

Official Journal No. 5400 of 1 Safar 1427 (March 2, 2006)  
Dahir No. 1-05-190 of 15 Moharrem 1427 (February 14, 2006) on the enactment of  
Law No. 31-05 amending and supplementing Law No. 17-97  
on the Protection of Industrial Property

(English version\*)

PRAISE BE TO GOD ALONE!

*(Seal of His Majesty Mohammed VI)*

May it be known by the present – may God raise and strengthen its content!

That our Sherifian Majesty,

Considering the Constitution, particularly Articles 26 and 58,

Has decided the following:

Law No. 31-05 amending and supplementing Law No. 17-97 on the Protection of Industrial Property, as adopted by the House of Counselors and the House of Representatives, is enacted and shall be published in the Official Journal following this dahir.

Done at Ifrane, 15 Moharrem 1427 (February 14, 2006).

Countersigned by:

The Prime Minister,

Driss Jettou

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Law No. 31-05 amending and supplementing Law No. 17-97 on the Protection of  
Industrial Property

**Article 1:** Articles 1, 26, 27, 28, 34, 44, 133, 137, 144, 148, 154, 155, 157, 180, 182, 204, 222, 224 and 225, Chapter II and Section II of Title V, as well as Title VI and Chapter II of the above-mentioned Law No. 17-97 on the Protection of Industrial Property, enacted by dahir No. 1-00-19 of 9 Kaada 1420 (February 15, 2000) are hereby amended or supplemented as follows:

*“Article 1 – For the purposes of this Law, the protection of industrial property has as its aims..... trade names, geographical indications or appellations of origin .....*”

*(What follows remains unaltered)*

“Article 26 – An invention ..... prior art.

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\* Courtesy translation provided by WIPO.

An invention shall be regarded as involving an inventive step if, to a person skilled in the art, it is not obvious from the prior art.

Prior art shall be held to comprise everything made available to the public by means of a written or oral description, by use, or in any other way, before the filing date of the patent application in Morocco or abroad, and for which priority has been validly claimed.”

“Article 27 - By way of derogation from the provisions of Article 26 above, the disclosure of the invention shall not be taken into consideration in the following cases:

- (1) If it takes place in the 12 months preceding the filing date of the patent application and was carried out, authorized or obtained by the owner of the patent application.
- (2) If it is the result of the publication, after the date of filing, of a previous patent application that is the direct or indirect result of an obvious abuse in relation to the applicant or his/her predecessor in title.
- (3) Due to the fact that the applicant or his/her predecessor in title had displayed the invention at official, or officially recognized, international exhibitions organized in one of the countries of the International Union for the Protection of Industrial Property.

However, in this last case, the display of the invention must be declared when the application is filed.”

“Article 28 – An invention is considered industrially applicable if it has a specific, substantial and credible utility.”

“Article 34 – The description of the invention shall include:

- (1) Indication of the technical domain to which the invention relates;

.....  
.....

- (6) Indication of the way ..... or the nature of the invention.

The description of the invention shall describe the invention in a sufficiently clear and complete way by disclosing enough information to enable a person skilled in the art, without excessive experimentation, to carry out the invention known to the inventor on the date of filing.

A claimed invention is sufficiently supported by the information disclosed if that information reasonably demonstrates to a person skilled in the art that the applicant was in possession of the invention claimed, on the date when the patent application was filed.”

“Article 44 – The application files ..... a time period of 18 months. This period of time shall begin from the filing date of these applications or the date of priority, in the case of claimed priority.

When the above-mentioned time period has expired ..... and documents referred to in Article 49 above.”

“Article 133 – For the purposes of this Law, the trademark ..... of a natural or legal person.

In particular, the following may represent such signs:

- (a) Denominations ..... figures and acronyms;
- (b) Figurative elements such as ..... or shades of colors;
- (c) Sound signs such as sounds and musical phrases;
- (d) Smell marks.”

“Article 137 – It is not possible to adopt as a trademark a sign that would violate pre-existing rights such as:

- (a) A trademark .....
- (b) .....
- (c) .....
- (d) a protected geographical indication or appellation of origin;
- (e) the rights protected.....;

*(What follows remains unaltered)*

**Chapter II - Right to the mark and the procedure of filing, opposition and recording of the mark**

**Section II – Procedure of filing, opposition and recording of the mark**

“Article 144 – Any person ..... by the applicant or his/her representative.

The application may be filed with the agency responsible for industrial property in electronic form and according to the conditions and formalities laid down by regulation. In this case, the date of filing shall be the date of receipt by that agency.

The trademark application file must include on the date of filing:

- (a) .....
- .....;
- .....;

*(What follows remains unaltered)*

“Article 148 – Any application for registration shall be rejected if it:

- (1) .....
- (2) .....
- (3) has been the subject of an opposition under Article 148.2 below and recognized as justified.

The refusal of any application to record a mark ..... in the national register of trademarks referred to in the first paragraph of Article 157 below.”

“Article 154 – The following are prohibited, except where authorized by the owner:

- (a) The reproduction, use or affixing of a trademark, ..... the use of a reproduced mark or a sign identical to this mark, for goods or services identical to those covered by the registration;
- (b) .....

*(What follows remains unaltered)*

“Article 155 – The following ..... in the mind of the public:

- (a) the reproduction, use or affixing of a trademark, as well as the use of a reproduced mark or a sign identical to this mark, for goods or services similar or relating to those covered by the registration;
- (b) .....

*(What follows remains unaltered)*

“Article 157 – With the exception of license contracts for trademark exploitation, all acts transmitting, altering or affecting ..... by the agency responsible for industrial property.

However, the acts provided for in the first paragraph above shall be binding before such entry on third parties who acquire rights after the date of the act with notice of the act at the time of acquisition.

Acts amending the ownership of a registered mark or the enjoyment of the rights stemming therefrom, such as assignment, the establishment or assignment of a pledge or the surrender thereof, .....

*(What follows remains unaltered)*

**Title IV: Trade name, geographical indications, appellations  
of origin and unfair competition**

**Chapter II: Geographical indications and appellations of origin and opposition**

“Article 180 - Geographical indication shall be understood as any indication identifying a product as originating in a territory, region or area in this territory, when its quality, reputation or other specific characteristic is, fundamentally, attributable to its geographical origin.

A geographical indication is made up of any sign or combination of signs in any form whatsoever, such as words, including geographical and personal names, letters, numerals, figurative elements and colors, including single colors.”

“Article 182 – The following is unlawful:

- (a) .....
- (b) The direct or indirect use of a false or fake geographical indication or appellation of origin, or the imitation of a geographical indication or appellation of origin, even if the origin....., such as:” .....

*(What follows remains unaltered)*

“Article 204 - ..... shall be competent ..... is domiciled abroad.

Actions ..... before the court.

By way of derogation from the provisions of the first paragraph above, the court competent to order the provisional measures provided for in Article 176.2 above shall be the one that covers the place of import of the merchandise that is the subject of the suspension application referred to in Article 176.1 above.”

“Article 222 – The owner of a registration application, the owner of a registered mark or the beneficiary ..... in infringement of his/her rights.”

*(What follows remains unaltered)*

“Article 224 – At the request of the injured party, and insofar as the measure proves necessary to ensure the prohibition to continue counterfeiting, the court shall be able to order the destruction of objects recognized as counterfeit, save in exceptional circumstances, that are the property of the counterfeiter on the date of entry into force of the prohibition and, where appropriate, the destruction of devices or means specifically intended to carry out the counterfeiting.

The owner of the right shall have the possibility of choosing between damages effectively sustained, plus any profit resulting from the prohibited activity that has not been taken into account in the calculation of those damages, or the pre-established damages of between five thousand (5,000) dirhams and twenty five thousand (25,000) dirhams, as the court deems equitable to repair the prejudice suffered.”

“Article 225 –

Only the following shall be .....

- (1) those ..... someone else;
- (2) those ..... the buyer;
- (3) those ..... such a mark;
- (4) those ..... registered;

- (5) those who have imported or exported products bearing a counterfeit or fraudulently affixed trademark.”

**Article 2:** The above-mentioned Law No. 17-97 on the Protection of Industrial Property shall be supplemented by the following articles: 14.1, 17.1, 17.2, 17.3, 17.4, 17.5, 17.6, 148.1, 148.2, 148.3, 148.4, 148.5, 182.1, 182.2, 182.3 and 227.1.

*“Article 14.1 – If the deadlines laid down in this Law for operations to file applications for industrial property titles have not been respected, an application for further treatment in relation to those operations may be filed by the applicant or his/her representative with the agency responsible for industrial property within a time period of two months from the date of expiry of the above-mentioned deadlines.*

Applications for further treatment as referred to in the paragraph above may, however, not have as their subject the failure to respect a deadline:

- for which an application for further treatment has already been filed;
- for the payment of prescribed fees for the renewal of a registration of an industrial design or trademark or for the payment of prescribed fees to ensure that the rights in a patent remain in force;
- relating to opposition proceedings, in accordance with the provisions of Articles 148.2 to 148.5 of this Law;
- for the supply of documents attesting to the right of priority referred to in Article 8 above.

An application for further treatment may also be filed by the applicant or his/her representative in the event of a refusal decision taken by the agency responsible for industrial property within a time period of two months from the date of that decision.

The application arrangements of the provisions of this Article shall be laid down by regulation.”

*“Article 17.1 – By way of derogation from the provisions of (a) of Article 17 above, the term of protection of the patent shall be extended in accordance with the provisions of the second paragraph below, if the patent is granted after a period of four years from the filing date of the patent application with the agency responsible for industrial property, subject to the provisions of Article 42 below.*

The term of extension of the patent shall be equal to the number of days that elapsed between the expiry date of the four-year period referred to in the first paragraph above and the actual date when the patent is granted.

Mention of the extension of the term of protection of the patent shall be recorded in the national patent register.”

*“Article 17.2 - By way of derogation from the provisions of (a) of Article 17 above, the term of protection of a patent for a pharmaceutical product, which as a medicine must be the subject of a marketing authorization, according to the relevant legislation and regulations in force, shall be extended upon the request of the patent holder or his/her representative, following payment of prescribed fees, for a term equal to the number of days that have elapsed between the expiry date of the term scheduled for the award of the marketing authorization and the actual date on which it is granted.*

The extension application referred to in the first paragraph above shall be filed by the patent holder or his/her representative with the agency responsible for industrial property, within three months from the date on which the product, as a medicine, became the subject of the above-mentioned marketing authorization.

The formalities for filing the extension application referred to in the first paragraph above shall be laid down by regulation.”

*“Article 17.3 – The extension of the term of protection referred to in the first paragraph of Article 17.2 above shall take effect upon the expiry of the legal term of protection of the patent, and may not exceed two and a half years.*

The extension of the term of protection of the patent shall be the subject of a certificate drawn up by the agency responsible for industrial property, handed to the applicant or his/her representative. Mention of the extension shall be recorded in the national patent register.

This certificate shall afford the same rights as those afforded by the patent and shall be subject to the same limitations and obligations.”

*“Article 17.4 – The certificate of extension of the term of the patent referred to in the second paragraph of Article 17.3 above shall only be issued if, on the date when the extension application referred to in the first paragraph of Article 17.2 above is filed,:*

- (a) the product, as a medicine, is protected by a valid patent;
- (b) the product, as a medicine, is the subject of a valid marketing authorization according to the relevant legislation and regulations in force;
- (c) the product has not already been the subject of an extension certificate; and that
- (d) the authorization mentioned in (b) is the first marketing authorization.

Within the limits of the protection afforded by the valid patent, the protection afforded by the certificate provided for in the second paragraph of Article 17.3 above shall extend to the single product covered by the marketing authorization.

The provisions of Article 50 below shall apply to the validity extension certificate for the patent.”

*“Article 17.5 - The certificate provided for in the second paragraph of Article 17.3 above shall have no effect:*

- (a) if it is relinquished by the holder;
- (b) if the holder has not paid the prescribed fees according to Article 82 below;
- (c) during the time when the product covered by that certificate is no longer authorized to be marketed following the temporary or permanent withdrawal of the marketing authorization.”

*“Article 17.6 – The certificate provided for in the second paragraph of Article 17.3 above shall be rendered null and void if:*

- (a) the holder has not paid the prescribed fees according to Article 82 below;
- (b) the patent to which it relates is cancelled or restricted so that the product for which it was granted is no longer protected by the patent claims.”

*“Article 148.1 – A duly filed application to register a trademark shall be published according to the arrangements laid down by regulation.”*

*“Article 148.2 – For a period of two months from the publication of the application to register a trademark, opposition to this application may be lodged with the agency responsible for industrial property, by the owner of a mark protected or filed prior to that application or having a previous date of priority, or by the owner of a previous well-known mark under the terms of Article 6bis of the Paris Convention for the Protection of Industrial Property, or by the holder of a protected geographical indication or appellation of origin, subject to payment by the opposing party of the prescribed fees.*

The beneficiary of an exclusive exploitation license shall also have the same right, unless contractually stipulated otherwise.

Mention of the opposition shall be recorded in the national trademark register.

The content of the opposition and the arrangements for its publication shall be laid down by regulation.”

*“Article 148.3 – Within a period of six months following the expiry of the two-month period provided for in Article 148.2 above, the opposition shall be ruled upon by means of a reasoned decision by the agency responsible for industrial property.*

However, this time period may be extended for a new period of six months by:

- (a) reasoned decision by the agency responsible for industrial property, communicated to the parties involved;
- (b) joint application filed by the parties;
- (c) reasoned request from one of the parties, accepted by that agency.



The opposition shall be lodged in accordance with the following procedure:

- (1) Opposition shall be communicated without delay to the owner of the registration application or his/her representative where appropriate, by registered letter with acknowledgement of receipt;
- (2) Any response or remark submitted to the agency responsible for industrial property by one of the parties shall be communicated without delay to the other party by registered letter with acknowledgement of receipt;
- (3) That agency shall draw up a draft decision in the light of the opposition and any remarks in response. The draft shall be communicated by that agency, by registered letter with acknowledgement of receipt, to the parties so that they may potentially challenge its merits. If the draft is not challenged within 15 days of the receipt of notification, it shall constitute a decision;
- (4) The opposition shall be ruled upon in the light of the most recent remarks;
- (5) If the opposing party has withdrawn his/her opposition or if the opposition ceases to be relevant following a common agreement among the parties, the opposition proceedings shall be closed.

The initial time period of six months referred to in the first paragraph above shall be suspended:

- (a) if the opposition is based on a trademark registration application;
- (b) in the event of actions for nullity, forfeiture or claims of ownership;
- (c) upon joint application filed by the parties to the agency responsible for industrial property, although the suspension period must not exceed six months from the date when that application was filed.

The arrangements for filing an extension or suspension application provided for above shall be laid down by regulation.”

*“Article 148.4 – Mention of the decisions of the agency responsible for industrial property referred to in Article 148.3 shall be recorded in the national trademark register and shall be published in accordance with the arrangements laid down by regulation.”*

*“Article 148.5 – Appeals against the decision by the agency responsible for industrial property referred to in the first paragraph of Article 148.3 above shall be dealt with by the Commercial Court of Appeal of Casablanca.”*

*“Article 182.1 – Applications for the protection of geographical indications and appellations of origin shall be recorded in a register known as the “national register of geographical indications and appellations of origin”, held by the agency responsible for industrial property in accordance with the arrangements laid down by regulation.”*

*“Article 182.2 – The applications referred to in Article 182.1 above shall be published in accordance with the arrangements laid down by regulation.*

For a period of two months from the date of this publication, opposition to the applications referred to in Article 182.1 above may be lodged by the owner of a protected mark or the holder of a protected geographical indication or appellation of origin, subject to payment by the opposing party of the prescribed fees.

Opposition shall be lodged by means of a statement filed with the agency responsible for industrial property.

This agency shall gather the oppositions and forward them to the competent government authority, which shall then raise them in accordance with the legislation in force, and shall also inform the applicant or his/her representative, where appropriate, by registered letter with acknowledgement of receipt and invite him/her to submit a response within two months from the date of receipt of that letter.

The agency responsible for industrial property shall forward without delay the response from the applicant submitted within the period referred to in the previous article to the competent government authority and shall inform accordingly the opposing party, who shall have 15 days in which to submit any remarks.

The competent government authority shall rule on the opposition, in accordance with the legislation in force, by means of a reasoned decision. This decision shall be communicated by that authority to the agency responsible for industrial property, as well as to the applicant and the opposing party or their representatives by registered letter with acknowledgement of receipt.

However, opposition proceedings shall be closed where:

1. the opposing party has lost the capacity to act;
2. the opposition is no longer relevant following a joint agreement between the holder of the protection application and the opposing party who shall send a certified copy to the agency in charge of industrial property by registered letter with acknowledgement of receipt;
3. the application for protection that was the subject of the opposition is withdrawn. In this case, the competent government authority shall keep that agency informed of the withdrawal of the application.

Mention of the decision of the government authority ruling on the opposition shall be recorded in the national register of geographical indications and shall be published according to the arrangements laid down by regulation.

If no statement of opposition has been filed with the agency responsible for industrial property within the time period referred to in the second paragraph above, or if the opposition is rejected, that agency shall record the geographical indications or appellations of origin in the

national register of geographical indications and appellations of origin referred to in Article 182.1 above and shall publish them.”

“Article 182.3 – The agency responsible for industrial property shall publish an official catalogue of all geographical indications and appellations of origin.”

“Article 227.1 – Any infringement of the rights of an owner of a certificate of registration of a trademark or service mark as defined, respectively, in Articles 154 and 155 above, may be the subject of proceedings ordered by the Public Prosecutor’s Office of its own motion, without any complaint brought by a private party or right holder.

By way of derogation from the provisions of the second paragraph of Article 205 above, the correctional court shall rule in this case on the public action brought before it.”

**Article 3** - Title V of above-mentioned Law No. 17-97 on the protection of industrial property is supplemented by Chapter VII as follows:

#### **Chapter VII: Border measures**

“Article 176.1 - The Customs and Excise Authority may, upon application by the owner of a registered trademark or the beneficiary of an exclusive exploitation right, suspend the release for free circulation of merchandise suspected of being counterfeit that bears marks identical or similar to that mark and that are misleading.

The aforementioned application shall be supported by appropriate evidence that there is an infringement of protected rights and shall provide sufficient information that one could reasonably expect the owner of the rights to be aware of for the suspected counterfeit merchandise to be reasonably recognizable by the Customs and Excise Authority.

The applicant and the declarant or the holder of the merchandise shall be informed, without delay, by the Customs and Excise Authority, of the suspension measure taken.

The suspension application referred to in the first paragraph above shall be valid for a period of one year or for the remaining period of protection of the trademark if this is less than one year.”

“Article 176.2 - The suspension measure referred to in Article 176.1 above shall be lifted *ipso jure*, subject to the provisions of Article 206 below, where the requestor, within 10 working days following notification of the suspension measure, fails to prove to the Customs and Excise Authority that:

- provisional measures have been ordered by the President of the competent court;
- an action at law has been attempted and that the security set by the court has been provided, to cover his/her potential liability should the counterfeiting not be subsequently recognized.”

“Article 176.3 - For the purposes of bringing the legal action referred to in Article 176.2 above, the applicant may obtain from the Customs and Excise Authority information relating to the names and addresses of the importer, sender and recipient of the merchandise, or of their owner, and the quantity of merchandise, notwithstanding any provisions to the contrary.”

“Article 176.4 - If the Customs and Excise Authority establishes or suspects that imported, exported or transit merchandise are counterfeit, the Authority shall, of its own motion, suspend the release for free circulation of such merchandise. In this case, the Authority shall without delay inform the owner of the rights of the measure taken and shall communicate to him/her, upon written request, the information referred to in Article 176.3 above.

The declarant or holder of the merchandise shall also be informed of this measure without delay.

The above suspension measure shall be lifted *ipso jure*, subject to the provisions of Article 206 below, where the owner of the rights, within 10 working days following the date when the Authority communicated the information to him/her, fails to prove to the Customs and Excise Authority that the measures or actions have been undertaken subject to the conditions referred to in Article 176.2 above.”

“Article 176.5 - The merchandise for which the release for free circulation has been suspended in application of the provisions of this Chapter and that has been recognized, by a court judgment that has become final, as being counterfeit merchandise shall be destroyed, except in exceptional circumstances. It may in no way be authorized for export or be the subject of other customs procedures or systems, except in exceptional circumstances.”

“Article 176.6 - The measure suspending the release for free circulation implemented pursuant to the provisions of this Chapter shall not incur the liability of the Customs and Excise Authority.

Should the merchandise not be recognized as counterfeit, the importer may apply to the court for damages for any harm suffered, to be paid to him/her by the applicant.”

“Article 176.7 - The scope of application of the provisions of this Title shall not apply to merchandise of a non-commercial nature contained in the personal luggage of travelers, in small quantities, or sent in small consignments for personal and private use.”

“Article 176.8 – The arrangements for applying the provisions of this Chapter shall be laid down by regulation.”

