Chapter II of Title II of this Law shall be rejected.

Article 99

The following acts shall be prohibited if performed without the consent of the holder of the rights in a layout-design (topography) of an integrated circuit:

- a. The act of reproducing, whether by incorporation in an integrated circuit or otherwise, a protected layout-design (topography) in its entirety or any part thereof, except the act of reproducing any part that does not comply with the requirement of originality referred to in Article 91 above;
- b. The act of importing, selling or otherwise distributing for commercial purposes a protected layout-design (topography) or an integrated circuit in which a protected layout-design (topography) is incorporated or an article incorporating such integrated circuit, solely to the extent that the article continues to contain an unlawfully reproduced layout-design.

Article 100

The following acts shall not be deemed unlawful:

- a. The acts referred to in Article 99 above where performed for private purposes or for the sole purpose of evaluation, analysis, research or teaching;
- b. The creation on the basis of such evaluation, analysis or research of a distinct topography eligible for protection in accordance with the provisions of this Law;
- c. Any of the acts referred to in Article 99 above with respect to an integrated circuit incorporating an unlawfully reproduced layout-design (topography), or of any article incorporating such integrated circuit, where the person performing or ordering such act did not know and had no reasonable ground to know, when acquiring such integrated circuit, that it incorporated an unlawfully reproduced layout-design. Once such person has received a notice informing him adequately that the layout-design was unlawfully reproduced, he may perform any of the acts referred to with regard to the stocks at his disposal or which he had ordered prior to such time, but may be required to pay to the

right holders an amount equivalent to a reasonable royalty that would have been required for such layout-design under a freely negotiated license.

Article 101

If no application for a certificate has been filed with respect to a layout-design (topography) of an integrated circuit within 15 years as from the date of its creation, it may no longer enjoy any exclusive right.

Article 102

Any concerned person may request the courts to establish the nullity of certificates for layout-designs (topographies) of integrated circuits that are not original within the meaning of Article 91 above and which do not meet the conditions laid down in Article 97 above.

Article 103

Any concerned person may obtain an extract from the register setting out the entries made in a register known as the "National Register of Certificates for Layout-Designs (Topographies) of Integrated Circuits" kept by the body responsible for industrial property.

TITLE IV INDUSTRIAL DESIGNS AND MODELS

Chapter I Scope of Application

Article 104

For the purposes of this Law, an industrial design shall mean any assemblage of lines or colors and an industrial model shall mean any three-dimensional shape, associated or not with lines or with colors, on condition that the assemblage or the shape lends a special appearance to an industrial or craft product and may serve as a type for the manufacture of an industrial or craft product. An industrial design or model shall differ from similar articles either by a distinctive and recognizable configuration affording it novelty or by one or more external effects giving it an individual and new appearance.

Article 105

An industrial design presents a character of novelty or a specific and new appearance if the overall visual impression it raises in the informed observer differs from that produced by any design made accessible to the public by an advertisement or any other means, before the date of its filing or, and where applicable, before the verified and claimed date of priority.

An industrial design or model shall not be deemed made available to the public by the simple fact that, within the twelve months preceding its filing date, it has been shown for the first time in an official or officially recognized international exhibition held on the territory of one of the countries of the International Union for the Protection of Industrial Property.

Chapter II Right to Protection

Article 106

Ownership of an industrial design or model shall belong to the person who has created it or to his successors in title; however, the first person to file such industrial design or model shall be presumed, unless proved otherwise, to be the creator, subject to the provisions of Article 107 below.

Article 107

The provisions of Article 18 above shall apply to industrial designs and models.

Article 108

Where one and the same object may be considered both a patentable invention and a new industrial design or model and if the elements that constitute the novelty of the industrial design or model are inseparable from those of the invention, that object may be protected exclusively under the provisions applicable to patents.

Article 109

If two or more persons have collectively created an industrial design or model, the right to obtain legal protection shall belong to those persons collectively or to their successors in title. However, a person who has simply assisted in the creation of an industrial design or model without having made a creative contribution shall not be considered a creator or a joint creator.

Article 110

The provisions of Articles 77 to 80 above shall apply to industrial designs and models.

Article 111

Where registration has been applied for, either fraudulently with respect to the rights of another person or in violation of a statutory or contractual obligation, any person who believes that have a right in the industrial design may claim ownership by legal proceedings.

Unless the applicant acts in bad faith, the claim action shall be prescribed by three years from the date of registration of the industrial design in the National Industrial Designs and Models Register referred to in paragraph 1 of Article 126 below.

Article 112

Only industrial designs and models regularly filed and registered by the body responsible for industrial property shall enjoy the protection afforded by this Law as from the date of their filing. On registration of an industrial design or model there shall be established an industrial property title known as an "industrial design or model registration certificate", filed and registered in

accordance with and under the conditions provided in Chapter III of this Title.

Article 113

The protection provided by this Law shall not extend to industrial designs or models that are contrary to morality or public policy or to industrial designs or models that reproduce effigies, signs, abbreviations, denominations, decorations, emblems, coins and hallmarks of control and guarantee of the Kingdom or of the other member countries of the Paris Union mentioned in paragraph (a) of article 135 below without authorization to use from the competent authorities.

Chapter III Filing Procedure and Registration of Industrial Designs and Models

Article 114

Any person wishing to obtain an industrial design or model registration certificate shall file with the body responsible for industrial property an industrial design or model applicable in accordance with the conditions laid down in this Chapter. The deposit may be made by the applicant or by his representative. The file may be deposited to the body responsible for industrial property by electronic means according to the requirements and formalities determined by the rules and regulations. In this case, the submission date is the date of receipt by the said body.

A single file may include up to one hundred industrial designs provided that said industrial designs belong to the same class of the International Classification for Industrial Designs.

The industrial design or model file shall comprise as of the date of filing:

- a. an application for deposit of an industrial design or model, stating the subject matter of the industrial design or model, of which the contents shall be laid down by regulation;
- b. a graphic or photographic reproduction in two copies of the industrial designs or models and a list of the graphic or photographic reproductions relating thereto. The reproduction may be accompanied by a short description. The terms and conditions for the contents shall be laid down by regulation;
- c. proof of payment of the prescribed fees.

An industrial design or model deposit file that does not comprise

the elements referred to in (a), (b) and (c) above shall not be admissible at the actual time of filing.

The formalities to be complied with and the elements to be attached to (a), (b) and (c) above shall be laid down by regulation.

Where the industrial design or model deposit file comprises the elements referred to in (a), (b) and (c) above, the application for deposit of an industrial design or model as provided in (a) above shall be entered, in chronological order of deposit, in the national industrial designs and models register referred to in the first paragraph of Article 126 below, together with a date and deposit number.

Article 114.1

The applicant, or his representative, may divide the original application before the registration of an industrial design, and after payment of the required fees.

Divisional applications receive the filing date and, where applicable, the priority date of the original application and are subject to the same filing requirements and formalities.

The division of the original application for registration may include only to the industrial designs covered by the said application.

Article 115

When, on the filing date, the industrial design file does not include one or more items to be attached to the documents referred to in paragraphs a), b) and c) of Article 114 above, and of which the list is determined by rules and regulations in application of Paragraph 5 of the same Article, the applicant or his representative has a period of three months from the date of filing to eliminate any shortcomings in the file.

Any application for registration of an industrial design that is not corrected within the aforementioned period shall be deemed withdrawn.

The file corrected within the deadline period retains the date of the initial filing.

If the last day is a public holiday or a non-working day, the deadline period shall be extended until the following working day.

Article 116

A receipt establishing the date on which the elements referred to in

the fourth and sixth paragraphs of Article 114 above have been filed shall be issued immediately to the applicant or to his representative after filing of the application.

Article 117

Within three months as from the date of filing of the industrial design or model, the applicant or his representative may, on a reasoned request, ask for rectification of linguistic errors or mistakes in transcription together with any substantive errors noted in the elements and documents filed, with the exception of the graphic or photographic reproductions of filed industrial designs or models, which may not be modified.

No rectification may be effected beyond the above mentioned time limit.

The request for rectification referred to in the first paragraph of this Article shall be submitted in writing and shall contain the subject matter of the proposed rectifications.

Article 117.1

The holder of an application for registration of an industrial design or his representative holding special powers may, from the date of filing their application and before the date of registration of the industrial design, completely or partially withdraw his application by a written statement, subject to the following provisions:

- a. Where real property rights, under a pledge or license, have been entered in the National Industrial Designs and Models Register referred to in paragraph 1 of Article 126 below, withdrawal declaration shall only be admissible if the holders of such rights give their consent.
- b. if the application for registration of an industrial design is co-owned, the withdrawal of the application shall only be admissible if requested by all of the co-owners.

The body responsible for industrial property shall record the withdrawn application in the National Industrial Designs and Models Register referred to in paragraph 1 of Article 126 below.

Article 118

Any application to file an industrial design shall be rejected, in whole or in part, if it:

1. does not comply with the provisions of Paragraph 1 of Article 104

above.

2. does not comply with the provisions of Article 113 above;

Any decision to reject an application to file an industrial design must be justified and notified to the applicant or his representative. The said rejection is entered in the National Industrial Designs and Models Register referred to in paragraph 1 of article 126 below.

Article 119

Where the application for filing an industrial design or model is not subject to rejection under the provisions of Article 118 above, the industrial design or model shall be registered by the body responsible for industrial property without prior substantive examination.

The date of registration shall be that of filing.

The application for filing shall be registered in the national industrial designs and models register referred to in the first paragraph of Article 126 below.

Article 120

Following the registration provided in Article 119 above, a registration certificate of the industrial design, together with the graphic or photographic reproduction of the design is submitted or notified to the applicant or his representative.

Article 121

Any interested person may, upon the publication of an application for the registration of an industrial design or registration of an industrial design, and upon written request, obtain a copy of the said industrial design.

Chapter IV Implications of industrial design registration

Article 122

Registration of an industrial design shall have effect for five years starting from the filing date. It may be renewed at the request of the holder or his representative holding special powers and proof of payment of the required fees, for four new consecutive periods of five years. Registration renewal must be ensured within six months of expiration of its validity period.

However, a grace period of six months from the expiration of the validity period is granted to the applicant to apply for the said renewal. The renewal period starts from the expiry date of the registration's validity period.

The renewal may only include the industrial design as recorded in its most recent state in the National Industrial Designs and Models Register.

The formalities for a renewal are determined by rules and regulations.

Article 123

Any creator of an industrial design or model or his successors in title shall have the exclusive right to exploit, sell or have sold such industrial design or model in accordance with the provisions laid down by this Law, notwithstanding any rights they may hold under other statutory provisions, particularly the legislation on the protection of literary and artistic works.

Article 124

The registration of an industrial design or model shall confer on its holder the right to prohibit others from performing the following acts where they are undertaken for commercial or industrial purposes:

- a. reproduction of the industrial design or model with a view to its exploitation;
- b. importing, offering for sale or selling a product reproducing the protected industrial design or model;
- c. holding such product for the purposes of offering it for sale or selling it.

The acts referred to in (a) above shall not become lawful by the sole fact of the reproduction presents secondary differences with respect to the protected industrial design or model or that it concerns a classification other than its own.

Article 124.1

The rights granted by the industrial design do not extend to:

- a. acts done privately and for non-commercial purposes;
- b. acts done for experimental purposes relating to the subject-matter of the industrial design;
- c. the use of the industrial design on aircraft, land vehicles or ships of member countries of the International Union for the

Protection of Industrial Property which temporarily or accidentally enter the airspace, territory or territorial waters of Morocco;

- d. acts performed by any person who in good faith on the filing date of the application, or where priority is claimed, on the priority date of the application and on the basis of which the industrial design is registered on the territory of Morocco, was using the industrial design or making effective and genuine preparations for such use, in so far as those acts are not different in nature or purpose from the actual or planned earlier use. The right of the prior user may only be transferred with the business to which it is attached.

Chapter V Transfer and Loss of Rights

Section I General Provisions

Article 125

The rights attached to an application for registration of an industrial design or registered industrial designs are transferable in whole or in part.

They may be the subject, in whole or in part, to an exclusive or non-exclusive license agreement, as well as a pledge.

The rights conferred by registration of an industrial design or model may be invoked against a licensee who infringes any of the limits of his license imposed under the preceding paragraph.

Subject to the provisions of Article 19 above, transfer of the rights referred to in the first paragraph of this Article shall not prejudice rights acquired by third parties prior to the date of transfer.

Acts comprising transfer or licensing as referred to in the first two paragraphs above shall be effected in writing, on pain of nullity.

Article 126

All acts transferring, modifying or affecting the rights attached to an application for registration of an industrial design or to an industrial design must, in order to be enforceable against third parties, be recorded in a register known as the "National Industrial Designs and Models Register" maintained by the body responsible for industrial property.

Nevertheless, before it is so entered, the date of the act shall have effect to third parties who have acquired rights after the date of the act but who knew of the said act on the date on which the rights were acquired.

The acts modifying the ownership of an application for registration of a design or registered design or enjoyment of the rights therein, such as assignment, granting of a right of exploitation, forming or assigning a pledge or renunciation of such pledge, seizure, confirmation and lifting of seizure, shall be entered at the request of a party to that act.

Any change of name or address of the holder affecting an application for registration of an industrial design or to an industrial design is registered in the National Industrial Designs and Models Register.

For entry of notices following a court decision that has become final, the registrar of the court shall communicate within 15 days as from the date of such decision to the body responsible for industrial property a full and free copy of decisions relating to the existence, extent and exercise of rights attaching to the protection provided under this Title.

The formalities to be complied with and the elements to be attached to the requests for entry shall be laid down by regulation.

Article 127

After the publication of an application for registration of an industrial design, any interested person may obtain an extract from the National Industrial Designs and Models Register.

Section II Seizure

Article 128

Seizure of an industrial design or model shall be effected on the basis of an order issued by the presiding judge acting in chambers notified to the owner of the industrial design or model, to the body responsible for industrial property and to any persons holding rights in the industrial design or model.

Notification of seizure shall render any subsequent modification of the rights attaching to the industrial design or model inapplicable to the execution creditors.

On pain of nullity of seizure, the execution creditor shall be required, within a period of 15 days as from the date of the seizure

order, to institute court proceedings for validation of the seizure and for the purpose of offering the industrial design or model for sale.

Section III Miscellaneous Provisions

Article 129

The exclusive right of exploitation attaching to a protected industrial design or model under this Title shall expire at the end of a maximum period of 25 years as from the date of the initial filing.

Article 130

The holder of an industrial design or model may, at any time, renounce protection of his industrial design or model by means of a written declaration addressed to the body responsible for industrial property.

Renunciation may be limited to a part only of the industrial designs or models if the filing includes more than one industrial design or model.

Where the industrial design or model is an object of joint ownership, renunciation may be effected only if requested by all the joint owners.

If real licensing or mortgage rights have been entered in the National Industrial Designs and Models Register, the declaration renouncing the registration shall be admissible only if accompanied by the consent of the holders of the entered rights.

The waiver is recorded in the National Industrial Designs and Models Register.

Article 131

Any concerned person, including the public prosecutor, may invoke the nullity of the registration of an industrial design or model made in violation of the provisions of Articles 104, 105 and 113 above.

Chapter VI Publication of Industrial Designs and Models

Article 132

The industrial design shall be published within a period of six months from the date of its registration, in accordance with the

procedures determined by rules and regulations.

The applicant may request, when filing the application, that the publication of the design be deferred for a period of eighteen months.

The deferment of publication must include all the industrial designs that are the subject of the filing. Publication shall follow at the end of the deferment period.

At any time during the period referred to above, the applicant may request immediate publication.

Until the expiry of the period referred to above, the body responsible for industrial property shall keep the submitted file together with a request for deferment confidential.

The body responsible for industrial property shall publish an official catalog of all registered industrial designs or models. The acts referred to in the first paragraph of Article 126 above shall be shown therein.

TITLE V TRADEMARKS AND SERVICE MARKS

Chapter I Scope of Application

Article 133

For the purposes of this Law, a trademark or a service mark means a sign capable of graphic representation which serves to distinguish the goods or services of a natural or legal person.

The following, in particular, may constitute such a sign:

- a. Denominations in all forms, such as: words, combinations of words, surnames and geographical names, pseudonyms, letters, numerals, abbreviations;
- b. Figurative signs such as: devices, labels, seals, selvedges, reliefs, three dimensional shapes, holograms, logos, synthesized images; shapes, particularly those of a product or its packaging or those that identify a service; arrangements, combinations or shades of color.
- dc sound signs such as: sounds, musical pieces ;
- d. olfactory signs.

Article 134

The distinctive nature of a sign that is capable of constituting a mark shall be assessed in relation to the designated goods or services.

The following shall not be of a distinctive nature:

- a. Signs or names which in everyday or technical language simply constitute the necessary, generic or usual designation of the goods or services;
- b. Signs or names which may serve to designate a feature of the product or service, particularly the type, quality, quantity, purpose, value, geographical origin or time of production of the goods or furnishing of the service;
- c. Signs exclusively constituted by the shape imposed by the nature or function of the product or which give the product its substantial value.

Article 135

The following may not be adopted as a mark or an element of a mark:

- a. that reproduces the effigy of his Majesty the King, or that of a member of the Royal Family, the coat of arms or the flags or the official emblems of the Kingdom, the official signs or hallmarks

indicating control and warranty to certify that the Kingdom or other member countries of the Paris Union, the abbreviations or names of the United Nations Organization and names of intergovernmental organizations which are already subject of international agreements in force, intended to ensure their protection, national or foreign honors, Moroccan or foreign metallic coins or fiat currencies, and any imitation from a heraldic point of view in accordance with Article 6ter of the Paris Convention for the protection of the industrial property. The signs referred to in paragraph a) above may, however, be registered by the body responsible for industrial property subject to proof of authorization by the competent authorities.

- b. Signs contrary to public policy or morality or whose use is prohibited by law;
- c. Which bears the name of a geographical indication or designation of origin of a product or service or which is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.

Article 136

There shall be prohibited from entering into the territory of the Kingdom, and may not be admitted to economic customs treatment nor put into circulation, any natural or manufactured product bearing on itself or on the packaging, crates, bales, envelopes, strips, labels, a mark, a name, a sign, an imprint, a label or a decorative pattern including a reproduction or a drawing of the signs referred to in Article 135(a) above, subject to producing authorization from the competent authorities.

Article 137

Signs may not be adopted as marks where they infringe earlier rights, particularly:

- a. an earlier mark that has been registered or that is well known within the meaning of Article 6bis of the Paris Convention for the Protection of Industrial Property;
- b. the name or style of a company, where there is a risk of confusion in the public mind;
- c. a trade name or sign board known throughout the national territory, where there is a risk of confusion in the public mind;
- d. a protected geographical indication or appellation of origin;

- e. rights protected by the Law on the Protection of Literary and Artistic Works;
- f. rights deriving from a protected industrial design or model;
- g. the personality rights of another person, particularly his surname, pseudonym or likeness;
- h. the name, image or repute of a local authority.

Article 138

The nature of the goods or services for which a mark is intended shall in no event prevent the filing and validity of such mark.

Article 139

A mark may be collective or individual. A trademark or service mark shall be optional unless otherwise provided by statutory provisions.

Chapter II On the right to the mark and the filing procedure, opposition and registration of the trade mark

Section I Right to Marks

Article 140

Ownership of a mark shall be acquired by registration. A mark may be acquired under joint ownership.

Article 141

The provisions of Articles 77 to 80 above shall apply to trademarks and service marks.

Article 142

Where registration has been applied for, either fraudulently with respect to the rights of another person or in violation of a statutory or contractual obligation, any person who believes he has a right in the mark may claim ownership by legal proceedings. Unless the applicant is in bad faith, the action claiming ownership shall be prescribed three years from the date of registration of the mark in the national trademark register referred to in the first paragraph of Article 157 below.

Article 143

Only marks that have been regularly filed and registered by the body responsible for industrial property shall enjoy the protection afforded by this Law as from the date of their filing.

The registration of a trademark shall imply the establishment of an industrial property title known as a "trademark or service mark registration certificate", filed and registered in the form and under the conditions provided in Section II of this Chapter.

Section II On the filing procedure, opposition, and registration of the trade mark

Article 144

The applicant or his representative files an application to register a trademark with the body responsible for industrial property. The file may be deposited to the body responsible for industrial property by electronic means according to the requirements and formalities determined by the rules and regulations. The date of deposit is considered the date the said body receives the application.

On the date of its filing, the trademark file must include:

- a. an application to register a trademark for which the content is determined by rules and regulations, and stating the clear and complete list of goods or services for which the registration of the trademark is requested in accordance with the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks;
- b. two reproductions of the trademark's design in black and white;
- c. two reproductions of the trademark's design in color in the event of a color claim;
- d. proof of payment of required fees.

The trademark file that does not include the documents provided for in (a), (b), (c), and (d) above shall not be admissible.

The formalities required and items to be attached to the documents referred to in (a), (b), (c), and (d) above are determined by rules and regulations.

When the trademark application file includes the items referred to in (a), (b), (c) and (d) above, the application for registration of a trademark, as provided for in (a) above, is entered in the National Register of Marks referred to in paragraph 1 of Article 157 below with a date and filing number.

Article 145

If, on its filing date, the trademark file does not include one or more items to be attached to the documents referred to in Article 144 above and the list of which is determined by rules and regulations pursuant to Paragraph 5 of said article, the applicant or his representative has a period of three months from the filing date to eliminate any shortcomings in the file, subject to the provisions of Paragraph 2 of Article 8 above.

Any application for registration that is not corrected within the aforementioned deadlines shall be deemed withdrawn.

The file corrected within the deadline periods retains the date of the initial filing.

If the last day of the deadline period is a public holiday or a non-working day, the deadline is extended to the next working day.

Article 146

A receipt establishing the date of furnishing of the elements referred to in the second and fourth paragraphs of Article 144 above shall be issued to the applicant or his representative immediately after filing of the application.

Article 146.1

The applicant, or his representative may, prior to the registration of a trademark or service mark, divide their original application after having settled the required fees.

Divisional applications retain the date of filing and, where appropriate, the priority date of the original application and are subject to the same conditions and formalities.

The division of the original application for registration may only include the listed goods and services covered by the said application.

The divisional application shall not be admissible if it includes any goods and services of the original application which are the subject of an objection or rejection.

Article 147

Within a period of three months as from the filing date of the trademark, the applicant or his representative may, on a reasoned request, ask for rectification of linguistic errors or mistakes in transcription, together with any substantive errors noted in the elements and documents filed, with the exception of the model of the

filed trademark and the classes designated in the application for the registration, which may not be modified. No rectification can be effected beyond the above mentioned time limit. The request for rectification referred to in the first paragraph of this Article shall be submitted in writing and shall contain the subject matter of the proposed rectifications.

Article 147.1

The holder of an application for trademark registration or his representative holding special powers may, from the date of filing of the application and prior to the date of the trademark's registration, withdraw the application, in whole or in part, by a written statement, and subject to the following provisions:

- a. Where real property rights, under a pledge or license, have been entered in the National Register of Marks referred to in Paragraph 1 of Article 157 below, withdrawal declaration shall only be admissible if the holders of such rights give their consent.
- b. if the application for registration of a trademark is co-owned, the withdrawal of the application shall only be admissible if all the co-owners so request.

The body responsible for industrial property shall record the withdrawal of the application in the National Register of Marks referred to in paragraph 1 of Article 157 below.

Article 148

Any application for trademark registration, in whole or in part, shall be rejected if it:

1. does not meet the provisions of articles 133, 134 and 135 above;
2. is subject to an objection pursuant to Article 148.2 below deemed justified.

Any decision to reject an application for trademark registration shall be justified and notified to the applicant or his representative. The rejection notice is entered in the National Register of Marks referred to in Paragraph 1 of Article 157 below and shall be published.

Article 148.1

Application for the registration of a duly registered mark, shall be subject to publication according to the terms fixed by normal channel.

Article 148.2

Within a period of two months from the publication of the application for the registration of a mark, opposition to this application may be initiated with the body in charge of industrial protection by the proprietor of a mark protected or registered prior to the said application or enjoying a previous priority date, or by the proprietor of a pre-existing well-known mark within the meaning of article 6 bis of the Paris Convention for the Protection of Industrial Property, or by the holder of a protected geographical indication or appellation of origin, subject to the payment of the appropriate fees by the claimant.

The beneficiary of an exclusive brand license shall also enjoy the same right, except in the case of other contractual terms.

In addition to the regulated professions, whose law authorizes the assistance and representation of third parties, for the purpose of filing an opposition, the industrial property attorneys referred to in Article 4.1 above are authorized to file an opposition on behalf of a third party with the body responsible for industrial property. Mention of the opposition shall be entered in the National Register of Marks.

The substance of the opposition and terms and conditions of its publication shall be determined by normal channel.

Article 148.3

Opposition shall be examined in accordance with the following procedure:

1. opposition shall be notified without delay to the holder of the application for registration or his representative, if applicable.
2. In the event that the applicant has not submitted any responses within a period of two months after the expiry of the period provided for in Article 148.2 above, the body responsible for industrial property shall rule on the opposition.
3. In the event that the applicant has submitted responses within the aforementioned period, the opponent has a period of one month from the date of notification of the other party's response to submit their observations, and the applicant has one month from the date of notification of the said observations for an additional response.
4. The body responsible for industrial property shall notify the other party without delay of any response or observations

submitted to it by one of the parties.

5. The body responsible for industrial property shall rule on the opposition by reasoned decision within a period not exceeding six months following the expiry of the 2 months period provided for in Article 148.2 above.

However, an extension to this period may be considered for an additional period of three months, at the reasoned request of one of the parties concerned, and upon acceptance by the said body.

Each of the parties has a period of one month from the date of notification of the extension to submit their observations.

In the event that one of the parties has submitted observations, the other party has a period of one month from the date of notification of these observations to respond;

6. The said body takes a decision after having evaluated the opposition and the observations in response. This decision is notified by the said body to the parties to possibly contest its validity within 15 days from the notification;
7. The opposition proceedings are to be closed by decision of the body responsible for industrial property:
 - a. When the opponent has withdrawn his opposition, or has lost his grant of standing;
 - b. When the opposition no longer has any relevance by mutual agreement of the parties;
 - c. When the application for registration against which the opposition was filed is withdrawn or rejected;
 - d. The effect of the prior rights has ceased;

8. The initial period of six months referred to in the paragraph 5 above shall be suspended:

- a. where the opposition is based upon an application for the registration of a mark;
- b in case of an action in nullity, forfeiture or property claim;
- c. at the joint request of the parties the organization responsible for industrial property, presented on a single occasion, without the period of suspension exceeding six months from the filing date of the said request.

The procedures for submitting the request for extension or suspension provided for above shall be laid down by regulations.

Article 148.4

Mention of the decisions of the body in charge of industrial

property referred to in article 148 and 148.3 shall be entered in the national register of marks and be subject to publication in accordance with the modalities laid down by regulations.

Article 148.5

Appeals against the decision of the body in charge of industrial property, referred to in the 5th paragraph of article 148.3 above shall be heard by the Trade Court of Appeal of Casablanca.

Article 149

Where an application for trademark registration is not subject to rejection under the provisions of Article 148 above, the trademark shall be registered by the body responsible for industrial property. The date of registration shall be that of the filing. The filing shall be registered in the national register of marks referred to in the first paragraph of Article 157 below.

Article 150

Following the registration referred to in Article 149 above, a trademark registration certificate accompanied by the model of the registered trademark is issued or notified to the applicant or his representative.

Article 151

Any interested person may, after publication of an application for trademark registration or registered trademark, obtain, upon written request, a copy of the said application or said trademark, as it was registered.

Chapter III The Effects of Trademark Registration

Article 152

The registration of a trademark shall take effect from the date of filing for a period of ten years which is renewable indefinitely. It can be renewed every ten years at the request of the holder or his representative holding with power of attorney and proof of payment of the required fees. The formalities for a renewal are determined by rules and regulations.

Registration renewal must be ensured within six months of expiration of its validity period.

However, a grace period of six months starting on the expiry of the

validity period is granted to the applicant for the said renewal. The renewal period starts from the expiry date of the registration's validity period.

The renewal may only include the trademark as it appears in its latest form in the National Register of Marks.

Any modification to the sign or extension of the list of designated goods or services must be subject to a new filing.

Article 153

The registration of a mark shall confer on its owner a right of property in that mark for the goods and services he has designated.

Article 154

The following shall be prohibited, unless authorized by the owner:

- a. The reproduction, use or affixing of a mark, even with the addition of words such as: "formula, manner, system, imitation, type, method" or the use of a reproduced mark or a sign identical to this mark, for goods or services that are identical to those covered by the registration;
- b. The suppression or modification of a duly affixed mark.

Article 155

The following shall be prohibited, unless authorized by the owner, if there is a likelihood of confusion in the mind of the public:

- a. The reproduction, use or affixing of a mark or use of a reproduced mark or an identical or similar sign for goods or services that are similar or relating to those covered by the registration;
- b. The imitation of a mark and the use of an imitated mark for goods or services that are identical or similar to those covered by the registration.

Chapter IV Transfer and Loss of Rights

Section I General Provisions

Article 156

The rights attached to a mark application and a registered mark may be transferred in whole or in part.

They may be subject, in whole or in part, to the granting of an exclusive or nonexclusive license or to pledging.

The rights conferred by registration of a mark may be invoked against a licensee who fails to respect a limitation of his license imposed under the preceding paragraph.

Subject to the provisions of Article 142 above, the transfer of rights referred to in the first paragraph of this Article shall not affect rights acquired by third parties before the date of transfer. Acts involving transfer or licensing as referred to in the first two paragraphs above, shall be recorded in writing, on pain of nullity.

Article 157

With the exception of license contracts for the use of mark applications or registered mark, all acts transferring, modifying or affecting the rights attaching to a mark application or registered mark shall only have effect against third parties if entered in a register known as the "National Register of Marks" kept by the body responsible for industrial property.

However, prior to their registration, acts which are referred to in the 1st paragraph above shall be enforceable against third parties which shall have acquired rights after the date of these acts but which had personal knowledge thereof at the time of acquisition of these rights.

Acts modifying the ownership of an application for registration or of a registered mark or the enjoyment of the rights attaching thereto, such as, transfer constitution or transfer of a mortgage right or renunciation of the latter, seizure, validation and lifting of seizure, shall be entered with the body responsible for industrial property at the request of one of the parties to the act. Any changes in the name or address of the holder affecting a mark of application or registration shall be entered in the National Register of Marks.

For the entry of the notices resulting from a court decision that has become final, the registrar shall address within 15 days as from the date of the decision to the body responsible for industrial property a full and free copy of the decisions relating to the existence, extent and exercise of the rights attaching to the protection laid down in this Title.

The formalities to be complied with and the elements to be attached to the requests for entry shall be laid down by regulation.

Article 158

After the publication of an application for trademark registration,

any interested person may obtain an extract from the National Register of Marks.

Section II Seizure

Article 159

Entry of a trademark or service mark is carried out by order of the President of the Court ruling in summary proceedings and notified to the holder of the trademark, the body responsible for industrial property, as well as the persons holding rights on the said trademark.

Notification of the entry restricts creditors from entering any subsequent changes to the rights associated with the trademark. Under penalty of being declared void, the distraining creditor, must, within fifteen days from the date of the attachment order, appeal to the court, the validity of the attachment and for the purposes of selling the trademark.

Section III Miscellaneous Provisions

Article 160

The owner of a registered mark may, at any time, by means of a written declaration, renounce the effects of such registration for all or some of the goods or services covered by the registration. Where a mark is an object of joint ownership, renunciation may be effected only if requested by all the joint owners.

If real licensing or mortgage rights had been entered in the National Register of Marks, the renunciation declaration shall be admissible only if accompanied by the consent of the holders of the rights entered.

Renunciation shall be entered in the National Register of Marks.

Article 161

Any concerned person, including the public prosecutor, may request nullity of the registration of a mark effected in violation of the provisions of Articles 133 to 135 above.

Only the holder of an earlier right may institute nullity proceedings on the basis of Article 137 above. However, his action shall not be admissible if the mark has been filed in good faith and if he has tolerated use of it for a period of five years.

A decision to annul shall have absolute effect.

Article 162

The owner of a well-known mark within the meaning of Article 6bis of the Paris Convention for the Protection of Industrial Property may claim cancellation of the registration of a mark liable to lead to confusion with his own mark. Such nullity proceedings shall be prescribed five years after the registration date of the mark, unless registration was applied for in bad faith.

Article 163

An owner who has not put his mark to genuine use in connection with the goods or services covered by the registration during an uninterrupted period of five years, without good reason, shall be liable to revocation of his rights.

The following shall be assimilated to such use:

- a. Use made with the consent of the owner of the mark or, in the case of a collective mark, in compliance with the regulations;
- b. Use of the mark in a modified form which does not alter its distinctive nature;
- c. Affixing of the mark on goods or their packaging, exclusively for export.

Revocation may be requested in legal proceedings by any concerned person. If the request concerns only a part of the goods or services covered by the registration, revocation shall extend to the goods and services concerned only.

Genuine use of the mark begun or resumed after the five-year period referred to in the first paragraph of this Article shall not constitute an obstacle thereto if it has been undertaken during the three months prior to the request for revocation and after the owner had gained knowledge of the possibility of a request for revocation. The burden of proving exploitation shall rest with the owner of the mark for which revocation is requested. Proof may be furnished by any means.

Revocation shall take effect as of the date of expiry of the five-year period laid down in the first paragraph of this Article. It shall have absolute effect.

Article 164

The owner of a mark shall also be liable to revocation of his rights if, in consequence of his own acts, the mark has become:

- a. the common name in trade for a product or service;
- b. liable to mislead the public, particularly as regards the nature,

quality or geographical origin of the product or service.

Article 165

Any final court decision ordering the annulment or revocation of a mark shall be entered in the National Register of Marks.

Chapter V Collective Marks and Collective Certification Marks

Section I Scope of Application

Article 166

A mark shall be known as a collective mark if it may be used by any person who complies with regulations for use issued by the owner of the registration.

A collective certification mark shall be affixed to goods or services that display, in particular, with regard to their nature, properties or qualities, the characteristics detailed in the respective regulations.

Section II Miscellaneous Provisions

Article 167

The provisions of Chapters II, III and IV of this Title shall apply to collective marks and to collective certification marks subject to the special provisions below.

Article 168

The protection afforded by this Chapter shall not be enjoyed by collective marks and collective certification marks where the regulations for their use are contrary to morality or public policy.

Article 169

A mark shall be designated in the application for registration referred to in (a) of the second paragraph of Article 144 above as a collective mark or as a collective certification mark.

The application file for a collective mark or a collective certification mark must also include a copy of the regulations governing the use of the collective mark or of the collective certification mark, duly certified by the applicant.

Such copy must be provided either on the same day as the filing of the application or, where appropriate, under the conditions and

within the time limit provided in Article 145 above.

The owner of the collective mark or the collective certification mark may, at any time, communicate in writing to the body responsible for industrial property any change made to the regulations governing the mark. A notice of such changes shall be entered in the National Register of Marks.

Article 170

The regulations referred to in the first paragraph of Article 166 above shall set out the common characteristics or qualities of the goods or services that the mark is intended to designate and the conditions under which the mark may be used, together with the persons authorized to use it.

Article 171

A collective certification mark may be filed only by a legal person who is neither the manufacturer nor the importer nor the seller of the goods or services.

Article 172

Use of a collective certification mark shall be open to all persons, other than the owner, who supply goods or services satisfying the conditions laid down by the regulations.

Article 173

A collective certification mark may not be subject to assignment, pledge or any measure of enforcement. However, the competent administration may authorize transfer of the registration of a collective certification mark if the transferee undertakes effective control of use of the mark. Transfer shall be entered in the National Register of Marks.

Article 174

Where a collective certification mark has been used and has been ceased to be protected by law, it may be neither registered nor used for any purpose whatsoever during a period of ten years.

Article 175

Invalidity of the registration of a collective certification mark may be ordered on a petition by the public prosecutor or at the request of any concerned person if the mark does not meet any one of

the requirements of this Chapter.
The invalidity decision shall have absolute effect.

Chapter VI Publication of Marks

Article 176

The body responsible for industrial property shall publish an official catalog of all trademarks and service marks, collective marks and collective certification marks that have been registered. The acts referred to in the first paragraph of Article 157 above shall also be entered therein.

Chapter VII On Boarder Measures

Article 176.1

The Board of Customs and Excises may, at the request of the proprietor of a registered mark or of the beneficiary of an exclusive right of exploitation, suspend the release for free circulation of imported, exported or transit goods suspected of being infringing goods carrying marks that are identical or similar to the said mark which create confusion therewith.

The aforesaid request should be backed up with appropriate elements of proof presuming the existence of an infringement of the protected rights and should provide sufficient information of which the right holder may reasonably be expected to be apprised, so that the goods suspected of infringement may reasonably be recognizable by the Board of Customs and Excises.

In addition to the aforementioned evidence, the Board of Customs and Excises may request any document or information necessary to investigate the said application as well as any required fee.

The claimant, as well as the enquirer or the holder of the goods shall immediately be informed by the Board of Customs and Excises of the suspension measure taken.

The request for suspension referred to in the 1st paragraph above shall be valid for a period of one year or for the remaining period of protection of the mark where this period is less than one year. These measures also apply to the holder of a protected geographical indication or designation of origin provided for in Chapter II of Title VI of this law.

Article 176.2

The measure of suspension referred to in article 176.1 above shall automatically be lifted, subject to the provisions of article 206 below, on condition that the claimant, within a period of ten working days from the date of notification of the said measure of suspension to the latter, submit proof to the Board of Customs and Excises:

- either of conservatory measures ordered by the president of the tribunal
- or of having initiated a lawsuit and set up the guarantees fixed by the tribunal, to cover his contingent liability should the infringement not be eventually recognized.

Article 176.3

For the purposes of initiating the lawsuits referred to in article 176-2 above, the claimant may obtain from the Board of Customs and Excises communication of the names and addresses of the shipper, importer, consignee of the goods or of their holder, as well as their quantity, notwithstanding any other provisions.

Article 176.4

Where the Board of Customs and Excises shall determine or suspect that imported or exported goods or goods in transit are infringing, it shall automatically suspend the free circulation of these goods. In this case, it shall at once inform the right holder of the measure taken and communicate to him, at his request, the information referred to in article 176.3 above.

The claimant or the holder of the goods shall also be immediately informed of this measure.

The aforesaid measure of suspension shall be lifted by right, subject to the provisions of article 206 below, on condition that the right holder give proof to the Board of Customs and Excises, within a period of ten working days from the date of notification to him by the said Board of the measures or the action initiated under the conditions referred to in article 176.2 above.

Article 176.5

Goods of which free circulation has been suspended in application of the provisions under this chapter and which have been deemed, by a final court decision, as infringing goods, shall be destroyed, except in special circumstances. In this case, the costs of storage,

destruction and all related costs shall be borne by the infringer. Under no circumstances may they be authorized for export or subject to any other scheme or procedure unless there are exceptional circumstances.

In the event of an amicable settlement which puts an end to the suspension measure, the latter must include a clause on the destruction of goods.

The customs and tax authorities may proceed with the destruction of goods abandoned in customs, by order of the judge hearing the application, following the request of the person having the right to dispose of said goods, and who must bear the cost of their destruction.

Article 176.6

The measure to suspend free circulation of the goods taken in application of the provisions under this chapter, shall not involve the responsibility of the Board of Customs and Excises.

Where the goods are not recognized as infringing, the importer may claim damages from the tribunal, to be settled to his benefit by the claimant, in compensation of contingent damage sustained.

Article 176.7

Goods without commercial nature, contained in small quantity in travelers' personal baggage or sent in small shipments for personal and private use, shall be excluded from the scope of the provisions under this title.

Article 176.8

The mode of enforcement of the provisions under this chapter shall be fixed by normal channel.

**TITLE VI TRADE NAMES, GEOGRAPHICAL INDICATIONS, APPELLATIONS OF
ORIGIN AND UNFAIR COMPETITION**

Chapter I Trade Names

Article 177

"Trade name" means the distinctive designation or the distinctive sign under which an enterprise is operated.

Article 178

A name or a designation which, by its nature or by the use that may be made of it, is contrary to morality and public policy or which could mislead trade circles or the public as to the nature of the enterprise designated under such name may not constitute a trade name.

Article 179

A trade name, whether or not part of a mark, shall be protected by the provisions of Law No. 15-95 Constituting the Commercial Code against any subsequent use of the trade name by a third party, whether in the form of a trade name or of a trademark or service mark if it is liable to mislead the public.

**Chapter II On geographical indications and appellations of origin
and opposition**

Article 180

A geographical indication shall be meant to be any indication used to identify a product as originating from a territory, a region or a locality in this territory, in cases where a determined quality, reputation or other characteristic of the product may be basically attributed to that geographical origin.

A geographical indication shall be made up of any sign or any other combination of signs such as words, including the geographical names and names of persons, as well as letters, numbers, figurative elements and colours, including unique colours whatever their form.

Article 181

An appellation of origin shall consist of the geographical name of a country, region or locality that serves to designate a product originating therein, the quality or characteristics of which are due

to the geographical environment, including both natural and human factors.

Article 182

The following shall be unlawful:

(a) The direct or indirect use of a false or deceptive indication concerning the origin of a product or a service, the identity of the producer, manufacturer or trader;

(b) The direct or indirect use a geographical indication of an appellation of origin, or the imitation of a geographical indication or an appellation of origin, even if the true origin of the product is indicated or if the appellation is used in translated or accompanied by expressions such as "kind", "make", "imitation", or the like.

Article 182.1

Applications for the protection of geographical indications and appellations of origin shall be recorded in a register called national register of geographical indications and appellations of origin held by the body in charge of industrial property in accordance with the modalities fixed by normal channel.

Article 182.2

Applications referred to in article 182.1 above shall be subject to publication in accordance with the modalities fixed by normal channel.

During a period of two months from the date of this publication, opposition to the applications referred to in article 182.1 above may be initiated by the proprietor of a protected mark or by the holder of a protected geographical indication or appellation of origin, subject to payment of the appropriate fees by the claimant. Opposition shall be initiated by a statement filed with the body in charge of industrial property.

The said body shall aggregate the oppositions and communicate them to the competent governmental authority which shall examine them in accordance with the legislation in force, and shall also inform the applicant or his representative, where necessary, by registered mail with acknowledgement of receipt and invite him to submit his answer within a period of two months of the date of receipt of the said letter.

The body in charge of industrial property shall, immediately,

forward to the competent governmental authority the answer of the applicant submitted within the period referred to in subparagraph 1 above, and shall inform the claimant who shall enjoy a period of fifteen days to submit his observations.

The competent governmental authority shall settle the opposition, in accordance with the legislation in force, by a reasoned decision. This decision shall be notified, by the said authority, to the body in charge of industrial property, as well as to the applicant and to the claimant or their representatives by registered mail with acknowledgement of receipt.

However, the opposition procedure shall be closed where:

1. the claimant has lost the authority to act;
2. the opposition has become unjustified due to a common agreement of the holder of the applicant for the protection and the claimant who shall address a certified true copy thereof to the body in charge of industrial property by registered mail with acknowledgement of receipt;
3. the application for protection which has been subject to opposition has been withdrawn. In this case, the competent governmental authority shall keep the said body informed of the withdrawal of the application.

Mention of the decision of the governmental authority on the opposition shall be recorded in the national register of geographical indications and shall be subject to publication in accordance with the modalities fixed by normal channel.

If no statement of opposition has been filed with the body in charge of industrial property within the time limit referred to in the paragraph 2 above or if the opposition has been rejected, the said body shall undertake the registration of the geographical indications or appellations of origin in the national register of geographical indications and appellations of origin referred to in article 182.1 above, and their publication.

Article 182.3

The body in charge of industrial property shall publish an official catalog of all geographical indications or appellations of origin.

Article 183

Public proceedings to suppress unlawful acts as referred to in Article 182 may be instituted by the public prosecutor. Proceedings for damages may also be instituted by any injured party, natural or

legal person, association or union, particularly of producers, manufacturers or traders able to correctly identify their goods or services with the indication or appellation concerned, or by the associations that represent them therein, without prejudice to civil remedies or claims to withholding measures.

Chapter III Unfair Competition

Article 184

Any act of competition contrary to honest practice in industrial or commercial matters shall constitute an act of unfair competition.

The following, in particular, shall be prohibited:

1. All acts of such a nature as to create confusion by any means whatsoever with the establishment, the products or the industrial or commercial activities of a competitor;
2. False allegations in the course of trade of such a nature as to discredit the establishment, products or industrial or commercial activities of a competitor;
3. Indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose or the quantity of the goods.

Article 185

Acts of unfair competition shall be subject only to civil proceedings for cessation of the acts that constitute unfair competition and for damages.

TITLE VII TEMPORARY PROTECTION AT EXHIBITIONS AND INDUSTRIAL AWARDS

Chapter I Temporary Protection

Article 186

Temporary protection shall be granted to patentable inventions, improvements or additions relating to a patented invention, to layout-designs (topographies) of integrated circuits, to industrial designs and models and to trademarks and service marks for goods or services exhibited for the first time at official or officially recognized international exhibitions held on the territory of one of the countries of the International Union for the Protection of Industrial Property.

Article 187

Such protection, of which the term shall be set at six months as from the date of the official opening of the exhibition, shall have the effect of maintaining for the exhibitors or their successors in title the right to claim during such period the protection that their inventions, layout-designs (topographies) of integrated circuits, industrial designs and models or marks would legally enjoy under the provisions of this Law.

The formalities to be complied with by exhibitors in order to enjoy temporary protection shall be laid down by regulation.

Article 188

The term of temporary protection shall be not be increased by the priority periods referred to in Article 7 above.

Chapter II Industrial Awards

Section I Right to Protection

Article 189

The protection established by the following provisions may be enjoyed only by industrial awards, comprising prizes, medals, commendations, titles or attestations of any kind of distinction obtained in the exhibitions referred to in Article 186 above. Industrial or commercial use of the industrial awards listed above may be made by their holders or their successors in title only after registration with the body responsible for industrial property in

the register referred to in Article 199 below.

Article 190

Industrial awards shall be issued either personally or collectively. Where an award is issued personally, industrial or commercial use of the award may be made only by the person who has obtained it or by his successors in title. In the latter case, the name of the holder of the award shall be shown in clearly visible characters.

Where an award has been issued collectively, industrial or commercial use of the award may be made either by the group concerned or by each of the members of such group on condition that the name of the group that has obtained it be explicitly mentioned in characters just as clear as those of the award itself.

An award issued to an industrial or commercial enterprise may be used industrially or commercially only by the owner of such enterprise or by his successors in title.

Industrial or commercial use may not be made of an award issued to an employee except on condition that the holder indicates that it is an employee award and mentions the name of the enterprise to which he belonged when he obtained it. The owner of the enterprise may also not make use of the award except on condition that he indicate that it is an employee award.

Where an industrial award has been issued with respect to a specific product, industrial or commercial use may be transferred together with the product.

Article 191

Industrial awards that reproduce the signs referred to in Article 135(a) above without the authorization of the authorities competent for their use shall not enjoy the protection afforded by this Law.

Section II Filing and Registration Procedure for Industrial Awards

Article 192

Any person wishing to enjoy the protection afforded by Article 189 above shall be required to file an application for an industrial award to the body responsible for industrial property.

The application file for an industrial award shall contain on the date of its filing:

- a. a request for registration of an industrial award mentioning the subject matter of the industrial award, of which the contents

- shall be laid down by regulation;
- b. two certified copies of the industrial award title;
 - c. proof of payment of the prescribed fees.

If the industrial award application file does not contain the elements provided in (a), (b) and (c) above it shall not be admissible at the time of filing.

The formalities to be complied with and the elements to be attached to the documents referred to in (a), (b) and (c) shall be laid down by regulation.

Where the industrial award application file contains the elements referred to in (a), (b) and (c) above, the request for registration of an industrial award as provided for in (a) above shall be entered, in chronological order of filing, in the national register of industrial awards referred to in the first paragraph of Article 199 below, together with a date and a filing number.

Article 193

Where, on the date of filing, the industrial award application file does not contain one or more of the elements to be attached to the documents referred to in (a), (b) and (c) above, of which the lists shall be laid down by regulation pursuant to the fourth paragraph of Article 192 above, the applicant or his representative shall have a three-month period as from the filing date in order to regularize the file.

A file regularized within the prescribed time limit shall maintain the initial filing date.

The three-month period is a clear time limit. If the last day is a public holiday or a non-working day, the time limit shall be extended to the following working day.

Article 194

A receipt establishing the date of submitting the elements referred to in the second and fourth paragraphs of Article 192 above shall be issued immediately after filing of the application or notified to the person awarded the industrial award or his representative.

Article 195

Within three months as from the filing date of the industrial award file, the beneficiary of the said award or his representative may, upon justified request, request the rectification of expression or transcription errors as well as material errors, noted solely in the

request for registration referred to in (a) of the second paragraph of Article 192 above. No rectification may be carried out beyond the above mentioned time limit.

The request for rectification referred to in the preceding paragraph shall be submitted in writing and shall contain the subject matter of the proposed rectifications.

Article 196

Applications for registration of an industrial award shall be rejected if:

1. have not been regularized within the three-month period referred to in Article 193 above;
2. reproduce the signs referred to in Article 135 (a) above.

The signs referred to in (2) above may, however, be registered by the body responsible for industrial property subject to submission of the authorization of the competent authorities.

Any rejection of a request for registration of an industrial award shall be reasoned and shall be notified to the applicant or his representative by registered letter with advice of delivery. A notice of rejection shall be entered in the national register of industrial awards referred to in the first paragraph of Article 199 below.

Article 197

Where a request for registration of an industrial award is not subject to rejection pursuant to Article 196 above, one of the copies of the industrial award title referred to in (b) of the second paragraph of Article 192 above shall be returned to the holder of the award or his representative, bearing the date of filing and its chronological registration number.

The other copy, on which the same references shall be transcribed, shall be kept by the body responsible for industrial property.

Section III Miscellaneous Provisions

Article 198

Any advertising concerning an industrial award shall state the exact nature of the award, the organism that issued it and the date of the award.

Article 199

The body responsible for industrial property shall keep a special register known as the "National Register of Industrial Awards" in which shall be entered all registrations relating to industrial awards and all operations relating thereto.

Any concerned person may obtain, on a written request, a copy or an extract of the registrations and entries contained in the National Register of Industrial Awards.

However, the issue of such copies or extracts of entries in that Register may be communicated free of charge to public administrations.

Section IV Publication of Industrial Awards

Article 200

The body responsible for industrial property shall publish an official catalog of all registered industrial awards.

Chapter III The procedure for dating a creation under the intellectual property

Article 200.1

Any person wishing to assign a certain date for a creation must file the following with the body responsible for industrial property.

The date stamping request file includes, on the date of submission:

- a. a date stamping request, the content of which is determined by rules and regulation
- b. two copies of the document that describes in writing the creation that is the subject of the date stamping request;
- c. proof of payment of the required fees

Applications may be filed with the body responsible for industrial property in electronic form according to the requirements and formalities laid down by rules and regulations. In this case, the date of filing is the date of receipt by the said body.

Article 200.2

The date stamping system gives the applicant prior art disclosure that is valid for a period of five years from the date on which the application is filed.

In the event of a legal action contesting the date of the creation, the body responsible for industrial property shall provide the competent court with the file that is the subject of the date stamping request.

TITLE VIII LEGAL PROCEEDINGS

Chapter I General Provisions

Article 201

Any violation of the rights of the owner of any patent invention, a certificate of a layout-design (topography) of an integrated circuit, a registration certificate for an industrial design or model or a registration certificate for a trademark or service mark, as defined respectively in Articles 53, 54, 99, 123, 124, 154 155 and 184 above shall constitute an infringement.

However, the offering for sale, putting on the market, use, holding with a view to use or putting on the market of an infringing product, where such acts are committed by a person other than the manufacturer of the infringing product, shall imply the liability of the person committing them only if such acts have been committed in full knowledge of the facts.

Article 202

Only the owner of the patent of invention, layout-designs (topographies) of integrated circuits, a registered industrial design, a registered trademark or service mark may bring an action for infringement.

However, the beneficiary of an exclusive right of working may, except as otherwise stipulated in the licensing contract, institute infringement proceedings if, after notice transmitted by a bailiff or the court registrar, the owner does not institute such proceedings.

The owner shall be entitled to take part in infringement proceedings instituted by the licensee, in accordance with the preceding paragraph.

Any licensee shall be entitled to take part in the infringement proceedings instituted by the owner in order to obtain compensation for an injury he has personally sustained.

Article 203

When such action for infringement or unfair competition is brought before the court, its President, ruling in summary proceedings, may prohibit, on a provisional basis, under penalty, the prosecution of the alleged acts of infringement or unfair competition, or make enforcement conditional to the lodging of a guarantee intended to

ensure any compensation to the owner of the industrial property title or the beneficiary assigned exclusive rights.

This prohibition is ordered against a party who bring an action for infringement, where appropriate, against a third party, to prevent an act of infringement from being committed and, in particular, to prevent the counterfeit products from entering into the channels of commerce.

The request for injunction or for furnishing of a guarantee shall only be granted if the substantive proceedings appear well-founded and are instituted within a maximum period of 30 days as from the day on which the owner became aware of the facts on which the proceedings are based.

The judge may condition the injunction on the furnishing by the plaintiff of a guarantee to cover possible indemnification of damages suffered by the defendant if the infringement proceedings are subsequently judged to be unfounded.

Article 204

The court of the place of real or elected domicile of the defendant or the place where his representative is established or the court of the place where the body responsible for industrial property is established shall be competent if the defendant is domiciled abroad. Proceedings involving both matters of trademarks and matters of designs or models or of unfair competition shall be heard by the court.

Notwithstanding the provisions of paragraph 1 above, the tribunal competent for ordering the conservatory measures referred to in article 176.2 above, shall be the one under which jurisdiction falls the place of importation of the goods subject to the request of suspension mentioned referred to in article 176.1 above.

Article 205

Public action may only be filed on the basis of a complaint from the aggrieved party, except in the event of an infringement of the provisions set out in a) article 24 and articles 113 and 135 above for which the Department of Public Prosecutions has competence.

In the event of a civil action filed in recognition of the extent of damage or in the event of an action for invalidity, claim of ownership or forfeiture brought by the defendant, the correctional court shall only rule on the complaint of the injured party after

the judgment has become final.

Article 206

Civil and criminal proceedings under this Title shall be prescribed three years from the date of the acts on which they are based.

Article 207

The civil action referred to in the second paragraph of Article 205 above suspends the criminal prosecution.

Article 208

Persons sentenced under the provisions of this Title may, in addition, be deprived for a maximum period of five years of the right to be members of the professional chambers.

Article 209

The court shall order publication of final decisions given pursuant to the provisions of this Law.

Chapter II Patents

Section I Civil Proceedings

Article 210

The holder of a compulsory license, as referred to in Articles 60 and 66 above, may institute infringement proceedings if, after formal notice, the owner of the patent does not institute such proceedings.

The holder of an ex officio license as referred to in Articles 69, 74 and 75 above, may institute infringement proceedings if, after formal notice, the owner does not institute such proceedings.

Article 211

The holder of a patent application or a patent has the possibility of proving by all means the infringement of which they claim to be the victim.

The holder is also entitled, by order of the President of the Court in whose jurisdiction the infringement was committed, to have a judicial commissioner proceed with a detailed description, with or without distraint, of the allegedly infringed products or processes. Such description may be drawn up with the assistance of a qualified

expert.

Execution of such order may be subjected to security to be furnished by the plaintiff.

In that same order, the president of the court may authorize the judicial commissioner, assisted by a qualified expert, to carry out all necessary recordings in order to ascertain the origin, nature and scope of the infringement.

The same right shall be enjoyed by the holder of an exclusive right of working under the conditions set out in the second paragraph of Article 202 of this Law and, under the conditions set out in Article 210 above, by the holder of a compulsory license or an ex officio license.

If the plaintiff fails to institute proceedings before the court within a maximum term of 30 days as from the day of execution of the order, the detailed description, with or without seizure, shall automatically be void, without prejudice to any damages.

Article 212

At the request of the injured party, and where such measure is necessary to prevent continuing infringement, the court may order confiscation, in favor of the plaintiff, of the articles recognized as constituting an infringement, which are the property of the infringer, on the date of the entry into force of the prohibition and, where appropriate, of the devices or means specifically intended for committing the infringement.

The value of the articles confiscated shall be taken into account when computing the compensation to be awarded to the beneficiary of the decision.

Section II Criminal Proceedings

Article 213

Any violation made knowingly to the rights of the owner of a patent as defined in Articles 53 and 54 above shall constitute an infringement and shall be punishable by a penalty of between two and six months imprisonment and a fine of between 50,000 and 500,000 dirhams or one only of those two penalties.

In the event of repetition of the offense, the penalties may be doubled.

There shall be deemed to be repetition, within the meaning of this Article, if an irrevocable sentence for identical acts has been

given against the accused party within the preceding five years. The court may also order the destruction of articles recognized as infringing, which are the property of the infringer, and the destruction of those devices or means specially intended for carrying out the infringement.

Article 214

The same penalties shall apply to infringers who have knowingly received, displayed, placed on sale or sold, introduced or exported allegedly infringing products. The same shall apply to any assistance provided knowingly to the person committing the infringements referred to above.

Article 215

The penalties provided for in Articles 213 and 214 above shall be increased to between six months and two years imprisonment and a fine of between 100,000 and 500,000 dirhams or one of those two penalties only if the infringer is an employee who has worked in the patentee's workshops or establishment.

The same penalties shall be incurred by an employee who has associated himself with the infringer after having given him knowledge of the processes described in a patent.

Proceedings against the employee may be instituted in accordance with Article 447 of the Penal Code.

Article 216

Notwithstanding the penalties provided for in special laws, any person who has given any information, indications or descriptions whatsoever with respect to patents invention or to layout-designs (topographies) of integrated circuits for which an application has been filed by them or any other person, and which have not yet been granted, either by means of addresses or lectures in public places or meetings, or by writings, printed matter sold or distributed, put on sale or displayed in public places or meetings, or by means of panels or posters displayed in public view shall be liable to a fine of between 50,000 and 500,000 dirhams.

In the event of a repeat offense, imprisonment of between three months and two years shall be ordered in addition to the fine.

Article 217

Anyone who knowingly violates one of the prohibitions provided for

in Article 42 above is punished by a fine of 100,000 to 500,000 dirhams.

In accordance with the provisions of Article 192 of the penal code, if the violation harmed national defense, in time of war, the penalty is that of imprisonment from five to thirty years. When committed in time of peace, the penalty is imprisonment from one to five years.

Chapter III Layout-Designs (Topographies) of Integrated Circuits

Article 218

The provisions of Chapter II of this Title shall apply to civil and criminal proceedings for infringement of layout-designs (topographies) of integrated circuits.

Chapter IV Industrial Designs and Models

Section I Civil Proceedings

Article 219

The holder of the industrial design has the possibility of proving by all means the infringement of which they claim to be the victim. The holder is also entitled, by order of the President of the Court in whose jurisdiction the infringement was committed, to have a judicial commissioner proceed to a detailed description, with or without distraint, of the allegedly counterfeited products and said description can be drawn up with the assistance of a qualified expert.

The execution of the said order may be subject to a deposit by the applicant.

In the same order, the president of the court may authorize a registrar, assisted by a qualified expert, to carry out an enquiry to ascertain the origin, nature and scope of the infringement. The same right shall be enjoyed by the licensee of an exclusive right of working under the conditions laid down in the second paragraph of Article 202 above.

If the plaintiff fails to institute proceedings before a court within a maximum term of 30 days as from the day of execution of the above order, the detailed description, with or without seizure,

shall automatically be void, without prejudice to any damages.

Article 220

At the request of the injured party, and where such measure is necessary to prevent continuing infringement, the court may order confiscation, in favor of the petitioner, of the articles recognized as constituting an infringement, which are the property of the infringer, on the date of entry into force of the prohibition and, where appropriate, of the devices or means specifically intended for committing the infringement.

The value of the articles confiscated shall be taken into account when computing the compensation to be awarded to the beneficiary of the decision.

Section II Criminal Proceedings

Article 221

Any intentional infringement of the rights of the owner of an industrial design is punishable by a sentence of two to six months' imprisonment and a fine of 50,000 to 500,000 dirhams, or one of the two penalties.

In the event of a repeat offense, the penalties may be doubled. Within the meaning of this article, a repeat offense is when, within the previous five years, the accused person has been charged of a conviction of irrevocable nature for identical events.

The penalties provided in the preceding paragraph shall also be incurred if the accused party is committing a repeat offense in view of the fact that he has been sentenced within the preceding five years by a final decision given for identical acts.

The court may also order destruction of the articles recognized as infringing, which are the property of the infringer, and of the devices or means specially intended for committing the infringement.

Chapter V Trademarks and Service Marks

Section I Civil Proceedings

Article 222

The applicant for registration, the owner of a registered mark or the holder of an exclusive right of working shall be entitled, on an

order given by the president of the court, to direct a bailiff or a registrar to proceed with a detailed description, with or without the taking of samples, or to proceed with the seizure of the goods or services that he claims are marked, offered for sale, delivered or furnished to his prejudice in violation of his rights. Such description may be carried out with the assistance of a qualified expert.

In the same order, the presiding judge may authorize the seizure or other form of retention of the materials, implements and documentary evidence, in the form of originals or copies, related to the infringement as well as any useful finding to establish the origin, nature and extent of the infringement.

The execution of such order may be subject to security by the plaintiff to cover any possible indemnification of prejudice suffered by the defendant if the infringement proceedings subsequently prove to be without grounds.

If the petitioner fails to institute proceedings before the court within a maximum term of 30 days as from the day of execution of the above order, the detailed description or the seizure will automatically be void, without prejudice to any damages.

Article 223

In those cases where substitution of a product or a service for that which has been requested under a registered mark is to be ascertained, the officer of the registry shall be required to show the order referred to in Article 222 above only after delivery of the product or the providing of the service other than the one which is claimed to have been requested and, if the order authorizes more than one ascertaining of substitution, only after the final delivery of the final provision.

Article 224

At the request of the injured party, and insofar as the measure shall be deemed necessary to ensure the prohibition to continue infringement, the tribunal may order, except in special circumstances, the destruction of objects deemed infringing, and which are owned by the violator at the effective date of the prohibition, and where necessary, the destruction of contrivance or means specially designed for the infringement.

The right holder shall have the possibility to choose between damages actually sustained - plus any benefit attributable to the

forbidden activity which has not been taken account of in the calculation of these damages - or damages which amount is lower than 50,000 dirhams and does not exceed 500,000 dirhams, in accordance with what the court shall deem it fair for redress of the sustained injury.

Section II Criminal Proceedings

Article 225

Any of the following persons shall be considered infringers and liable to imprisonment of between three months and one year and a fine of between 100,000 and 1,000,000 dirhams or one only of those penalties:

1. Persons who have counterfeited a registered mark or who have fraudulently affixed a mark belonging to another person;
2. Persons who have used a mark without the authorization of the person concerned, even with the addition of words such as: "formula", "manner", "recipe", "imitation", "type", or any other similar term liable to mislead a purchaser;
3. Persons who have held without legitimate reason goods which they knew to bear an infringing mark or a fraudulently affixed mark and who have knowingly sold, put on sale, supplied or offered to supply goods or services under such mark;
4. Persons who have knowingly delivered a product or provided a service other than that requested of them under a registered mark.
5. those which have imported or exported products carrying an infringed or fraudulently affixed mark.
6. any person who knowingly imports or uses on a commercial scale labels or packaging bearing without authorization a mark which is identical to or indistinguishable from a registered trademark and which is intended to be used commercially on goods or in connection with services which are identical to the goods or services for which such trademark is registered.

Article 226

The following persons shall be liable to between two months and six months imprisonment and a fine of between 50,000 and 500,000 dirhams or one only of those two penalties:

1. Persons who, without counterfeiting a registered mark, have made a fraudulent imitation of it such as to mislead a purchaser or

- who have made use of a fraudulently imitated mark;
2. Persons who have made use of a registered mark bearing terms liable to mislead a purchaser as to the nature, substantial qualities, composition or content of active ingredients, type or origin of the article or product thus designated;
 3. Persons who have held without legitimate reason goods which they knew to bear a fraudulently imitated mark or those who knowingly sold, placed on sale or offered to supply goods or services under such mark.

Article 227

Those persons shall be liable to imprisonment of between one month and three months and a fine of between 50,000 and 500,000 dirhams or one only of those two penalties who have included in their trademarks or service marks signs prohibited under Article 135(a) above without the consent of the competent authorities, persons who have introduced into Morocco, held, placed on sale or sold natural or manufactured products bearing such signs as a mark.

Article 227.1

Notwithstanding the provisions of the first paragraph of Article 205 above, any violation of the rights of the owner of a registered trademark or service mark as defined respectively in Articles 154, 155, 225 and 226 above, may be prosecuted ex officio by the public prosecutor, without any private party or a rights holder filing a complaint.

Article 228

The court may also order the destruction of the articles recognized as infringing which are the property of the infringer together with destruction of the devices or means specially intended for committing the infringement.

Article 229

The penalties provided under Articles 225 to 228 above shall apply with respect to collective marks and with respect to collective certification marks.

Chapter VI Trade Names

Article 230

Any usurpation or fraudulent use of a trade name, whether or not included in a trademark or service mark, shall be punishable by the penalties provided in Article 225 above.

Chapter VII Indications of Source and Appellations of Origin

Article 231

The unlawful acts referred to in Article 182 above shall be punishable by the sanctions provided in Article 226 above, notwithstanding any penalties provided for by special laws.

Chapter VIII Industrial Awards

Article 232

The following shall be liable to a term of imprisonment of between two and six months and a fine of between 50,000 and 500,000 dirhams or one of those two penalties only:

1. Persons who unlawfully and fraudulently claim to have received industrial awards as referred to in Article 189 above or who claim to have received imaginary awards, by affixing them to their products, signboards, advertising, brochures, letters, business papers, packaging or in any other manner;
2. Persons who, in the same manner, have affixed them to objects other than those for which they had been obtained;
3. Persons who have made industrial or commercial use of awards other than those provided for in Article 189 above.

Article 233

Persons who have obtained an industrial award and have made an industrial or commercial use of such award without complying with the provisions of Articles 189, 190 and 198 above, shall be liable to a fine of between 25,000 and 250,000 dirhams.

TITLE IX TRANSITIONAL PROVISIONS

Article 234

This Law shall enter into application six months after publication of the texts issued for its application and shall thereby repeal all previous provisions relating to the same subject matter, in particular the Dahir of 21 Sha'ban 1334 (23 June 1916) relating to the protection of industrial property, the Law of 9 Sha'ban 1357 (4 October 1938) relating to the protection of industrial property in the Tangiers zone and the Dahir of 10 Rajab 1359 (14 August 1940) relating to the grant of patents for invention concerning national defense, as modified and supplemented.

Article 235

Rights acquired prior to the date of entry into application of this Law shall be maintained for their remaining term of protection, subject to the following provisions.

Article 236

Applications for patents in accordance with the provisions of the Dahir of 21 Sha'ban 1334 (23 June 1916) and the Law of 9 Sha'ban 1357 (4 October 1938) referred to above, shall be examined and the corresponding titles issued in accordance with the provisions and the formalities laid down in that Dahir and that Law. Applications for registration of utility models filed before the date of entry into application of this Law in accordance with the provisions of the Law of 9 Sha'ban 1357 (4 October 1938) referred to above shall be examined and the corresponding titles issued in accordance with the provisions and the formalities laid down by this Law. Such applications shall take effect as from the date of their filing.

Article 237

Patents for invention granted in accordance with the provisions of the Dahir of 21 Sha'ban 1334 (23 June 1916) and the Law of 9 Sha'ban 1357 (4 October 1938) referred to above, together with utility models, industrial designs and models and trademarks, filed and registered in accordance with the provisions of that Dahir and that Law shall have effect throughout the territory of the Kingdom as from the date of entry into application of this Law.

Article 238

Marks protected by priority of use in accordance with the provisions of the Dahir of 21 Sha'ban 1334 (23 June 1916) referred to above and the provisions of the Law of 9 Sha'ban 357 (4 October 1938) referred to above, without having been filed and registered under the provisions of that Dahir and that Law, shall be maintained in force with a proviso that, within six months as from the date of entry into application of this Law, application for registration be filed with respect to them in accordance with the provisions of this Law.

Article 239

Extension of the rights deriving from industrial property titles to the whole territory of the Kingdom shall be enjoyed by licensees, subject to any contrary contractual stipulation. Failing agreement between the owners of such titles and their licensees, the dispute shall be heard by the court.