

Dahir No. 1-00-91 of 9 Kaada 1420 (February 15, 2000)
on the Enactment of Law No. 17-97
on the Protection of Industrial Property

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PRAISE BE TO GOD ALONE!

(Great Seal of His Majesty Mohammed VI)

Let it hereby be known — may God elevate and strengthen the content!

That our Cherifian Majesty,

Having regard to the Constitution, in particular Articles 26 and 58.

HAS DECIDED AS FOLLOWS:

Law No. 17–97 on the Protection of Industrial Property, adopted by the Chamber of Representatives and the Chamber of Counselors, is hereby enacted and shall be published in the *Official Gazette* further to this Dahir.

Done at Marrakech on 9 Kaada 1420 (February 15, 2000).

For countersignature

*The Prime Minister,
Abderrahman Youssoufi*

Law No. 17-97 on the Protection of Industrial Property

TITLE I GENERAL PROVISIONS

1. For the purposes of this Law, the protection of industrial property shall have as its subject invention patents, layout designs (topographies) for integrated circuits, industrial designs, factory marks, trademarks or service marks, trade names, indications of source and appellations of origin as well as the repression of unfair competition.

2. Industrial property shall be considered in the broadest sense and shall apply not only to industry and commerce proper and to services but also to any production in the field of agricultural and extractive industries as well as to any manufactured or natural products such as cattle, minerals and beverages.

3. The nationals of each of the countries belonging to the International Union for the Protection of Industrial Property shall be entitled to the protection of the industrial property rights provided for in this Law subject to the performance of the conditions and formalities laid down therein.

The same protection shall be afforded to the nationals of countries which are parties to any other other treaty concluded in the field of industrial property to which Morocco is a party that provides for no less favorable treatment for its nationals than that enjoyed by the nationals of said countries.

4. No obligation with regard to domicile or establishment in Morocco, where protection is sought there, shall be imposed on nationals of the Member States of the International Union for the Protection of Industrial Property.

Natural persons or legal entities who/which do not have their domicile or head office in Morocco or do not have any industrial or commercial establishment there, must elect domicile with an agent who is domiciled or has his head office in Morocco, who shall be responsible for performing on their behalf the operations to be carried out with the entity responsible for industrial property.

Resident nationals and foreigners residing lawfully in Morocco, be they natural persons or legal entities, may themselves file applications for industrial property titles, as well as perform any subsequent related operations, or designate to this end an agent who is domiciled or has his head office in Morocco.

5. Nationals from countries which do not belong to the International Union for the Protection of Industrial Property shall be entitled to benefit from the provisions of this Law if they are domiciled or have a real and effective industrial or commercial activity in the territory of one of the countries of the Union.

6. Any person who has duly filed an application (first application) for an invention patent, a certificate of addition deriving from a main patent for a layout design (topography) for integrated circuits, an industrial design or a factory mark, trademark or service mark, in one of the countries of the International Union for the Protection of Industrial Property, or his successor in title, shall enjoy, for the purpose of filing said application in Morocco (subsequent application), a right of priority during the periods provided for in Article 7 below.

7. The period of priority mentioned above shall be 12 months for invention patents, certificates of addition deriving from a main patent, and layout designs (topographies) for integrated circuits, and six months for industrial designs and factory marks, trademarks and

service marks. The periods shall start from the date of filing of the first application made in one of the countries of the Union. The filing date shall not be included in such periods. If the last day of the period is a public holiday or not a working day, the period shall be extended until the first following working day.

8. Any person seeking to take advantage of the priority of an earlier filing made in one of the countries of the Union shall be obliged to make a written declaration of priority indicating the date, number and country of origin of such filing. This declaration must be made on the date on which the application is filed in Morocco.

Within three months following the date of filing of the application in Morocco, the applicant shall supply the documents substantiating the earlier filing on the conditions to be determined by regulation.

The same formalities and time periods provided for in paragraphs 1 and 2 of this Article shall apply to any natural person or legal entity who/which claims, in a single application filed in Morocco, several rights of priority.

9. When a right of priority is duly claimed, filings may not be invalidated by circumstances which have occurred within the time periods provided for in Article 7 of this Law, in particular by another filing, by the publication or working of the invention patent or the layout design (topography) for integrated circuits, by the placing on sale of copies of the industrial design, or by the use of the mark.

10. Acts performed during the period of priority by third parties acting in good faith shall not give rise to any rights beyond the date of filing of the application filed with priority in Morocco. Such acts shall not give rise to any actions for damages.

11. Failure to comply with the time periods and formalities provided for in Articles 7 and 8 above shall lead to the loss of the benefit of the right of priority in Morocco.

12. Invention patents, certificates of addition deriving from a main patent, layout designs (topographies) for integrated circuits, industrial designs and factory marks, trademarks or service marks, filed with the benefit of the priority, shall enjoy a term of protection equal to the one laid down for filings made without claims of priority.

13. Invention patents, certificates of addition deriving from a main patent, layout designs (topographies) for integrated circuits, industrial designs and factory marks, trademarks or service marks, applied for during the period of priority, shall be entirely independent from the titles obtained in one of the countries of the Union, for the same purpose, in terms of both the grounds for invalidity or revocation and the term of protection.

14. All operations to file applications for industrial property titles as well as all actions affecting such titles shall be entered in the registers kept to this end by the entity responsible for industrial property. The list and contents of these registers, which said entity shall keep indefinitely, shall be fixed by regulation.

The entity responsible for industrial property shall keep the originals or reproductions of the documents in the applications for industrial property titles for a period of ten years after the related rights have expired.

15. Only the commercial courts shall be competent to hear any case stemming from the application of this Law, with the exception of the administrative decisions provided for therein.

TITLE II
INVENTION PATENTS

Chapter I
Scope

16. Any invention may give rise to an industrial property title granted by the entity responsible for industrial property. This title shall confer on its owner or his successors in title an exclusive right of use for 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 several 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.

17. The industrial property titles protecting inventions shall be:

(a) invention patents, granted for a term of protection of 20 years from the date on which the patent application was filed;

(b) certificates of addition, which are accessory titles for inventions whose subject matter is derived from at least one claim of a main patent. Said certificates shall be granted for a term which shall take effect from the date of filing of the corresponding application and shall expire on the date of the main patent from which they are derived.

18. If the inventor is a salaried employee, the right to the industrial property title, barring any contractual provision which is more favorable for the salaried employee, shall be defined according to the following provisions:

(a) The inventions made by the salaried employee in the performance of either an employment contract comprising an inventive task which corresponds to his actual duties, or studies and research with which he has been explicitly entrusted, shall belong to the employer. The conditions in which a salaried employee who is the author of such an invention shall benefit from supplementary remuneration shall be determined by the collective labor agreements and individual labor controls.

Any legal dispute relating to supplementary remuneration which the salaried employee could receive further to his invention shall be submitted to the court.

(b) All other inventions shall belong to the salaried employee. However, where an invention is made by a salaried employee, either in the course of the performance of his duties or in the company's field of activities, or through the knowledge or utilization of techniques or means specific to the company, or from data procured by it, the salaried employee must immediately inform his employer thereof by means of a written declaration sent by registered letter with acknowledgement of receipt.

Where there are two or more inventors, a joint declaration may be made by all or only some of them.

The contents of the declaration shall be determined by regulation.

The employer shall have six months as from the date of receipt of the above-mentioned written declaration to be granted ownership or enjoyment of all or part of the rights deriving from the invention of his salaried employee by filing a patent application with the entity responsible for industrial property.

However, where the employer has failed to file the patent application within the aforesaid period, the invention shall revert as of right to the salaried employee.

The salaried employee must obtain a fair price which, failing an agreement between the parties, shall be fixed by the court; the court shall take into consideration all elements which may be given to it by the employer and by the salaried employee, to calculate the fair price based on both the initial contributions of both parties and the industrial and commercial utility of the invention.

(c) The salaried employee and the employer must communicate to each other all useful information on the invention in question. They shall abstain from making any disclosure that would be liable to compromise either entirely or in part the rights granted under this Title.

Any agreement between the salaried employee and his employer having as its subject an invention of the salaried employee must be recorded in writing, on pain of invalidation.

19. If an industrial property title has been applied for, either for an invention unlawfully taken from the inventor or his successors in title or in violation of a legal or treaty obligation, the aggrieved party may apply to the court to claim ownership of the title granted.

The action claiming ownership shall be statute-barred after three years following the date on which the title is entered in the National Register of Patents referred to in paragraph 1 of Article 58 below.

However, in the case of bad faith at the time of grant or acquisition of the title, the statute-barring period shall be three years following the expiry of the title.

20. The inventor, whether or not he is a salaried employee, shall be referred to as such in the patent. He may also oppose such a reference.

21. The invention may cover products, processes or any new application or a combination of known means to arrive at a result that is unknown in relation to the state of the art.

It may also cover pharmaceutical compositions, pharmaceutical products or remedies or any kind, including the processes and apparatus used to obtain them.

22. Any new invention which involves an inventive step and is industrially applicable may be patented.

23. The following shall not be considered inventions for the purposes of Article 22 above:

- (1) discoveries, scientific theories and mathematical methods;
- (2) esthetic creations;
- (3) schemes, rules and methods for performing mental acts, playing games or doing business, and computer programs;
- (4) information presentations.

The provisions of this Article shall only preclude the patentability of the elements enumerated in said provisions where the patent application or patent concerns only one of these elements considered as such.

24. The following may not be patented:

(a) inventions, the publication or implementation of which would be contrary to public order or morality;

(b) plant varieties, which are subject to the provisions of Law No. 9/94 on the Protection of Plant Varieties.

25. Methods of surgical or therapeutic treatment for the human or animal body and diagnostic methods applied to the human or animal body shall not be considered industrially applicable inventions for the purposes of Article 22 above. This provision shall not apply to products, in particular substances or compositions, for the implementation of one of these methods.

26. An invention shall be considered to be new if it does not form part of industrial prior art.

Prior art shall consist of everything made available to the public by means of written or oral description, use or any other way before the date on which the patent application is filed in Morocco or a patent application is filed abroad, for which priority has been validly claimed.

By way of derogation to the provisions of this Article, disclosure of the invention shall not be taken into consideration in the following two cases:

(1) if it has occurred in the six months prior to the date of filing of the patent application;

(2) if it stems from the publication, after the date of filing, of an application for an earlier patent and if, in either case, it leads directly or indirectly

(a) to a manifest abuse practised on the applicant or his legal predecessor;

(b) to the fact that the invention has been presented for the first time by the applicant or his legal predecessor at official or officially recognized international exhibitions, organized in the territory of one of the countries of the International Union for the Protection of Industrial Property.

However, in the latter case, the fact that the invention has been exhibited must be declared when the application is filed.

27. An invention shall be considered to involve an inventive step if, for a person skilled in the art, it is not obvious from the state of the art.

28. An invention shall be considered industrially applicable if it can be made or used in any kind of industry, including agriculture.

29. Throughout the term of the patent, the patent owner or his successors in title may make improvements or additions to the invention, which shall be evidenced by certificates of addition granted subject to the same formalities and conditions as the main patent and producing the same effects as that patent.

The provisions of this Law relating to invention patents shall apply to certificates of addition except for the provisions relating to the term of the patent and to the payment of the prescribed fees for the renewal of said patent, which are provided for in Articles 17(a) and 82 of this Law respectively.

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

Certificates of addition granted at the request of one of the successors in title shall benefit all of the others.

30. Any application for a certificate of addition may, prior to its grant, be turned into a patent application at the request of the applicant or his agent. Such transformation shall take effect from the date of filing of the application for a certificate of addition.

Chapter II

Filing of patent applications and grant of patents

SECTION I

FILING OF PATENT APPLICATIONS

31. Anyone seeking an invention patent must file with the entity responsible for industrial property a patent application in the following conditions:

The patent application must contain on the date on which it is filed:

(a) a patent request, mentioning the title of the invention, the content of which shall be fixed by regulation;

(b) proof of payment of the prescribed fees.

Patent applications which do not contain the documents provided for under (a) and (b) above shall not be entertained at the actual time of filing.

The necessary formalities and the documents to be attached to the documents referred to in (a) and (b) above, in particular the documents relating to the description of the invention and the related claims, shall be fixed by regulation.

Where the patent application contains the documents referred to in (a) and (b) above, the patent application as provided for in (a) above shall be entered in chronological order of filing in the National Register of Patents referred to in Article 58.1 below, with a filing date and number.

32. If, on the date of filing, the patent application does not contain one or more documents to be attached to the documents referred to in (a) and (b) above, the list of which shall be fixed by regulation pursuant to Article 31.4 above, the applicant or his agent shall have three months as from the filing date, to correct any shortcomings in the file.

Applications which have been so corrected within the time period set shall retain the date of initial filing.

The time period of three months shall be a clear time period. If the last day is a public holiday or not a working day, the time period shall be extended until the first following working day.

33. A receipt bearing the date on which the documents referred to in Article 31.2 and 31.4 above have been provided shall be issued to the applicant or his agent as soon as he has filed the application.

34. The description of the invention shall include:

(1) an indication of the technical field to which the invention relates;

(2) an indication of the prior art, which is known to the applicant and may be considered useful for understanding the invention;

(3) an explanation of the invention, as characterized in the claims, making it possible to understand both the technical problem and the solution provided; the advantages of the invention in relation to prior art shall be indicated, as appropriate;

(4) a brief description of any drawings;

(5) a detailed explanation of at least one embodiment of the invention; the explanation shall in principle be accompanied by examples and references to any drawings;

(6) an indication of the way in which the invention is industrially applicable, if such application is not clear from the description or nature of the invention.

The description of the invention must explain the invention sufficiently clearly and completely so that a person skilled in the art may carry it out.

35. The claims shall define the subject matter of the protection sought by indicating the technical characteristics of the invention. A claim may not, unless absolutely necessary, be based on mere references to the description or the drawings to express the technical characteristics of the invention.

36. The title must characterize the subject matter of the invention. It must clearly and concisely highlight the technical designation of the invention and not include any imaginary name.

37. The patent application may not contain:

(1) elements or drawings which would be contrary to public order or morality if they were published or put into practice;

(2) denigrating statements concerning goods or processes of third parties or the merits or validity of patent applications or patents of third parties. Mere comparisons with prior art shall not be considered denigrating as such;

(3) clearly foreign elements in the description of the invention.

A patent application may not contain any restrictions, conditions or reservations.

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

39. Before the patent is granted, upon substantiated request, the applicant or his agent may seek the correction of mistakes in expression or transcription as well as substantive errors detected in the documents filed.

Where the request for correction relates to the description, claims or drawings, the correction shall be accepted only if it is so clearly called for that no other wording or image could have been intended by the applicant.

The request for correction referred to in subparagraph 1 of this Article shall be submitted in writing and shall include the changes proposed.

The entity responsible for industrial property must decide on the request for correction within a time period of 15 days starting from the date on which the request was filed.

40. The owner of a patent application or his agent who holds a special authorization may, starting from the date on which his application is filed and before the date on which the patent is granted, withdraw his patent application through a written declaration subject to the following conditions:

(a) if licenses or encumbrances have been entered in the National Register of Patents referred to in the first subparagraph of Article 58 below, the declaration of withdrawal shall be entertained only if it is accompanied by the written consent of the owners of the rights concerned;

(b) if the patent application is jointly owned, the application may only be withdrawn if such withdrawal is requested by all of the joint owners.

A reference to the withdrawn application shall be entered by the entity responsible for industrial property in the National Register of Patents referred to in the first paragraph of Article 58 below.

41. The following patent applications shall all be rejected:

- (1) those which are not considered inventions as defined by Article 23 above;
- (2) those which may not be patented for the purposes of Article 24 above;
- (3) those which are not considered industrially applicable inventions, as defined by Article 25 above;
- (4) those which have not been corrected within the time period of three months laid down in Article 32 above;
- (5) those which do not satisfy the provisions of Article 37 above;
- (6) those which concern several inventions or more than one invention which are not linked to each other as defined by Article 38 above.

All rejections of patent applications must be substantiated and notified to the applicant or his agent by registered letter with acknowledgement of receipt. A reference to said rejection shall be entered in the National Register of Patents referred to in the first subparagraph of Article 58 below.

42. For the purposes of National Defense, the grant and working of an invention patent may be prohibited, definitively or temporarily, where publication of the invention is liable to harm the nation's security.

To this end, any patent application, once the patent application has been corrected, within the time period of 15 days provided for in the first paragraph of Article 43 below, may be consulted on a confidential basis on the premises of the entity responsible for industrial property.

Before the expiry of the time period of 15 days referred to in the previous paragraph, a decision, either to postpone the grant and disclosure of the patent until the expiry of the time period of 18 months stipulated in the first paragraph of Article 44 below, or to prohibit definitively the grant, disclosure and working of said patent, shall be notified to the competent administrative authority and to the entity responsible for industrial property.

If, once the time period of 15 days referred to in the second subparagraph of this Article has expired, no decision has been notified to the competent administrative authority and the entity responsible for industrial property, the report referred to in Article 43 below shall be conveyed or notified to the applicant or his agent.

In the event of a postponement, and where no decision to maintain or lift the postponement on the grant of the patent has been notified to the competent administrative authority and to the entity responsible for industrial property during the time period of 18 months referred to in the first subparagraph of Article 44 below, the foregoing report shall be conveyed or notified and the patent shall be granted to the applicant or his agent on the conditions laid down in Articles 46 to 48 below.

Where there is a definitive prohibition on the grant, disclosure and working of the patent, the foregoing report shall not be drawn up and the patent shall not be granted.

The entity responsible for industrial property must notify the applicant or his agent in writing of any decision taken in accordance with this Article.

A definitive or temporary prohibition on disclosing and working an invention shall give rise to an entitlement to compensation fixed in agreement with the owner(s) of a patent application or his (their) agent.

All disputes relating to compensation shall be referred to the Administrative Tribunal of Rabat.

43. Where the patent application has not been rejected under the provisions of Article 41 above, and upon the expiry of a time period of 15 days starting from the date of filing or, where applicable, the date on which the patent application is corrected, a report recording the filing of said application and mentioning the date of said filing and the attached documents shall be drawn up by the entity responsible for industrial property.

This report shall be conveyed or notified to the applicant or his agent.

44. Patent applications which have been duly filed with the entity responsible for industrial property shall only be made public once a time period of 18 months has expired. This period of time shall start from the date on which the said applications are filed.

Once the above-mentioned period of time has expired, anyone may acquaint himself with the documents referred to in Article 49 below and receive copies thereof.

45. Only the owner(s) of the patent application or his (their) agent, to whom the report has been conveyed or notified, may obtain, subject to a written request submitted during the time period laid down in Article 44 above, an official copy of the original description and, where applicable, the drawings, issued by the entity responsible for industrial property.

SECTION II GRANT OF THE PATENT

46. Patents shall be granted after the period of 18 months laid down in the first paragraph of Article 44 above.

Patents shall be granted on the basis of the date on which the corresponding application is filed, according to a timetable and frequency provided for by regulation.

47. Patents for which the application has not been rejected shall be granted without prior examination, at the applicants' risk and without guarantee as to the reality of the invention, the faithfulness or accuracy of the description or the merits of the invention.

48. An invention patent shall be granted by the entity responsible for industrial property and conveyed to the applicant or his agent, accompanied by the description, the claim(s) and, where applicable, the drawings.

The number of the patent and the date of its grant shall be entered in the National Register of Patents referred to in the first paragraph of Article 58 below. As from the date of this entry, anyone may acquaint himself with the patent and receive a copy thereof.

49. The descriptions, claims and drawings for the invention patents and certificates of addition granted shall be conveyed by the entity responsible for industrial property to anyone wishing to obtain an official copy thereof.

50. Patents granted shall be published in the Official Catalog referred to in Article 89 below.

Chapter III

Rights deriving from invention patents

SECTION I

EXCLUSIVE RIGHT TO WORK

51. The rights deriving from an application for a patent or an invention patent shall come into force on the date on which the patent application is filed and shall confer on the owner or his successors in title the exclusive right to work referred to in the first paragraph of Article 16 above.

52. The scope of the protection granted by the patent shall be determined by the wording of the claims. However, the description and the drawings may be of use for the interpretation of the claims.

If the subject matter of the patent relates to a process, the protection granted by the patent shall extend to the goods obtained directly by means of this process.

53. The following shall be prohibited without the patent owner's consent:

(a) the manufacture, advertising, marketing, use or importation or holding in stock for those purposes, of the good to which the patent relates;

(b) the use of a process which is the subject matter of the patent or, if 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, the advertising of its use on Moroccan territory;

(c) the advertising, marketing or use or the importation or holding in stock, for those purposes, of the good obtained directly through the process to which the patent relates.

54. It shall also be prohibited, without the patent owner's consent, to deliver or offer to deliver, on Moroccan territory, to a person other than the one entitled to work the patented invention, the means for the implementation, on Moroccan territory, of this invention relating to an essential element thereof, where the third party knows, or it is obvious in the circumstances, that these means are suitable and intended for such implementation.

The provisions of the foregoing paragraph shall not apply where the means of implementation are goods commonly available for sale to the public, unless the third party incites the person he supplies to commit the acts prohibited by Article 53 above.

Persons who perform the acts referred to in Article 55 below shall not be considered persons authorized to work the invention, as defined by the first paragraph of this Article.

55. The rights conferred by the patent shall not extend to:

(a) acts performed in a private circle for non-commercial purposes;

(b) acts performed experimentally that relate to the subject matter of the patented invention;

(c) the individual preparation of medically prescribed drugs by dispensing chemists, or acts relating to drugs so prepared;

(d) acts relating to the good covered by this patent, performed on Moroccan territory, after this good has been placed on sale in Morocco by the patent owner or with his express consent;

(e) the use of objects on board aircraft, land vehicles or waterborne vessels of member countries of the International Union for the Protection of Industrial Property that temporarily or accidentally penetrate the airspace, territory or territorial waters of Morocco;

(f) acts performed by anyone who, in good faith, on the date on which the application is filed or, where a priority has been claimed, on the date of priority of the application on the basis of which the patent has been granted on the territory of Morocco, used the invention or made effective and serious preparations to use it, insofar as these acts do not differ, in their nature or purpose, from the actual or envisaged prior use. The right of the earlier user may only be transferred with the company to which he is attached.

SECTION II TRANSFER AND LOSS OF RIGHTS

Subsection I *General provisions*

56. The rights deriving from a patent application or a patent may be transferred either in full or in part.

The rights may be the subject, either in full or in part, of a license for exclusive or non-exclusive use, as well as an encumbrance.

The rights conferred by the patent application or patent may be asserted against a licensee who infringes one of the limits of the license imposed in accordance with the previous paragraph.

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

Acts comprising transfer or a license, as referred to in the first two paragraphs above, shall be recorded in writing, on pain of invalidation.

57. Unless stipulated otherwise in the contract, the licensee shall benefit as of right from such certificates of addition deriving from the patent forming the subject matter of the license, as are granted after the date on which the contract for the license to work is signed, to the owner of the patent or his successors in title.

Conversely, the owner of the patent or his successors in title shall benefit from any certificates of addition deriving from the patent that are granted subsequently to the licensee starting from the date on which the contract for the license to work is signed.

58. To be binding on third parties, any acts which transfer, amend or affect the rights deriving from a patent application or a patent must be entered in a register known as the “National Register of Patents”, which shall be kept by the entity responsible for industrial property.

However, an act shall be binding before such entry on third parties who have acquired rights after the date of the act, with notice of the act when the rights were acquired.

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

For entries concerning references following a court judgment which has become final, the registrar's office shall send within 15 days of the date of said judgment, to the entity responsible for industrial property, a complete set of decisions free of charge relating to the existence, scope and exercise of the rights deriving from the protection granted under this Title.

The necessary formalities and the documents to be attached to the requests for entries shall be fixed by regulation.

59. Any interested person may obtain an excerpt from the National Register of Patents.

Subsection II Compulsory licenses

60. Any person or entity under public or private law may, three years after the patent is granted or four years after the date on which the patent is applied for, obtain from the court a compulsory license for such patent, on the conditions provided for in Articles 61 and 62 below, if at the time of the request, and failing legitimate reasons, neither the owner of the patent or 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 meet the needs of the Moroccan market; or

(c) where the working or marketing of the patent in Morocco has been abandoned for more than three years.

61. Applications for compulsory licenses shall be lodged with the court. They must be accompanied by proof that the applicant has not been able to obtain from the patent owner a license to work by mutual agreement, in particular on reasonable commercial conditions and arrangements, and that he is capable of working the invention in such a way as to meet the needs of the Moroccan market.

62. Compulsory licenses may only be non-exclusive.

All compulsory licenses must be granted primarily to supply the Moroccan market.

They shall be granted on conditions set by the court, in particular with regard to their duration and scope, which shall be limited to the purposes for which the licenses have been granted as well as the amount of royalties to which they give rise. Such royalties shall be fixed on a case-by-case basis, taking into consideration the economic value of the license.

These conditions may be amended by the court at the request of the patent owner or licensee.

63. Where the circumstances which led to the granting of the compulsory license no longer obtain and will in all likelihood not recur, the license to work may be withdrawn on the condition that licensees' legitimate interests are adequately protected. The court may review, upon the substantiated request of any party having an interest therein, whether these circumstances still obtain.

Where the holder of a compulsory license does not meet the conditions on which the license has been granted to him, the patent owner and, where applicable, the other licensees, may petition to have the court withdraw this license.

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

64. Court decisions which have become final and have been taken pursuant to the provisions of this Subsection II must be immediately notified by the registrar's office to the entity responsible for industrial property, which shall enter them in the National Register of Patents.

65. The beneficiary of a compulsory license may obtain from the court, on the conditions provided for in Articles 60 to 62 above, failing a mutual agreement, a compulsory license for a certificate of addition deriving from the patent itself if such certificate has been granted prior to the expiry of the time periods stipulated in Article 60 above.

66. Where an invention protected by a patent cannot be used without infringing the rights deriving from an earlier patent whose owner refuses to grant a license for use on reasonable commercial terms and arrangements, the owner of the subsequent patent may obtain a compulsory license from the court on the same conditions as those provided for in Articles 60 to 62 above, provided that:

(a) the invention claimed in the subsequent patent represents significant technical progress, or is of considerable economic interest in relation to the invention claimed in the earlier patent;

(b) the owner of the earlier patent shall be entitled to a cross-license on reasonable conditions to use the invention claimed in the previous patent; and

(c) the license in respect of the previous patent is not assigned unless the subsequent patent is assigned as well.

Subsection III *Ex officio licensing*

67. Where public health interests so dictate, patents granted for drugs, for processes to obtain drugs, for goods needed to obtain these drugs or for processes for manufacture of such products, may, where the drugs are made available to the public in quantity or quality that are inadequate or at abnormally high prices, be worked *ex officio*.

Ex officio working shall be decreed by means of an administrative act at the request of the administrative department responsible for public health.

68. The administrative act referred to in Article 67 above shall be notified to the patent owner, to the licensees, where applicable, and to the entity responsible for industrial property, which shall enter it as of right in the National Register of Patents.

69. On the day on which the administrative act decreeing the *ex officio* working of a patent is published, any qualified person may request the granting of a so-called "*ex officio*" license to work.

Such a license shall be requested and granted in the forms fixed by regulation.

An *ex officio* license shall be granted on specific conditions, in particular with regard to its term and scope.

The royalties to which it gives rise shall be left to the discretion of the parties to determine. Failing an agreement between them, such royalties shall be fixed by the court.

The license shall come into force on the date of notification of the act granting it to the parties. This act shall be entered as of right in the National Register of Patents.

This license may only be non-exclusive. The rights deriving from an *ex officio* license may not be assigned, transferred or pledged.

70. Amendments to the clauses of the license, which have been requested either by the patent owner or the licensee, shall be decided upon and published according to the procedure laid down for the grant of said license. Where they relate to the amount of royalties, they shall be decided upon according to the procedure laid down for the original fixing of that remuneration.

The withdrawal of the license requested by the patent owner for failure to comply with the obligations imposed on the licensee shall be effected in accordance with the provisions of the regulatory text referred to in Article 69.

71. The competent authority may serve formal notice on the owners of invention patents other than those referred to in Article 67 above to undertake the working thereof in such a way as to meet the needs of the national economy.

72. The decision to serve the formal notice provided for in Article 71 above must be substantiated and notified to the owner of the patent and, where applicable, the holders of the licenses entered in the National Register of Patents or their agents.

73. Where the formal notice provided for in Article 71 above has not been acceded to within the time period of one year beginning from the date of receipt of its notification and where the non-working or the qualitative or quantitative inadequacy of the working undertaken seriously prejudices economic development and the public interest, the patents to which the formal notice relates may be worked *ex officio*.

Ex officio working shall be decreed by means of an administrative act.

The time period of one year laid down in the first paragraph above may be extended by administrative act of the competent administrative authority where the patent owner provides proof of legitimate reasons which are compatible with the needs of the national economy.

The extension referred to in the previous paragraph shall start on the date of expiry of said time period of one year. The decision to grant this extension shall be taken and notified according to the procedure and in the forms provided for by the decision to serve formal notice.

74. If, in accordance with the provisions of the first and second paragraphs of Article 73 above, recourse is had to the *ex officio* working of patents, the provisions of Articles 68 to 70 above shall apply.

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 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 authority responsible for national defense by means of an administrative act.

This act shall fix the conditions for the license to the exclusion of those relating to the royalties to which it gives rise. The license shall enter into force on the date on which the request for the *ex officio* license is made.

Failing amicable agreement between the patent owner and the authority concerned, the amount of the royalties shall be fixed by the Administrative Tribunal of Rabat.

Subsection IV
Seizure

76. The seizure of a patent shall be effected according to an order by the President of the court ruling in summary proceedings and notified to the patent owner, the entity responsible for industrial property and those persons holding rights in the patent.

Once notice of seizure has been given, no subsequent amendment of the rights deriving from the patent shall be binding on the attaching creditors.

On pain of invalidation for the seizure, the attaching creditors shall have 15 days as from the date of the writ of seizure to file proceedings before the court for confirming the validity of the seizure and for the purpose of placing the patent on sale.

Subsection V
Joint ownership of patents

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

(a) Each of the joint owners may work the invention for his benefit, provided that he fairly compensates the other owners who are not personally working the invention or who have not granted licenses for use. Failing amicable agreement, such compensation shall be fixed by the court;

(b) Each of the joint owners may take legal proceedings in respect of infringements for his sole benefit. The petition for infringement must be notified to the other joint owners. No court decision shall be taken on the proceedings until proof of such notice has been provided;

(c) Each of the joint owners may grant a third party a non-exclusive license for use for his benefit, provided that he fairly compensates the other joint owners who are not personally working the invention or who have not granted licenses for use. Failing amicable agreement, this compensation shall be fixed by the court.

Nevertheless, the intent to grant must be notified to the other joint owners, accompanied by an offer to transfer the share at a given price.

Within three months following this notice, any of the joint owners may oppose the grant of license, provided that he acquires the share of the joint owner wishing to grant the license.

Failing an agreement within the time period stipulated above, the price shall be fixed by the court. The parties shall have 30 days as from notice of the court decision, to withdraw from the grant or the purchase of the joint owner's share, without prejudice to the award of any damages which may be due; costs shall be borne by the withdrawing party.

(d) An exclusive license for use may only be granted with the consent of all of the joint owners or by leave of the court;

(e) Each joint owner may assign his share at any time. The joint owners shall have a right of preemption for three months starting with the notice of intent to assign. Failing an agreement on the price, it shall be fixed by the court. The parties shall have 30 days as from notice of the court decision to withdraw from the sale or purchase of the share of the joint ownership, without prejudice to the award of any damages which may be due; costs shall be borne by the withdrawing party.

78. The provisions of Articles 960 to 981 of the Law of Obligations and Contract shall not apply to the joint ownership of a patent application or patent.

79. The joint owner of a patent application or patent may notify the other joint owners that he is waiving his share for their benefit. As from the date on which such waiver is entered in the National Register of Patents, said joint owner shall be discharged of any obligations with regard to the other joint owners where they consent to said waiver. The joint owners shall divide up the waived share in proportion to their rights in the joint ownership, unless otherwise agreed.

80. The provisions of Articles 77 to 79 above shall apply unless otherwise stipulated.

The joint owners may derogate therefrom at any time by means of regulations for joint ownership.

Subsection VI
Miscellaneous provisions

81. The exclusive right to work deriving from the invention patent protected by this title shall end when its period of validity expires.

The holder of such an exclusive right may waive it at any time, for either the entire invention or for one or more claims to the patent.

Waiver must take the form of a written declaration by the patent owner or his agent. In the latter case, a special waiver authorization must be attached to the declaration.

If the patent is jointly owned, waiver may only be effected if it is required by all of the joint owners.

Where licenses or encumbrances have been entered in the National Register of Patents, the declaration of waiver shall only be entertained if it is accompanied by the consent of the owners of such rights.

Waiver shall be entered in the National Register of Patents. It shall come into force on the date of such entry.

82. A patent owner who has not paid the prescribed fees to renew his rights within the time periods laid down shall forfeit said rights.

However, payment of the prescribed fees may be validly effected during an additional period of six months starting from the date on which the rights are forfeited.

Where the prescribed fees have not been paid by the due date, a formal notice shall be sent by the entity responsible for industrial property by registered letter with acknowledgement of receipt to the patent owner or his agent, indicating that he will forfeit his rights if payment is not made before the expiry of the time period of six months provided for in the previous paragraph.

Lack of notice shall not incur the liability of the entity responsible for industrial property and shall not constitute grounds for restoring the patent owner's rights.

83. A patent owner who has failed to pay the prescribed fees upon expiry of the six-month time period laid down in the second paragraph of Article 82 above shall have his rights revoked.

84. Revocation shall be recorded through a written, substantiated decision by the entity responsible for industrial property and notified to the patent owner or his agent in the forms fixed by regulation.

Revocation shall come into force on the due date of the missed payment.

A reference to the decision evidencing revocation shall be entered in the National Register of Patents.

However, the patent owner may, during the three-month period starting with the date of receipt of notice of the decision referred to in the above paragraph, file an appeal with the entity responsible for industrial property for reinstatement of his rights if he can provide a legitimate excuse for the non-payment of the prescribed fees.

Reinstatement of rights may be granted through a written decision by the entity responsible for industrial property, provided that said prescribed fees have been paid before the expiry of the three-month time period provided for in the previous paragraph.

A reference to the decision for the reinstatement of rights shall be entered in the National Register of Patents, which shall also contain a reference to the date of payment of the prescribed fees. The decision for the reinstatement of rights shall be notified to the patent owner or his agent.

Revocation of a patent shall entail the revocation of the certificates of addition deriving from said patent.

85. The court shall invalidate the patent at the request of anyone with an interest:

(a) if the invention may not be patented under the provisions of Articles 22 to 28 of this Law;

(b) if the description of the invention does not explain the invention sufficiently to allow a person skilled in the art to carry it out;

(c) if the subject matter of the invention goes beyond the content of the application as filed;

(d) if the claims fail to define the scope of protection sought.

Where the grounds for invalidity affect the patent only partly, the invalidity shall be pronounced in the form of a limitation corresponding to the claims.

86. An invalidity action may be brought by anyone with an interest.

The Public Prosecutor's Office may be a party to the proceedings before any court asked to take a decision invalidating a patent, and may petition for the absolute invalidity of the patent.

It may even appeal directly for invalidity by means of a main action.

87. A patented invention which the owner has had revoked and an invention whose patent has been revoked may not give rise to another patent application filing.

88. Certificates of addition shall end with the main patent; however, in cases where the patent is declared invalid pursuant to Article 85 above, certificates of addition shall not be affected by such invalidity if the improvements they cover constitute an invention.

Chapter IV **Publication of invention patents**

89. The entity responsible for industrial property shall publish an Official Catalog of the invention patents granted, containing references to the acts covered in the first paragraph of Article 58 above.

TITLE III
LAYOUT DESIGNS (TOPOGRAPHIES) FOR INTEGRATED CIRCUITS

Chapter I
Scope

90. The following definitions shall apply under this Law:

— layout design (topography) means the three-dimensional arrangement, whatever its expression, of elements, at least one of which is an active component, and all or part of the interconnections of an integrated circuit, or such a three-dimensional arrangement which is prepared for an integrated circuit intended to be manufactured;

— integrated circuit : a product, in final or intermediate form, of which at least one element is an active component and some or all of whose interconnections are an integral part of the body and/or surface of a piece of material that is intended to be used electronically.

91. Layout designs (topographies) for integrated circuits which are original insofar as they are the fruit of the intellectual effort of their creators and which, at the time of their creation, are not common for the creators of layout designs (topographies) and manufacturers of integrated circuits, may be protected as provided for by this Law.

A layout design (topography) for integrated circuits, which consists of a combination of elements or interconnections that are common, shall only be protected if the combination, considered as a whole, meets the conditions referred to in the above paragraph.

The protection granted to a layout design (topography) for integrated circuits shall only apply to the layout design (topography) for integrated circuits as such, to the exclusion of any concept, process, system, technique or coded information incorporated in this layout design.

Chapter II
Miscellaneous provisions

93. The provisions of Chapters II and II of Title II of this Law shall apply to layout designs (topographies) for integrated circuits, subject to the special provisions below.

94. Any layout design (topography) for integrated circuits may give rise to an industrial property title known as a “certificate of layout design (topography) for integrated circuits”.

Layout designs (topographies) for integrated circuits shall be protected for a period of ten years from the date on which the corresponding application is filed.

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 layout designs (topographies) for integrated circuits.

96. A request for a certificate for a layout design (topography) for integrated circuits must be accompanied, when filed, by a copy or a drawing of the layout design (topography) for integrated circuits and, where the integrated circuit has been used commercially, by a sample of the integrated circuit, as well as information defining the electronic function which the integrated circuit is intended to perform.

97. Unless the layout design is common, an application covered by Article 96 above may not be filed two years after the first ordinary commercialization of said design in any part

of the world. Moreover, said application may under no circumstances be filed 15 years after the final or intermediate topography of the integrated circuit has been fixed or coded for the first time, if it has never been worked.

98. Any request for a certificate of layout design (topography) for integrated circuits which does not meet the provisions of Article 96 above and Section I of Chapter II of Title II of this Law shall be rejected.

99. The following shall be considered unlawful if performed without the authorization of the holders of the right in a layout design (topography) for integrated circuits:

(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 is incorporated, or an article incorporating such an integrated circuit, only insofar as this article continues to contain an unlawfully reproduced layout design.

100. The following acts shall not be considered unlawful:

(a) the acts referred to in Article 99(a) above, 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 separate topography which can qualify for protection in accordance with the provisions of this Law;

(c) any of the acts referred to in Article 99 above in respect of an integrated circuit incorporating an unlawfully reproduced layout design (topography), or of any article incorporating such an integrated circuit, where the person performing or ordering such acts did not know and had no reasonable ground to know, when acquiring said integrated circuit or article incorporating such an integrated circuit, that it incorporated an unlawfully reproduced layout design. After the time that such person has received sufficient notice that the layout design has been unlawfully reproduced, that person may perform any of the acts referred to in respect of the stocks on hand or ordered before such time, but shall be liable to pay the right holder a sum equivalent to a reasonable royalty as would be payable under a freely negotiated license in respect of such a layout design.

101. Where no application for a certificate has been filed for a layout design (topography) for integrated circuits within a period of 15 years starting from the date of its creation, no exclusive right shall come into being.

102. Certificates of layout designs (topographies) for integrated circuit which are not original as defined in Article 91 above and which do not meet the conditions provided for in Article 97 above may be declared invalid by the courts at the request of any interested person.

103. Any interested person may obtain an excerpt from the register recording the entries made to a register known as the "National Register of Certificates of Layout Designs (Topographies) for Integrated Circuits" kept by the entity responsible for industrial property.

TITLE IV INDUSTRIAL DESIGNS

Chapter I Scope

104. For the purposes of this Law, any combination of lines or colors and, as an industrial model, any three-dimensional form, whether or not associated with lines or colors, shall be deemed to be an industrial design, provided that such combination or form gives a special appearance to a product of industry or handicraft and can serve as a pattern for the manufacture of a product of industry or handicraft.

The industrial design must differ from similar designs either through a separate, recognizable configuration giving it a character of novelty, or through one or more external aspects giving it a specific and new appearance.

105. An industrial design shall be new if it has not been made available to the public through advertising or any other means, prior to the date of its filing or, where applicable, prior to the date of validly claimed priority.

An industrial design shall not be deemed to have been made available to the public solely by reason of the fact that, within the period of six months preceding the date of filing, it appeared for the first time in an official or officially recognized international exhibition, organized on the territory of one of the countries of the International Union for the Protection of Industrial Property.

Chapter II Right to protection

106. The ownership of an industrial design shall belong to the person who has created it or to his successors in title, but the first person filing said industrial design shall be assumed, unless proven otherwise, to be the creator thereof, subject to the provisions of Article 107 below.

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

108. If the same subject matter can be considered both a patentable invention and a novel industrial design and if the constituent elements of the novelty of the industrial design are inseparable from those of the invention, said subject matter may only be protected in accordance with the provisions which apply to invention patents.

109. If two or more persons have jointly created an industrial design, the right to obtain legal protection shall belong to them or their successors in title jointly. Any person who has merely assisted in the creation of the industrial design without making any contribution of a creative nature shall not, however, be considered a creator or co-creator.

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

111. The provisions of Article 19 above shall apply to industrial designs.

112. Only industrial designs which have been duly filed and registered by the entity responsible for industrial property shall qualify for the protection granted by this Law, as from the date of filing.

The registration of an industrial design shall give rise to the establishment of an industrial property title known as a “certificate of registration for an industrial design”, filed and registered in the forms and conditions prescribed in Chapter III of this Title.

113. The following shall not qualify for the protection afforded by this Law: industrial designs which are contrary to morality or public order as well as industrial designs reproducing effigies, signs, acronyms, denominations, decorations, emblems and currencies mentioned in Article 135(a) below, unless the competent authorities have authorized their use.

Chapter III

Procedure for filing and registering industrial designs

114. Any person wishing to obtain a certificate of registration for an industrial design must file with the entity responsible for industrial property an application for the industrial design on the conditions provided for in this Chapter. An application may be filed by the applicant or his agent.

A single application may relate to up to 50 industrial designs, provided that the said industrial designs are of the same kind.

The application for the industrial design must contain the following on the date of filing:

(a) a request to file an industrial design mentioning the subject matter of the industrial design, whose content shall be fixed by regulation;

(b) three copies of a graphic or photographic reproduction of the industrial designs and the title of the related graphic or photographic reproductions. This reproduction may be accompanied by a brief description;

(c) proof that the prescribed fees have been paid.

Applications for industrial designs which do not contain the documents referred to in (a), (b) and (c) above shall not be entertained at the actual time of filing.

The requirements to be met and the documents to be attached to (a), (b) and (c) above shall be fixed by regulation.

Where the application for an industrial design contains the documents referred to in (a), (b) and (c) above, the application to file an industrial design, as provided for in (a) above, shall be entered in chronological order of the filings in the National Register of Industrial Designs referred to in the first paragraph of Article 126 below, with a filing date and number.

115. If, on the date of filing, the application for an industrial design does not contain one or more of the documents to be attached to the documents referred to in (a), (b) and (c) above, the list of which shall be fixed by regulation in accordance with the fifth paragraph of Article 114 above, the applicant or his agent shall have three months as from the date of filing to correct the file.

Files corrected within the time period fixed shall retain the date of initial filing.

The time period of three months shall be a clear time period. If the last day is a public holiday or not a working day, the time period shall be extended until the first following working day.

116. As soon as the application is filed, the applicant or his agent shall be given a receipt recording the date on which the documents referred to in the third and fifth paragraphs of Article 114 above have been provided.

117. Within a time period of three months starting from the date of filing of the industrial design, the applicant or his agent may, upon substantiated request, seek the correction of any mistakes in expression or transcription or any substantive errors detected in the documents filed, with the exception of the graphic or photographic reproductions of the industrial designs filed, which may not be amended.

No corrections may be made after the foregoing time period.

The request for correction referred to in the first paragraph of this Article shall be submitted in writing and shall include the changes proposed.

118. Any application filed for an industrial design which:

- (1) does not meet the conditions of the first paragraph of Article 104 above;
- (2) does not meet the conditions of Article 113 above;
- (3) has not been corrected within the time period of three months set out in Article 115 above;

shall be rejected.

The rejection of any application to file an industrial design must be substantiated and notified to the applicant or his agent by registered letter with acknowledgement of receipt. A reference to said rejection shall be entered in the National Register of Industrial Designs referred to in the first paragraph of Article 126 below.

119. Where the application to file an industrial design is not rejected under Article 118 above, the industrial design shall be registered by the entity responsible for industrial property without prior examination as to the merits.

The date of registration shall be the date of filing.

Filing shall give rise to registration in the National Register of Industrial Designs referred to in the first paragraph of Article 126 below.

120. Further to the registration provided for in Article 119 above, a report recording the filing of the industrial design and mentioning the date of said filing and the attached documents shall be drawn up by the entity responsible for industrial property along with the certificate of registration of the industrial design, accompanied by the graphic or photographic reproduction of the industrial design. The report and the certificate of registration shall be conveyed or notified to the applicant or his agent.

121. Any interested party may obtain, following a written request, an official copy of the original industrial design upon production of the graphic or photographic reproduction of the industrial design registered.

Chapter IV

Effects of the registration of an industrial design

122. The registration of an industrial design shall be for a period of five years as from the date of application. It may be renewed subject to the same procedures and conditions as those provided for in Chapter III of this Title for two new consecutive five-year periods. The registration must be renewed in the six months prior to the expiry of its term of validity.

However, the applicant shall be granted a six-month grace period starting from the expiry of the term of validity to effect said renewal. The renewal shall begin from the expiry of the registration's term of validity.

123. Any creator of an industrial design or his successors in title shall have the exclusive right to work, sell or offer for sale this industrial design in accordance with the provisions provided for in this Law, without prejudice to the rights they may hold under other legal provisions, in particular legislation relating to the protection of artistic or literary works.

124. The registration of an industrial design shall grant its owner the right to prohibit third parties from undertaking the following acts for commercial or industrial purposes:

- (a) reproducing the industrial design with a view to its working;
- (b) importing, offering for sale and selling a product reproducing the protected industrial design;
- (c) stocking such a product for the purposes of offering it for sale or selling it.

The acts referred to in (a) above shall not be rendered lawful solely by reason of the fact that the reproduction differs from the protected industrial design in minor respects or that it concerns a type of product different from the said industrial design.

Chapter V

Transfer and loss of rights

SECTION I

GENERAL PROVISIONS

125. The rights deriving from industrial designs may be transferred either in full or in part.

They may be the subject, either in full or in part, of the grant of an exclusive or non-exclusive license for use, as well as an encumbrance.

The rights conferred by the registration of an industrial design may be asserted against a licensee who infringes one of the limits of his license imposed in accordance with the previous paragraph.

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

Acts comprising transfer or a license covered by the first two paragraphs above shall be recorded in writing, on pain of invalidation.

126. To be binding on third parties, any acts transferring, amending or affecting the rights deriving from an industrial design must be entered in a register known as the “National Register of Industrial Designs” kept by the entity responsible for industrial property.

However, an act shall be binding before such entry on third parties who acquired rights after the date of the act but who had notice thereof when they acquired the rights.

Acts amending the ownership of the industrial design or the enjoyment of the rights deriving therefrom, such as assignment, licensing, the making or assignment of an encumbrance or the surrender thereof, seizure, validation and lifting of seizure, shall be entered in the register at the request of one of the parties to the act.

For the entry of references following a court decision which has become final, the registrar office shall send, within 15 days after the date of said decision, to the entity responsible for industrial property, a full set of decisions free of charge relating to the

existence, scope and exercise of the rights deriving from the protection afforded under this Title.

The formalities to be completed and the documents to be attached to requests for entries shall be fixed by regulation.

127. Any interested person may obtain an excerpt from the National Register of Industrial Designs.

SECTION II SEIZURE

128. The seizure of an industrial design shall be effected on the basis of an order handed down by the President of the court ruling in summary proceedings and notified to the owner of the industrial design, to the entity responsible for industrial property, and to the persons holding rights in the industrial design.

Once notice of seizure has been given, no subsequent amendment of the rights deriving from the industrial design shall be binding on the attaching creditors.

On pain of invalidation, the attaching creditor shall have 15 days as from the date on which the seizure is ordered to bring legal proceedings before the court to confirm the validity of the seizure and for the purpose of placing the industrial design on sale.

SECTION III MISCELLANEOUS PROVISIONS

129. The exclusive right to work deriving from the industrial design protected by this Title shall end with the expiry of a maximum time period of 15 years from the date of initial filing.

130. The owner of an industrial design may, at any time, waive the protection of his industrial design by means of a written declaration addressed to the entity responsible for industrial property.

Waiver may be limited to only part of the industrial designs if the filing covers several industrial designs.

Where the industrial design is jointly owned, waiver may only be effected if it is required by all of the joint owners.

If licenses or encumbrances have been entered in the National Register of Industrial Designs, the declaration of waiver of registration shall only be entertained if it is accompanied by the consent of the holders of the rights entered.

131. Any interested party, including the Public Prosecutor's Office, may invoke lapse of the registration of an industrial design that was effected in violation of the provisions of Articles 104, 105 and 113 above.

Chapter VI Publication of industrial designs

132. The entity responsible for industrial property shall publish an official catalog of all industrial designs registered, which shall contain references to the acts referred to in the first paragraph of Article 126 above.

TITLE V
FACTORY MARKS, TRADEMARKS AND SERVICE MARKS

Chapter I
Scope

133. For the purposes of this Law, factory marks, trademarks and service marks shall be signs suitable for graphic representation used to distinguish the goods or services of a natural person or legal entity.

The following may constitute such signs:

(a) denominations in all forms such as words, combinations of words, patronymic names and geographical names, pseudonyms, letters, figures, acronyms;

(b) figurative signs such as drawings, labels, seals, borders, reliefs, holograms, logos, computer generated imagery; forms, in particular those of the product or its packaging or those characterizing a service; arrangements, combinations of colors or color shades.

134. The distinctive nature of a sign designed to constitute a mark shall be assessed in respect of the designated goods or services.

The following shall be devoid of any distinctive nature:

(a) signs or names which, in current or professional language, are solely the necessary, generic or usual designation for the product or service;

(b) signs or names which can be used to designate a characteristic of the good or service, and in particular the species, quality, quantity, intended purpose, value, geographical source or the time of production of the good or provision of service;

(c) signs consisting exclusively of the forms imposed by the nature or the function of the good, or conferring its substantial value thereon.

135. The following may not be adopted as marks or elements of marks:

(a) signs reproducing the effigy of His Majesty the King, or that of a member of the Royal Family, the armorial bearings, insignia or official emblems of the Kingdom or of the other member countries of the Paris Union, the acronyms or names of the United Nations Organization and international organizations which have been adopted by them or which have already been the subject of international agreements in force designed to ensure their protection, national or foreign decorations, Moroccan or foreign coins or banknotes, as well as any heraldic imitations.

The signs referred to under (a) above may, however, be registered by the entity responsible for industrial property, if it can be proven that the competent authorities have authorized such registration.

(b) signs which are contrary to public order or morality, or whose use is legally banned;

(c) signs which are liable to deceive the public, particularly as regards the nature, quality or geographical origin of the goods or services.

136. No natural or manufactured products bearing either on themselves or on their packaging, cases, bundles, envelopes, bands or labels a mark, name, sign, stamp, label or decorative pattern containing a reproduction or drawing of the signs referred to in Article 135(a) above shall be authorized to enter Morocco, and may not be accepted under customs

regimes or put into circulation unless the authorization given by the competent authorities can be produced.

137. It shall be unlawful to adopt signs infringing prior marks, in particular:

(a) an earlier mark registered or well known as defined by Article 6(a) of the Paris Convention for the Protection of Industrial Property;

(b) a name or company name, if this could create confusion in the mind of the public;

(c) a trade name or brand name known throughout the national territory, if this could create confusion in the mind of the public;

(d) a protected appellation of origin;

(e) the rights protected by the Law concerning the Protection of Literary and Artistic Works;

(f) the rights deriving from a protected industrial design;

(g) the rights relating to the personality of a third party, in particular his patronymic name, pseudonym or image;

(h) the name, image or repute of a local administrative unit.

138. The nature of the goods or services for which the mark is intended may in no case be an obstacle to the filing and validity of this mark.

139. The mark may be collective or individual. The factory mark, trademark or service mark shall be optional, unless provided otherwise by legislation.

Chapter II

Right to the mark and procedure for filing and registering the mark

SECTION I

RIGHT TO THE MARK

140. Ownership of the mark shall be acquired through registration. The mark may be acquired in joint ownership.

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

142. Where a registration has been requested either fraudulently in respect of the rights of a third party or in violation of a statutory or treaty obligation, any person who claims to assert a right in the mark may bring legal proceedings for ownership.

Unless the applicant has acted in bad faith, the proceedings for ownership shall be statute-barred three years after the date of registration of the mark in the National Register of Marks referred to in the first paragraph of Article 157 below.

143. Only marks which have been duly filed and registered by the entity responsible for industrial property shall qualify for the protection granted by this Law, starting from their date of filing.

Registration of a mark shall give rise to the establishment of an industrial property title known as “certificate of registration of a factory mark, trademark or service mark”, filed and registered in the conditions and forms prescribed in Section II of this Chapter.

SECTION II
PROCEDURE FOR FILING AND REGISTERING THE MARK

144. Any person wishing to obtain a certificate of registration for a mark must file with the entity responsible for industrial property an application for the factory mark, trademark or service mark in the conditions provided for under this Section. Filing may be effected by the applicant or his agent.

The application for a mark must comprise on the date of its filing:

(a) a request for registration of a mark, the content of which shall be fixed by regulation, which contains a clear and complete list of the particular goods or services in respect of which the registration of the mark 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) four black-and-white reproductions of the model of the mark;

(c) four color reproductions of the model of the mark in the event that color is required;

(d) the film enabling the reproduction of the mark;

(e) proof of payment of the prescribed fees.

An application for a mark which does not contain the documents provided for under (a), (b), (c), (d) and (e) above shall not be entertained at the actual time of filing.

The conditions to be met and the documents to be attached to the documents provided for under (a), (b), (c), (d) and (e) above shall be fixed by regulation.

Where the application for a mark contains the documents provided for under (a), (b), (c), (d) and (e) above, the request for the registration of a mark, as referred to under (a) above, shall be entered in chronological order of filing in the National Register of Marks referred to in the first paragraph of Article 157 below, with a date and number of filing.

145. If, at the date of filing, the application for a mark does not contain one or more documents to be attached to the documents referred to under (a), (b), (c), (d) and (e) above, the list of which shall be fixed by regulation in accordance with the fourth paragraph of Article 144 above, the applicant or his agent shall have three months starting from the date of filing to correct any shortcomings in the file.

Files which have been corrected within the time period set shall retain the date of initial filing.

The time period of three months shall be a clear time period. If the last day is a public holiday or not a working day, the time limit shall be extended until the first following working day.

146. A receipt recording the date on which the documents referred to in the second and fourth paragraphs of Article 144 above have been provided shall be delivered to the applicant or his agent immediately following the filing of the request.

147. Within a period of three months from the date of filing of the mark, upon substantiated request, the applicant or his agent may seek the correction of mistakes in expression or transcription as well as substantive errors detected in the documents filed, with the exception of the registered mark design and the classes designated in the request for registration, which may not be amended. No correction shall be made outside the foregoing time period.

The requests for correction mentioned in paragraph 1 of this Article shall be submitted in writing and shall include the changes proposed.

148. Any request for registration which:

- (1) does not satisfy the provisions provided for under (a) and (b) of Article 135 above;
- (2) has not been corrected within the time period of three months provided for in Article 145 above;

shall be rejected.

The rejection of any request for the registration of a mark must be substantiated and notified to the applicant or his agent by registered letter with acknowledgement of receipt. A reference to said rejection shall be entered in the National Register of Marks referred to in the first paragraph of Article 157 below.

149. Where the request for the registration of a mark has not been rejected under the provisions of Article 148 above, the mark shall be registered by the entity responsible for industrial property without prior examination as to the merits.

The date of registration shall be the date of filing.

Filings shall give rise to registration in the National Register of Marks referred to in the first paragraph of Article 157 below.

150. Further to the registration referred to in Article 149 above, a report recording the filing and mentioning the date of said filing and the documents attached shall be drawn up by the entity responsible for industrial property as well as the certificate of registration for the mark accompanied by the design of the registered mark. The report and certificate of registration shall be conveyed or notified to the applicant or his agent.

151. Any interested person may obtain, upon written request, an official copy of the mark, upon production of the design of the registered mark.

Chapter III **Effects on the registration of the mark**

152. Registration of a mark shall be valid starting from the date of filing for a period of ten years, renewable indefinitely. It may be renewed subject to the same formalities and conditions as those provided for in Section II of Chapter II of this Title. Renewal of registration must be effected in the six months prior to the expiry of its term of validity.

However, a grace period of six months starting from the expiry of the term of validity shall be accorded to the applicant to make said renewal. Renewal shall begin as from the expiry of the term of validity of registration.

Where the request for renewal concerns only part of the goods or services covered by the registration, the registration of the mark shall be renewed only in respect of the goods or services in question.

The registration of a mark may be renewed if it does not contain either an amendment of the design of the mark or an extension to include goods or services other than those designated in the request for initial registration of the mark.

Any amendment of the sign or extension of the list of goods or services designated must give rise to a new filing.

153. Registration of the mark shall confer on its owner a right of ownership over this mark for the goods or services he has designated.

154. It shall be unlawful, unless the owner has given his authorization:

(a) to reproduce, use or affix a mark, even with the addition of words such as “formula, type, system, imitation, kind, method”, or to use a reproduced mark, for goods or services which are identical to those covered by the registration;

(b) to remove or amend a duly affixed mark.

155. It shall be unlawful, unless authorized by the owner, if this could create confusion in the mind of the public:

(a) to reproduce, use or affix a mark, and to use a reproduced mark for goods or services which are similar to those covered by the registration;

(b) to imitate a mark and to use an imitated mark, for goods or services which are identical or similar to those covered by the registration.

Chapter IV **Transfer and loss of rights**

SECTION I GENERAL PROVISIONS

156. The rights deriving from a registered mark may be transferred either in full or in part.

They may be the subject, in full or in part, of the grant of an exclusive or non-exclusive license to work, as well as a pledge.

The rights conferred by the registration of the mark may be asserted against a licensee who infringes one of the limits of his license imposed in accordance with the previous paragraph.

Subject to the provisions of Article 142 above, transfer of the rights referred to in the first paragraph of this Article shall not infringe the rights acquired by third parties prior to the date of transfer.

Acts comprising transfer or a license, referred to in the first two paragraphs above, shall be recorded in writing, on pain of invalidation.

157. To be binding on third parties, any acts transferring, amending or affecting the rights deriving from a registered mark must be entered in a register known as the “National Register of Marks”, kept by the entity responsible for industrial property.

However, an act shall be binding prior to such entry on third parties who have acquired the rights after the date of this act with notice of the act when the rights were acquired.

Acts amending the ownership of a registered mark or the enjoyment of the rights deriving therefrom, such as assignment, licensing, the making or assignment of an encumbrance or the surrender thereof, seizure, validation and lifting of seizure, shall be entered with the entity responsible for industrial property at the request of one of the parties to the act.

For entries of references further to a court decision which has become final, the registrar’s office shall send, within 15 days following the date of said decision, to the entity

responsible for industrial property, a complete set of decisions free of charge relating to the existence, scope and exercise of the rights deriving from the protection provided for under this Title.

The formalities to be completed and the documents to be attached to requests for entries shall be fixed by regulation.

158. Any interested person may obtain an excerpt from the National Register of Marks.

SECTION II SEIZURE

159. The seizure of a factory mark, trademark or service mark shall be effected by means of an order of the President of the court ruling in summary proceedings and notified to the owner of the mark, to the entity responsible for industrial property, and to the persons holding rights in said mark.

Once notice of seizure has been given, no subsequent amendment of the rights deriving from the mark shall be binding on the attaching creditors.

On pain of invalidation, the attaching creditor shall have 15 days following the date of the writ of seizure to bring legal proceedings before the court to confirm the validity of the seizure and for the purpose of placing the mark on sale.

SECTION III MISCELLANEOUS PROVISIONS

160. The owner of a registered mark may, at any time, by written declaration, waive the effects of this registration for all or part of the goods or services covered by the registration.

Where the mark is jointly owned, waiver may only be effected if it is required by all of the joint owners.

Where the licenses and encumbrances have been entered in the National Register of Marks, the declaration of waiver shall only be entertained if it is accompanied by the consent of the holders of the rights entered.

Waiver shall be entered in the National Register of Marks.

161. Any interested party, including the Public Prosecutor's Office, may bring proceedings to invalidate the registration of a mark effected in violation of the provisions of Articles 133 to 135 above.

Only the owner of an earlier right may bring proceedings for invalidation on the basis of Article 137 above. However, such proceedings shall not be entertained if the mark has been filed in good faith and if he has tolerated its use for five years.

A decision to cancel shall have absolute effect.

162. The owner of a well known mark for the purposes of Article 6(a) of the Paris Convention for the Protection of Industrial Property may demand the cancellation of the registration of a mark that is likely to create confusion with his own. Such action for invalidation shall be statute-barred five years after the date of registration of the mark, unless the registration has been requested in bad faith.

163. An owner of a mark who, without proper reasons, has not made serious use of the goods or services covered by the registration, for an uninterrupted period of five years, shall be liable to the forfeiture of his rights.

The following shall be considered such use:

(a) use made with the consent of the owner of the mark or, for collective marks, under the terms of the rules;

(b) use of the mark in an amended form which does not alter its distinctive nature;

(c) the affixing of the mark to goods or their packaging, solely with a view to export.

Any interested person may bring legal proceedings for forfeiture. If the petition concerns only part of the goods or services covered by the registration, forfeiture shall only cover the goods or services concerned.

Serious use of the mark which began or resumed after the five-year period referred to in the first paragraph of this Article shall not be an obstacle thereto if it was undertaken in the three months prior to the request for forfeiture and after the owner was informed of the possibility of a petition for forfeiture.

Proof of working must be provided by the owner of the mark for which forfeiture has been requested. It may be provided by any means.

Forfeiture shall come into force on the date of expiry of the five-year period referred to in the first paragraph of this Article. It shall have absolute effect.

164. The owner of a mark, which due to his actions has become:

(a) the customary designation in trade for the goods or services;

(b) likely to mislead the public, in particular as to the nature, quality or geographical origin of the goods or services;

shall also be liable to the forfeiture of his rights.

165. Any final court decision pronouncing the cancellation or forfeiture of a mark must be entered in the National Register of Marks.

Chapter V

Collective marks and collective certification marks

SECTION I

SCOPE

166. A mark shall be known as collective if it may be used by any person who abides by the regulations for use laid down by the owner of the registration.

The collective certification mark shall be applied to the good or service which features in particular, as to its nature, properties or qualities, characteristics stipulated in its rules.

SECTION II

MISCELLANEOUS PROVISIONS

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

168. Collective marks and collective certification marks whose regulations for use are contrary to morality or public order shall not qualify for the protection afforded under this Chapter.

169. The mark must be designated in the request for registration referred to in (a) of the second paragraph of Article 144 above as a collective mark or a collective certification mark.

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

This copy must be produced either on the actual day of the filing or, where applicable, on the conditions and within the time period provided for in Article 144 above.

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

170. The regulations referred to in the first paragraph of Article 166 above shall define the common characteristics or qualities of the goods or services which the collective mark shall designate and the conditions in which and the persons by which it may be used.

171. A collective certification mark may only be filed by a legal entity which does not manufacture, import or sell goods or services.

172. Use of a collective certification mark shall be open to all persons, separate from the owner, who supply goods or services which meet the conditions set by the regulations.

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

174. Where a collective certification mark has been used and has ceased to be protected by law, it may neither be filed nor used in any way whatsoever before a period of ten years has elapsed.

175. The invalidation of the registration of a collective certification mark may be pronounced following a request from the Public Prosecutor's Office or at the request of any interested party, where the mark fails to meet one of the requirements stipulated in this Chapter.

The decision to cancel shall have absolute effect.

Chapter VI

Publication of marks

176. The entity responsible for industrial property shall publish an official catalog of all factory marks, trademarks or service marks, collective marks and collective certification marks registered. It shall contain a reference to the acts provided for under the first paragraph of Article 157 above.

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

Chapter I
Trade names

177. A “trade name” shall be understood as the distinctive appellation or sign under which an enterprise is operated.

178. Names or designations which, by their nature or the use that may be made thereof, are contrary to morality and public order or are liable to deceive trade circles or the public as to the nature of the enterprise identified by that name, may not constitute trade names.

179. Whether or not they are part of a mark, trade names shall be protected by the provisions of Law No. 15-95 constituting the Code of Commerce against any subsequent use of the trade names by a third party, be it in the form of a trade name or factory mark, trademark or service mark, if this could confuse the public.

Chapter II
Indications of source and appellations of origin

180. “Indication of source” means the expression or sign used to indicate that a good or service originates in a country or group of countries, a region or a specific place.

181. “Appellation of origin” shall be the geographical name of a country, region or specific place used to designate a product originating therein whose quality, reputation or other given characteristics are due exclusively or essentially to the geographical environment, including natural and human factors.

182. It shall, in particular, be unlawful:

(a) to make direct or indirect use of a false or deceptive indication of the source of goods or services, or the identity of the producer, manufacturer or supplier thereof;

(b) to make direct or indirect use of a false or deceptive appellation of origin, or to imitate an appellation of origin, even if the true origin of the product is indicated or if the appellation is used in translated form or accompanied by expressions such as “kind”, “type”, “imitation” or similar.

183. Public action to repress the unlawful acts referred to in Article 182 may be brought by the Public Prosecutor’s Office. Action for damages may also be brought by any aggrieved party, natural person or legal entity, association or trade union, in particular by the producers, manufacturers or traders who may correctly identify their goods or services with the indication or appellation in question, or by the associations representing them for that purpose, without prejudice to the right to bring civil proceedings or request precautionary measures.

Chapter III
Unfair competition

184. Any act of competition contrary to honest practices 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 whatever with the establishment, the goods, 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, the goods, or the 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.

185. Acts of unfair competition may only give rise to civil proceedings for the cessation of the acts constituting unfair competition and for damages.

TITLE VII TEMPORARY PROTECTION AT EXHIBITIONS AND INDUSTRIAL AWARDS

Chapter I Temporary protection

186. Temporary protection shall be granted to inventions which may be patented, to improvements or additions deriving from a patented invention, to layout designs (topographies) for integrated circuits, to industrial designs and to factory marks, trademarks or service marks for goods or services which have been presented for the first time in official, or officially recognized, international exhibitions organized on the territory of one of the countries of the International Union for the Protection of Industrial Property.

187. Such protection, the term of which shall be fixed at six months after the official opening of the exhibition, shall have the effect of retaining, for the exhibitors or their successors in title, the right to claim during this period the protection to which their inventions, layout designs (topographies) for integrated circuits, industrial designs or marks would be legally entitled to benefit under the provisions of this Law.

The formalities which the exhibitors shall have to complete to qualify for temporary protection shall be fixed by regulation.

188. The term of the temporary protection shall not be increased by the time periods for priorities provided for under Article 7 above.

Chapter II Industrial awards

SECTION I RIGHT TO PROTECTION

189. Only industrial awards consisting of prizes, medals, distinctions, titles or any attestations of distinction which have been obtained in the exhibitions referred to in Article 186 above shall qualify for the protection established under the following provisions.

No industrial or commercial use may be made of the industrial awards listed above by their beneficiaries or successors in title until they have been registered with the entity responsible for industrial property in the register referred to in Article 199 below.

190. Industrial awards may be presented on either a personal or a collective basis.

Where the award has been presented on a personal basis, it may only be used industrially or commercially 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 must be indicated in visible characters.

Where the award has been presented on a collective basis, it may only be used industrially or commercially either by the group concerned or by each of the members of this group, on the condition that the local body which obtained it is mentioned expressly, in characters as visible as those of the award itself.

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

An award presented on the basis of collaboration may only be used industrially or commercially if the holder indicates that it is an award for a collaborator and mentions the name of the firm to which he was attached when he obtained it. Likewise, the owner of the firm may only use the award if he indicates that it is an award for a collaborator.

Where an industrial award has been presented in recognition of a given product, the industrial or commercial use may be granted at the same time as the product.

191. Industrial awards which reproduce the signs referred to under Article 135(a) above shall not qualify for the protection granted under this Law unless the competent authority has authorized their use.

SECTION II

PROCEDURE FOR FILING AND REGISTERING INDUSTRIAL AWARDS

192. Any person seeking to benefit from the protection granted under Article 189 above must deposit with the entity responsible for industrial property an application to file an industrial award.

Applications to file an industrial award must contain on the date of their filing:

- (a) a request for registration of the industrial award mentioning the subject of the industrial award, the content of which shall be fixed by regulation;
- (b) two certified true copies of the title of the industrial award;
- (c) proof of payment of the prescribed fees.

Applications to file industrial awards which do not contain the documents stipulated under (a), (b) and (c) above shall not be entertained at the time of filing.

The conditions to be met and the documents to be attached to the documents referred to under (a), (b) and (c) shall be fixed by regulation.

Where an application to file an industrial award contains the documents referred to under (a), (b) and (c) above, the request to register the industrial award, as provided for under (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, with a date and number of filing.

193. If, on the date of filing, the application to file the industrial award does not contain one or more of the documents to be attached to the documents referred to under (a), (b) and (c) above, the list of which shall be fixed by regulation in accordance with the fourth paragraph of Article 192 above, the applicant or his agent shall have three months as from the date of its filing to correct the application.

An application which has been corrected within the time period set shall retain the date of initial filing.

The time period of three months shall be a clear time period. Where the last day is a public holiday or not a working day, the time period shall be extended until the first following working day.

194. A receipt recording the date of transmission of the documents referred to in the second and fourth paragraphs of Article 192 above shall be delivered immediately after the filing of the request or notified to the holder of the industrial award or his agent.

195. Within three months as from the date on which the file for the industrial award is deposited, the holder of said award or his agent may, upon substantiated request, seek the correction of mistakes in expression or transcription as well as substantive errors detected solely in the request for registration provided for under Article 192.2(a) above. No correction shall be made after the foregoing time period.

The request for correction mentioned in the previous paragraph shall be submitted in writing and shall include the changes proposed.

196. Requests for the registration of industrial awards which:

(1) have not been corrected within the three-month time period laid down in Article 193 above;

(2) reproduce the signs referred to in Article 135(a) above;

shall be rejected.

The signs referred to under (2) above may, however, be registered by the entity responsible for industrial property, if an authorization by the competent authorities can be produced.

The rejection of any request to register an industrial award must be substantiated and notified to the applicant or his agent by registered letter with acknowledgement of receipt. A reference to the rejection shall be recorded in the National Register of Industrial Awards referred to in the first paragraph of Article 199 below.

197. Where the request to register the industrial award has not been rejected under Article 196 above, one of the copies of the title to the industrial award referred to in (b) of the second paragraph of Article 192 above must be returned to the holder or his agent, bearing the date of its filing with the chronological registration number.

The other copy on which the same references shall be entered shall be kept by the entity responsible for industrial property.

SECTION III MISCELLANEOUS PROVISIONS

198. Any advertising for an industrial award must indicate the exact nature of the award, the body which has presented it, and the date on which it is obtained.

199. The entity responsible for industrial property shall keep a special register known as the “National Register of Industrial Awards” to record all registrations concerning industrial awards or related operations.

Any interested person may obtain, upon written request, a copy or an excerpt of the registrations and entries recorded in the National Register of Industrial Awards. However,

such copies or excerpts of the entries recorded in said Register may be issued free of charge to public administrative departments.

SECTION IV PUBLICATION OF INDUSTRIAL AWARDS

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

TITLE VIII LEGAL PROCEEDINGS

Chapter I General provisions

201. Any infringement of the rights of the owner of a patent, a certificate of addition, a certificate for a layout design (topography) for integrated circuits, a certificate of registration for an industrial design or a certificate of registration for a factory mark, trademark or service mark, as defined in Articles 53, 54, 99, 123, 124, 154 and 155 above respectively, shall constitute infringement.

The offering for sale, marketing, reproduction, use, stocking with a view to use or marketing of an infringing product shall not, where the acts are committed by a person other than the manufacturer of the infringing article, incur the liability of the infringer unless they are performed in full knowledge of the facts.

202. Infringement proceedings may be brought by the owner of the patent, certificate of addition, certificate of layout design (topography) for integrated circuits, certificate of registration for an industrial design or certificate of registration for a factory mark, trade mark or service mark.

However, the beneficiary of an exclusive right to work may, unless the licensing contract provides otherwise, bring infringement proceedings where, after having been given formal notice to do so by a notarial officer, the owner fails to bring such proceedings.

The owner shall be entitled to take part in any infringement proceedings brought by the beneficiary, in accordance with the previous paragraph.

Any licensee shall be entitled to take part in any infringement proceedings brought by the owner, for the purpose of receiving compensation for the harm which he has personally undergone.

203. Where an action alleging infringement has been brought before the court, the court President, ruling according to summary proceedings, may prohibit, provisionally and subject to a coercive fine, the continuation of the alleged infringing acts, or make such continuation subject to the provision of guarantees to ensure compensation of the owner of the industrial property title or the licensee.

A request for prohibition or for the provision of guarantees shall be entertained only where the action appears to be well founded, and where it has been brought within a maximum period of 30 days as from the day on which the owner became aware of the circumstances on which it is based.

The court may make the prohibition subject to the provision by the plaintiff of guarantees to compensate the defendant for any prejudice suffered where the infringement action is subsequently judged to be unfounded.

204. The competent court shall be that of the place of real or elected domicile of the defendant, that of the place where his agent is established, or the court of the place where the entity responsible for industrial property is established, if the defendant is domiciled abroad.

Proceedings involving both a matter concerning a mark and a matter concerning an industrial design or unfair competition which are related shall be brought before the court.

205. The Public Prosecutor's Office may only bring proceedings further to a complaint by the aggrieved party, except in cases involving a violation of the provisions laid down in Articles 24(a), 113 and 135(a) and (b) above, for which the Public Prosecutor's Office shall be competent.

The criminal court may only rule once the instance hearing the declaratory proceedings to establish damages has handed down a final judgment. Exceptions pointed out by the defendant with regard to invalidity of the industrial property title or questions concerning the ownership of said title may not be raised before the criminal court.

The civil or criminal proceedings provided for under this Title shall be statute-barred three years after the acts behind such proceedings take place.

The initiation of civil proceedings shall suspend the prescription of criminal proceedings.

206. All goods unlawfully bearing a factory mark, trademark or service mark or a trade name shall be seized on import, at the request of the Public Prosecutor's Office or any other interested party, in accordance with a writ issued by the President of the court ruling according to summary proceedings. Seizure shall also be required in cases of use of false information concerning the source of the goods or the identity of the producer, manufacturer, or trader.

207. Acts prior to the recording of the grant of invention patents, certificates of addition, certificates for layout designs (topographies) for integrated circuits, or the registration of industrial designs or the registration of factory marks, trademarks or service marks in the registers kept by the entity responsible for industrial property shall not give rise to any proceedings stemming from this Law.

Where the acts follow the said entries or registrations, their authors may plead good faith, if they provide proof thereof.

208. Persons convicted under the provisions of this Title may further be deprived, for a maximum period of five years, of the right of belonging to professional chambers.

209. The court shall order the publication of court decisions which have become final under the provisions of this Law.

Chapter II **Invention patents**

SECTION I CIVIL PROCEEDINGS

210. The owner of a compulsory license, referred to in Articles 60 and 66 above, may bring an infringement action where the patent owner fails to bring such action after having been served formal notice.

The beneficiary of an *ex officio* license referred to in Articles 69, 74 and 75 above may bring the infringement action where the owner fails to bring such action after having been served formal notice.

211. The owner of an application for a patent or a certificate of addition deriving from a main patent, or the owner of a patent or a certificate of addition deriving from a main patent, shall be allowed to use any means of proving the infringement of which he claims to be a victim.

He may moreover, further to a writ issued by the President of the court for the place of infringement, give rise to a detailed description, with or without seizure, of the allegedly infringing goods or processes to be conducted by a notarial officer, assisted by an expert, where appropriate.

The implementation of said writ may be subject to the provision of security by the applicant.

In the same writ, the President of the court may authorize a notarial officer, assisted by a qualified expert, who shall be responsible for any declaratory examination needed to establish the origin, nature and scope of the infringement.

The same right shall be available to the beneficiary of an exclusive right to work on the condition laid down in the second paragraph of Article 202 of this Law, as well as, subject to the condition provided for in Article 210 above, to the beneficiary of a compulsory license or an *ex officio* license.

Where the petitioner fails to institute legal proceedings before the court within a maximum of 30 days as from the date of implementation of the writ, the detailed description, with or without seizure, shall be considered invalid as of right, without prejudice to the award of any damages.

212. At the request of the aggrieved party, and provided that the measure is necessary to ensure the prohibition on continuing the infringement, the court may order the seizure, for the petitioner's benefit, of known infringing articles, which are the property of the infringer on the date of the prohibition's entry into force and, where applicable, that of the devices or means specifically intended for carrying out the infringement.

Due consideration shall be given to the value of the goods seized when calculating the compensation allocated to the beneficiary of the sentence imposed.

SECTION II CRIMINAL PROCEEDINGS

213. Any deliberate violation of the rights of a patent owner, as defined in Articles 53 and 54 above, shall constitute infringement and shall be punishable by two to six months' imprisonment and a fine of 50,000 to 500,000 dirhams, or by only one of these two penalties.

In the case of recidivism, the penalties may be doubled.

Recidivism shall be deemed to have occurred under this Article where a conviction for identical acts handed down against the accused within the past five years has become irrevocable.

The court may also order the destruction of the known infringing articles which are the property of the infringer, as well as that of the devices or means specifically intended for carrying out the infringement.

214. Those who have knowingly received, displayed, placed on sale or sold, introduced or exported known infringing goods, shall be liable to the same penalties as the infringers. The same shall apply to any assistance knowingly provided to the author of the offenses referred to above.

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

Salaried workers who have associated themselves with the infringer after giving him information on the processes described in the patent shall be liable to the same penalties.

Salaried employees may be prosecuted in accordance with the provisions of Article 447 of the Penal Code.

216. Without prejudice to the penalties provided for by special laws, the following shall be punishable by a fine of 50,000 to 500,000 dirhams: those who, either through speeches or conferences in public places or meetings, or through writings, leaflets sold or distributed, placed on sale or displayed in public places or meetings, either through signs or posters in the public eye, have provided all information, indications or descriptions of any kind concerning invention patents or certificates of addition deriving from a main patent, or layout designs (topographies) for integrated circuits, a request for which has been filed by them or by another party, but which have not yet been issued.

In the case of recidivism, a sentence of three months to two years' imprisonment shall be handed down, in addition to the fine.

217. Without prejudice, where applicable, to the more stringent penalties concerning violations of State security, anyone who knowingly infringes one of the prohibitions laid down in Article 42 above shall be punishable by a fine of 100,000 to 500,000 dirhams. Where the violation is detrimental to national defense, a sentence of one to five years' imprisonment may also be handed down.

Chapter III **Layout designs (topographies) for integrated circuits**

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

Chapter IV **Industrial designs**

SECTION I CIVIL PROCEEDINGS

219. The owner of the industrial design shall have the possibility of providing proof by any means of the infringement of which he claims to be a victim.

He shall further be entitled, subsequent to a writ issued by the President of the court for the place of infringement, to give rise to a detailed description, with or without seizure, of the allegedly infringing goods or processes to be conducted by a notarial officer, assisted by a qualified expert, where appropriate.

The implementation of said writ may be subject to the provision of a deposit by the applicant.

In the same writ, the President of the court may authorize a registrar, assisted by a qualified expert, who shall be responsible for any declaratory examination needed to establish the origin, nature and scope of the infringement.

The same right shall be available to the owner of an exclusive right to work on the condition laid down in the second paragraph of Article 202 of this Law.

Where the applicant fails to bring proceedings before the court within a maximum of 30 days as from the day of implementation of the above writ, the detailed description, with or without seizure, shall become invalid as of right, without prejudice to the award of any damages.

220. At the request of the aggrieved party, provided that the measure proves necessary to ensure the prohibition on continuing the infringement, the court may order the seizure, for the applicant's benefit, of known infringing articles, which are the property of the infringer on the date the prohibition entered into force and, where applicable, that of the devices or means specifically intended for carrying out the infringement.

Due consideration shall be given to the value of the articles seized when calculating the compensation to be paid to the beneficiary of the sentencing.

SECTION II CRIMINAL PROCEEDINGS

221. Any deliberate violation of the rights of the owner of an industrial design shall be punishable by a fine of 25,000 to 250,000 dirhams.

The penalty provided for in the first paragraph above shall be increased to a fine of 50,000 to 250,000 dirhams and to one month to six months' imprisonment if the offender is a person who has worked for the aggrieved party.

The penalties provided for in the previous paragraph shall also apply if the accused has committed a second or subsequent offence, such as having been convicted within the previous five years by an irrevocable decision handed down for identical acts.

The court may also order the destruction of known infringing articles which are the property of the infringer, as well as that of the devices or means specifically intended for carrying out the infringement.

Chapter V Factory marks, trademarks and service marks

SECTION I CIVIL PROCEEDINGS

222. The owner of a registered mark or the beneficiary of an exclusive right to work shall be entitled, pursuant to a writ by the President of the tribunal authorizing the intervention of a notarial officer, to either a detailed description with or without the taking of samples or to the seizure of the goods or services he claims have been marked, offered for sale, delivered or supplied to his detriment, in violation of his rights.

This description may be drawn up with the help of a qualified expert.

In the same writ, the President of the court may authorize any declaratory proceedings necessary to establish the origin, nature and scope of the infringement.

The implementation of said writ may be subject to the provision by the plaintiff of guarantees to indemnify the defendant for any prejudice suffered where the infringement action is subsequently judged to be unfounded.

Where the applicant fails to bring legal proceedings before the court within a maximum of 30 days as from the date of implementation of the above writ, the detailed description, or seizure, shall become invalid as of right, without prejudice to the award of any damages.

223. Where it is necessary to establish that a good or service has been substituted for the one requested under a registered mark, the notarial officer shall only be obliged to produce the writ provided for in Article 222 above after delivery of the good or service other than the one requested, and where the writ authorizes several establishments of substitution, only after the last delivery or last service.

224. At the request of the aggrieved party, and provided that the measure is necessary to ensure the prohibition on continuing the infringement, the court may order the seizure, for the applicant's benefit, of known infringing goods which are the property of the infringer on the date of the prohibition's entry into force and, where applicable, that of the devices or means specifically intended for carrying out the infringement.

Due consideration shall be given to the value of the goods seized when calculating the compensation to be allocated to the beneficiary of the sentence imposed.

SECTION II CRIMINAL PROCEEDINGS

225. The following shall be considered infringers and punishable by two to six months' imprisonment and a fine of 50,000 to 500,000 dirhams or by only one of these two penalties:

(1) those who have infringed a registered mark or have fraudulently affixed a mark belonging to another;

(2) those who have used a mark without the authorization of the interested party, even with the addition of words such as "formula", "type", "system", "recipe", "imitation" or "kind", or any other similar indication likely to mislead the buyer;

(3) those who have held without legitimate grounds goods which they knew bore an infringing or fraudulently affixed mark and who knowingly sold, placed on sale, supplied or offered to supply goods or services under such a mark;

(4) those who have knowingly delivered a good or supplied a service other than the one requested of them under a registered mark.

226. The following shall be punishable by one to six months' imprisonment and a fine of 25,000 to 250,000 dirhams or by only one of these two penalties:

(1) those who, without infringing a registered mark, have made a fraudulent imitation thereof which is liable to deceive the buyer or who have used a fraudulently imitated mark;

(2) those who have used a registered mark bearing indications liable to deceive the buyer as to the nature, substantive qualities, composition or content in terms of useful components, the kind or origin of the article or good designated;

(3) those who have held without legitimate grounds goods which they knew bore a fraudulently imitated mark or those who knowingly sold, placed on sale or offered to supply goods or services under such a mark.

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

228. The court may also order the destruction of the known infringing articles, which are the property of the infringer, as well as that of the devices or means specifically intended for carrying out the infringement.

229. The penalties provided for under Articles 225 to 228 above shall apply in respect of collective marks and collective certification marks.

Chapter VI Trade names

230. Any usurpation or fraudulent use of a trade name, whether or not it forms part of a factory mark, trademark or service mark, shall be punishable by the penalties provided for in Article 225 above.

Chapter VII Indications of source and appellations of origin

231. The unlawful acts referred to in Article 182 above shall be punishable by the penalties provided for in Article 226 above, without prejudice to the penalties provided for by special laws.

Chapter VIII Industrial awards

232. The following shall be punishable by two to six months' imprisonment and a fine of 50,000 to 500,000 dirhams, or by only one of these two penalties:

(1) those who, without entitlement and fraudulently, have claimed the industrial awards covered by Article 189 above, or have claimed imaginary industrial awards, via affixing to their products, brand names, advertisements, brochures, letters, commercial documents or packaging or in any other manner;

(2) those who, in the same conditions, have applied them to articles other than those for which they were obtained;

(3) those who used awards other than those provided for in Article 189 above industrially or commercially.

233. Beneficiaries of an industrial award who have used it industrially or commercially without complying with the provisions of Articles 189, 190 and 198 above, shall be punishable by a fine of 25,000 to 250,000 dirhams.

TITLE IX
TRANSITIONAL PROVISIONS

234. This Law shall enter into force six months after publication of the texts adopted for its application and shall repeal all previous provisions relating to the same subject, in particular the Dahir of 21 chaabane 1334 (June 23, 1916) on the Protection of Industrial Property, the Law of 9 chaabane 1357 (October 4, 1938) on the Protection of Industrial Property in the zone of Tangiers, and the Dahir of 10 rajeb 1359 (August 14, 1940) on the Grant of Invention Patents of Interest to National Defense, as amended and supplemented.

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

236. Applications for invention patents and certificates of addition deriving from the said patents filed before the date of the entry into force of this Law, in accordance with the provisions of the foregoing Dahir of 21 chaabane 1334 (June 23, 1916) and the Law of 9 chaabane 1357 (October 4, 1938) shall be examined and the corresponding titles shall be granted in accordance with the provisions and formalities provided for by said Dahir and said Law.

Applications to register utility models filed before the date of the entry into force of this Law in accordance with the provisions of the foregoing Law of 9 chaabane 1357 (October 4, 1938) shall be examined and the corresponding titles shall be granted in accordance with the provisions and formalities provided for by said Law.

The said applications shall come into force as from the date of their filing.

237. The invention patents and certificates of addition deriving from the said patents, granted in accordance with the provisions of the foregoing Dahir of 21 chaabane 1334 (June 23, 1916) and the Law of 9 chaabane 1357 (October 4, 1938), as well as the utility models, industrial designs and factory marks or trademarks, filed and registered in accordance with the provisions of said Dahir and said Law, shall come into force throughout the territory of the Kingdom, as from the date of the entry into force of this Law.

238. Marks protected by priority of use in accordance with the provisions of the foregoing Dahir of 21 chaabane 1334 (June 23, 1916) and the provisions of the foregoing Law of 9 chaabane 1357 (October 4, 1938), without having been filed and registered under the provisions of the said Dahir and the said Law, shall be maintained in force provided that they give rise, within six months as from the date of entry into force of this Law, to filing of an application for registration, which is effected in accordance with the provisions of this Law.

239. The extension of the rights deriving from industrial property titles throughout the territory of the Kingdom shall benefit license owners, unless contractually stipulated otherwise.

Failing an agreement between the owners of said titles and the licensees, any legal dispute shall be submitted to the court.
