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MOROCCO



SECTION 1: COUNTRY OVERVIEW

1.1 GENERAL INFORMATION

Capital:	Rabat
Population:	36.9 Million
Currency of (official) fees:	Moroccan Dirham
Language for filing IP applications:	French
GDP per capita:	\$ 3,009.2 (World Bank, 2020)
Human Development Index:	0.686
Main exports:	Agricultural products, textiles, electronics, vehicles and chemicals.
Main imports:	Refined petroleum, agricultural products, machinery, chemicals and vehicles.

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1.2 INTERNATIONAL IP AGREEMENTS AND CONVENTIONS

Morocco is a contracting state to the following international legal instruments:

- Beijing Treaty on Audiovisual Performances;
- Berne Convention for the Protection of Literary and Artistic Works;
- Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite;
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure;
- Hague Agreement Concerning the International Registration of Industrial Designs;
- Lisbon Agreement for the Protection of Appellations of Origin and their International Registration;
- Madrid Agreement Concerning the International Registration of Marks;
- Marrakesh VIP Treaty;
- Nairobi Treaty on the Protection of the Olympic Symbol;
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks;
- Paris Convention for the Protection of Industrial Property;
- Patent Cooperation Treaty;

- Trademark Law Treaty;
- International Convention for the Protection of New Varieties of Plants;
- Convention Establishing the World Intellectual Property Organization (WIPO);
- WIPO Copyright Treaty;
- WIPO Performances and Phonograms Treaty.

SECTION 2: OVERVIEW OF IPRs IN MOROCCO

The protection of intellectual property is important and the legal framework (Law No. 17-97 and Law 2-00) ensures protection of intellectual property rights so that SMEs can take advantage of their intangible assets and technological innovations. More information is available at: <https://www.revuechercheur.com/index.php/home/article/view/145>.

The Moroccan Industrial and Commercial Property Office (OMPIC) provides pre-diagnosis support to SMEs in the field of industrial property (IP) by meeting with companies to understand their needs and preparing a follow-up report with proposals/strategies adapted to their needs and development prospects.

More information on the service offered by OMPIC is available here: <http://www.ompic.ma/en>

SECTION 3: IP PROTECTION AVAILABLE IN MOROCCO

Morocco has a relatively comprehensive regulatory and legislative system for the protection of intellectual property.

The rules in place in Morocco are set out in Law No. 17-97 on the protection of industrial property, as amended and supplemented by Law No. 23-13, in force since 18 December 2014.

3.1 TRADE MARKS

What is the legal framework?

Morocco is a member of the Paris Convention for the Protection of Industrial Property. The International Classification of Goods and Services for the Purposes of the Registration of Marks under the Nice Agreement (11th edition) is followed in Morocco.

More information on the legal framework for trade marks is available here: <https://www.directinfo.ma/>

What qualifies for registration?

Trade marks that can be graphically represented and signs that can distinguish the goods or services of any natural or legal person.

The following, in particular, may be registered:

- a) denominations in all forms such as words, a combination of words, surnames and geographical names, pseudonyms, letters, numerals, abbreviations;
- b) figurative signs such as: devices, labels, seals, selvedges, reliefs, holograms, logos, synthesised images; shapes, particularly those of a product or its packaging or those that identify a service; arrangements, combinations or shades of colour;
- c) audible signs such as sounds and musical phrases;
- d) olfactory marks.

What are the registration procedures?

In Morocco, trade mark registration is mandatory to be granted rights over a trade mark, as it is a 'first to file' jurisdiction. Only in some exceptional cases can an unregistered trade mark be protected. The trade mark applications must be filed with the OMPIC.

The trade mark application must be submitted before the 'Moroccan Office for Industrial and Commercial Property' in Casablanca by a local agent. Once a trade mark is registered, no amendments would be allowed. The publication term is two months, where an opposition can be filed within the publication term at the local trade mark office.

You can also file your trade mark on the Internet using the Direct Info trade marks service. Subscribe to the online service.

More information on the procedure can be found here: www.directinfo.ma

How long does registration take?

The average time frame for filing a trade mark up to registration varies on several factors, but on average it is between 6-8 months, assuming that there are no unusual delays and no oppositions.

How long does protection last?

A trade mark registration according to the law is valid for 10 years from the filing date and renewable for periods of 10 years. The new trade mark law provides a six month grace period for the late renewal of a trade mark. If a trade mark registration is not renewed within the grace period as of the date of expiration, it will be cancelled automatically. Trade marks in Morocco are examined on absolute grounds.

Use of marks in Morocco is not compulsory for filing applications. However, if the registered mark does not meet the requirements with regards to usage, it is vulnerable to cancellation and can be cancelled by any interested party who can establish that the trade mark was not actually used during a period of 5 years which is usually calculated from the filing date.

Which languages can be used?

The official language used in Morocco for filing and submitting a trade mark related transaction is French.

What are the registration requirements?

A trade mark application must contain the following:

1. the full name, nationality and physical address of the applicant;
2. a list of the goods/services, based on the Nice Classification, for which the trade mark will be used;
3. A certified copy of the priority document, if convention priority is to be claimed; this must be submitted within 3 months of filing;
4. A signed power of attorney if the applicant is being represented.

How much does it cost?

Administrative fees to apply for a trade mark are about 1000 USD per mark, per class. The average market price of professional support for trade mark filing is about 1000 USD per mark, per class. More information is available through this link: <http://www.ompic.ma/fr>

3.2 PATENTS

What is the legal framework?

Morocco is party to the Patent Cooperation Treaty (PCT) since 8 October 1999. The Patents applications must be filed with the Moroccan Office of Industrial and Commercial Property (OMPIC).

Information on the legal framework concerning Patents is available here: <https://www.directinfo.ma>

What qualifies as a patent?

A patent is an exclusive right conferred by the State for a limited period on a new invention.

A patent is an industrial property right for the functional and technical aspects of an invention.

What are the registration procedures?

Patent applications are examined as to formal requirements and to substantive requirements based on an assessment of the invention against the criteria of novelty, inventive step and industrial applicability. A patent examiner reviews the application and conducts a preliminary patent search to decide whether the application meets the requirements of patentability. OMPIC will prepare a preliminary search report with an opinion on the basis of the claims, descriptions and drawings, if applicable. The preliminary search report once prepared shall be notified to the applicant or his agent. Afterwards, a final search report will be issued.

What are the registration requirements?

A patent application must contain the following:

1. the full name and address of the applicant including nationality, domicile and the address of the place of business;
2. a signed power of attorney;
3. certificate of incorporation or an extract from the Commercial Register duly certified if the applicant is a legal entity;
4. the duly completed form B1, a description of the invention;
5. an abstract (summary) of the invention;
6. one or more claims, any drawings mentioned in the description;
7. formal drawings.

How long does registration take?

A patent application will be published after a period of 18 months from the filing date or of the eldest priority date, if it is not rejected or withdrawn.

If a patent application is accepted, the applicant will be notified to pay an amount to obtain the patent letter and pay the due annuity fees.

In other words, annuities for any pending patent applications are now payable after grant only and upon acceptance, whether filed before or after the law change on 18 December 2014.

How long does protection last?

The validity of a patent is 20 years, and according to the PCT Applicant's Guide on WIPO's website, 'Law Art. No. 82 MA.12 ANNUAL FEES. Renewal fees for a patent application must be paid to the Office for the years following that in which the patent has been granted. The owner of a patent who has not paid the renewal fees within the prescribed time limit may incur the loss of his rights. However, the fees may validly be paid within a further six-month period as of the date of expiry of the time limit; in this case, a surcharge is added for each month of delay in payment (see Annex MA.I). If the renewal fees have not been paid by the end of the additional six-month period, the owner of a patent loses his rights, and a written and substantiated decision of the Office as to the loss of rights is communicated to the owner of the patent or the agent.'

Who can register a patent?

The applicant is normally the inventor, potentially jointly with others, for example, when a part of the invention was sold or when several inventors have a common interest in the patent.

Which languages can be used?

French or Arabic.

How much does it cost?

Administrative fees to apply for a Patent are about 1000 USD per class. The average market price of professional support for Patent filing is about 1000 USD per class.

More information about Patent registration in Morocco is available here: <http://www.ompic.ma/fr>

3.3 INDUSTRIAL DESIGNS

What is the legal framework?

Industrial Design applications must be filed with the Moroccan Office of Industrial and Commercial Property (OMPIC).

More information on the legal framework for Industrial Designs is available here: <https://www.directinfo.ma/>

What are Industrial Designs?

An industrial design or model constitutes the ornamental or aesthetic aspect of an object. It can be three-dimensional (it is then the form or the surface of the object) or two-dimensional (a collection of lines or colours).

An industrial design or model refers to the visual aspect of a product, unlike a patent which refers to the technical or functional aspects. An industrial design or model constitutes the ornamental or aesthetic aspect of your product and its packaging.

The design is a two-dimensional element; it describes a collection of lines or colours characterising the aesthetics of your product.

The model is a three-dimensional element; it describes any plastic form with or without lines or colours.

What are the registration procedures?

You must complete the application provided by the Moroccan Office of Industrial and Commercial Property (OMPIC), which must include your name, your contact information as well as your designs or photos of the design or model in question.

You can attach a brief description of the design or model. In general, the description includes the design or model and not the product. It must be precise and must distinguish the designs and previous similar models. It should enumerate all the distinctive aesthetic features of the design or model and describe the most important.

You can use the services of an intellectual property agent to help you file the application and take you through the registration procedure. In this case, you should also file a signed power of attorney in the name of the representative.

OMPIC does not register the design or model before having formally verified that the administrative formalities have been completed.

Once a design or model has been registered, it is registered as an industrial design and model.

A statement constant deposition and stating the date of such deposit attachments shall be prepared by the Office as well as the certificate of registration of industrial design. Then the

Moroccan Office for Industrial and Commercial Property publishes industrial design in an official catalogue of industrial designs.

More information on the deposit is available here: <http://www.ompic.ma/en/content/deposit-dmi-morocco>

How long does registration take?

The registration procedure of an industrial design or model usually takes between one day and three months depending on whether the filing application of industrial design or model is complete or not. OMPIC

An application for a design or industrial model may be refused, if a model or design is against public order, or if all original documents are not submitted to the Patent Office within 3 months as of the filing date, or if the model or design reproduces effigies of his Majesty the King or any member of the Royal Family.

How long does protection last?

Industrial designs are protected for 5 years. This term can be extended for 4 consecutive periods of five years (total 25 years). Renewal and payment of fees must be done within 6 months before the expiry date. However, a grace period of 6 months may be granted for late payment with a penalty.

Who can register?

The registration can be carried out personally, or through a duly authorised legal representative.

Which languages can be used?

French or Arabic

What are registration requirements?

1. Name and address of the applicant including nationality, domicile and the address of the place of business.
2. Signed power of attorney.
3. Certificate of incorporation or an extract from the Commercial Register duly certified if the applicant is a legal entity.
4. A representation of the model or design showing all views.
5. A certified copy of the home registration, if priority is to be claimed.

How much does it cost?

Administrative fees to apply for Industrial Designs are about 1000 USD per class. The average market price of professional support for filing Industrial Designs is about 1000 USD per class.

More information about Industrial Designs registration in Morocco is available here: <http://www.ompic.ma/fr>

3.4 COPYRIGHTS

What is the legal framework?

Protection of Copyright and Related Rights is regulated by Law No. 34-05 on Copyright and Related Rights Act which amends and supplements Law 02-00, which entered into force in March 2006.

This new law is in conformity with international conventions ratified by Morocco.

What are Copyrights?

Morocco is a member of The Berne Convention for Copyright.

Any original work in the categories listed below qualifies for protection:

- a) literary works
- b) musical works
- c) artistic works

What are the registration procedures?

Copyright applications must be filed with the Moroccan Ministry of Youth, Culture and Communication: <https://www.mincom.gov.ma/droit-dauteur/>

What are the registration requirements?

1. Name and address of the applicant including nationality, domicile and the address of the place of business.
2. Signed power of attorney.
3. Certificate of incorporation or an extract from the Commercial Register duly certified if the applicant is a legal entity.
4. A brief description of the copyright.
5. 3 copies of the work.

How long does registration take?

The filing number is allotted immediately for written items such as books. For audiovisual items, it takes 2 months from the filing date.

How long does protection last?

70 years from the end of the year in which the copyright was registered.

Who can register?

The registration can be carried out personally, or through a duly authorised legal representative.

Which languages can be used?

French or Arabic

How much does it cost?

Administrative fees to apply for Copyright are about 100 USD per class. The average market price of professional support for Copyright filing is about 300 USD per class.

More information about COPYRIGHTS registration in Morocco is available here:
<https://www.mincom.gov.ma/droit-dauteur/>

3.5 PLANT BREEDER'S RIGHTS:

What is the Moroccan legal frame for Plant Variety rights?

Morocco has a dedicated Law for the protection of Plant Breeders Rights (PBRs) namely the Law on the Protection of New Plant Varieties (January 1997) as modified in 2006.

On September 8, 2006 Morocco became member of the International Union for the Protection of New Varieties of Plants (UPOV) under the 1991 Act.

More information on the Law on the Protection of New Plant Varieties is available here:
In English: <https://upovlex.upov.int/en/legislation/text/224303>

In French: www.onssa.gov.ma/images/reglementation/reglementation-sectorielle/vegetaux-et-produits-dorigine-vegetaux/semences-et-plants/protection_des_obtentions_vegetales/LOI.9-94.FR.pdf

What are Plant Variety Rights in Morocco?

The definition of plant variety can be found at Art. 2 of the national Law and resembles the definition in the UPOV 1991 Act. A 'variety' is defined as 'a plant grouping within a single botanical taxon of the lowest known rank'.

Only the varieties belonging to the genera and species included in the list drawn up by the Office can be protected under PBRs.

Plant varieties, in order to be protected, need to be:

- new;
- distinct;
- uniform;
- stable; and

- designated by a denomination which will be its generic designation;

More information on the list drawn up by the office is available here: www.onssa.gov.ma/images/liste-des-varietes-protegees-au-maroc-janvier-2019-dcsp.pdf

Scope of protection

According to Plant Variety Rights legislation in Morocco, the following acts in respect of the propagating material of the protected variety require the authorization of the breeder:

- production or reproduction (multiplication);
- conditioning for the purpose of propagation;
- offering for sale;
- selling or other marketing;
- exporting;
- importing;
- stocking for any of the purposes mentioned above.

The scope of protection includes harvested material and the legislation contains a provision on Essentially Derived Varieties.

Exceptions to breeders' rights

- acts done privately and for non-commercial purposes;
- acts done for experimental purposes;
- acts done for the purpose of breeding other varieties.

What are registration procedures?

The Plant variety protection applications must be filed with the ONSSA (Office National de Sécurité sanitaire des Produits Alimentaires - National Food Safety Office).

Applications for the granting of plant variety certificates must be submitted to the VHS/Protection-Approval Section of the 'Division de Contrôle des Semences et Plantes' of the central ONSSA.

The applicants may be natural and legal persons resident / having a registered office in Morocco. Foreigners who are not resident/have a registered office in Morocco should appoint an agent resident in Morocco.

More information on the full procedure is available here (French): www.onssa.gov.ma/images/CP04-DPPAV-18-A-T.pdf

Short procedure can be found at the following link (French): http://www.onssa.gov.ma/images/controle_semences/procedure-depot-demande-protection.pdf

Application through UPOV PRISMA is available only for the following crops: Melon, Blackberry, Blueberry, Raspberry, Strawberry.

More information on UPOV PRISMA can be found at the following link: <https://www.upov.int/upovprisma/en/index.html#accpvpOffice>

What are required information and documents for registration?

An application for registration must include the following requirements:

1. Forms A, B and C as per Annex 1 to the procedure referred to above and provided by the DCSP duly completed and signed by the applicant.
The procedure can be found at the following link: www.onssa.gov.ma/images/CP04-DPPAV-18-A-T.pdf
2. The power of attorney in case the applicant is not resident/domiciled in Morocco and nominated an agent;
3. The written authorization of the rightful owner(s) of a variety when the commercial production of the variety requires the repeated use of the variety;
4. Where applicable, a written claim of priority attached to a previous deposit which must mention the date, the references of the previous deposit, the denomination under which the variety was registered or, failing that, the provisional reference of the breeder, the country in which the deposit was made and the name of the holder of the right attached to the deposit.

The application must be filed before the Protection and Approval Section of the VHS during the administrative opening hours. Filing by post is not allowed.

What is the registration procedure Time Frame?

The processing time, from the registration of the application for protection to the issue of the certificate, can range from 2 to 8 years depending on the case:

- If the Distinctness, Uniformity and Stability (DUS) test of the variety has already been carried out (in the case of varieties already protected abroad or registered in the national catalogue), the time taken to issue the certificate is approximately 2 years;
- If the DUS test is conducted in Morocco, the duration for issuing the certificate is about 3 years for annual species and about 3 to 8 years for perennial species after the reception of the plant material;
- If the DUS test is conducted by an official foreign counterpart (in the case of varieties which have been the subject of an application for protection abroad), the duration for issuing the certificate depends on the transfer of the final DUS test report and may be from 3 to 8 years depending on the species.

Once the application for the protection of a plant variety is filed before the Moroccan office, it is published in the official bulletin and there are three months as of the publication date for any interested party to present written observations concerning an objection to the grant of the PBR over the candidate variety.

How LONG does legal protection last?

The term of protection may not be less than 20 years for agricultural crops and not less than 25 years for trees and vines. The term of protection begins with the issue of the certificate. Annual fees for the maintenance of the protection are due. Failure to pay fees for services or for maintaining the right can lead to the cancellation of the right.

WHO can register?

The breeder is entitled to file an application. The definition of breeder in the law is:

- the person who has bred, or discovered and developed, a variety;
- the person who is the employer of the aforementioned person or who has commissioned the latter's work, except where otherwise agreed by contract;
- the successor in title of the first or second aforementioned person, as the case may be.

A breeder's right may be applied for by:

- Moroccan natural and legal persons;
- Foreign natural and legal persons having their place of residence or their registered offices in Morocco;
- Nationals of States whose legislation affords to Moroccan nationals protection that is at least equivalent to that provided by Moroccan Law and natural and legal persons having their place of residence or registered offices on the territory of such States.

Which LANGUAGES can I use?

French

How much does it COST?

All the information about registration fees and renewal fees are available on the ONSSA website in this table: www.onssa.gov.ma/images/avis/DECISION-prestations-payantes-.pdf

SECTION 4: ENFORCING YOUR IP

Under Moroccan laws, an owner of an Intellectual Property Right (IPR) is entitled to prevent others from using and/or economically exploiting their right without their consent. There is a legal framework for the protection and enforcement of IP rights. IP legislation provides for four types of legal action:

- Protective measures: preventive measures are in place to prevent infringement and also to preserve relevant evidence related to an alleged infringement, so as to use it in a judicial proceeding to claim compensation for the damages caused by the infringement.
- Civil actions: Actions include confiscation of offending goods and payment of damages to the rights holder for any damage caused by the infringement.
- Criminal actions: Sanctions include substantial fines and the possibility of

imprisonment.

- Border measures: Customs officers have the authority, ex officio or at the request of right holders to prevent the customs clearance of certain IP-infringing goods.

The judicial process is not expeditious and decisions can be disappointing for applicants. Infringements are still widespread and affect several sectors. Enforcement measures are generally slow and ineffective, especially in the case of provisional court measures when they are urgent. Moreover, there is a lack of deterrent effect in sanctions and condemnations.

SECTION 5: USING CUSTOMS TO BLOCK COUNTERFEITS

The Department of Customs and Excise Taxes is one of the departments of the Ministry of Economy and Finance.

The Central Customs Administration is charged with the collection of customs and duties taxes. It has assumed new tasks and can block suspected counterfeit goods that are in-transit or being exported, helping the fight against money laundering and counterfeits.

Contact Morocco Customs Authority here: <https://www.douane.gov.ma/web/16/76#https://www.douane.gov.ma/contact/>

Who submits the claim?

Personally, or through a duly authorised legal representative.

Where to file a claim?

Area Customs Authority.

When to file a claim?

Before the arrival of the goods concerned to the customs office or within 3 days of the arrival of the goods in certain cases.

What is required to file a claim?

1. Name and address of the applicant including nationality, domicile and the address of the place of business.
2. IP registration certificate.

What happens after a claim is filed?

The customs department shall seize the goods if, after inspection, they find that they conform to what is included in the complaint, and when necessary, after reviewing the applicant.

The customs department may, on its own, suspend the customs procedures relating to goods suspected of being counterfeits.

Access the online portal of the Moroccan Customs Authority here: <https://www.douane.gov.ma/web/guest>

