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## SECTION 1: COUNTRY OVERVIEW

### 1.1 GENERAL INFORMATION

Capital:	Accra
Population:	30.42 million
Currency of government (official) fees:	Cedi (GHS)
Language for filing IP applications:	English
GDP per capita:	2,328.5 (est. in 2020)
Human Development Index:	0.45 (est. in 2020)
Main exports:	gold, cocoa beans, timber product, tuna, aluminium, manganese ore, diamonds and horticulture produce.
Main imports:	flexible metal tubing, scrap vessels, special purpose ships, cars and refined petroleum.
...	

### 1.2. INTERNATIONAL IP AGREEMENTS AND CONVENTIONS

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

- Berne Convention for the Protection of Literary and Artistic Works
- Hague Agreement
- Madrid Protocol on Marks
- Marrakesh VIP Treaty
- Nairobi Treaty
- Paris Convention
- Patent Cooperation Treaty
- Phonograms Convention
- Singapore Treaty

- Washington Treaty
- WIPO<sup>1</sup> Convention
- WIPO Copyright Treaty
- WIPO Performances and Phonograms Treaty
- WTO/TRIPS<sup>2</sup>

### 1.3 REGIONAL LEGAL INSTRUMENTS

Ghana is a contracting state to the following regional legal instruments:

- AfCFTA Agreement (Establishing the African Continental Free Trade Area);
- ARIPO Agreements: Lusaka Agreement and Harare Protocol on Patents and Industrial Designs

### 1.4. OVERVIEW OF REGIONAL AGREEMENTS

- AfCFTA Agreement

Ghana has signed and ratified the Agreement. The Agreement is available here: <https://au.int/en/treaties/agreement-establishing-african-continental-free-trade-area>. It contains a Protocol on Intellectual Property Rights (IPR) which aims at the effective protection and promotion of IPR in Africa and may, therefore, have legal implications for Ghana when it enters into force.

- ARIPO Agreements

Ghana is a signatory of the Lusaka Agreement on the Creation of the African Regional Intellectual Property Organization (ARIPO). It is also a Contracting Party to the Harare Protocol that is administered by ARIPO.

### 1.5. AVAILABLE IP PROTECTION

The following IP protection is available in Ghana:

- 1) trade marks: national, and international (Madrid)
- 2) patents: national and regional (ARIPO)
- 3) utility models: national and regional (ARIPO)
- 4) industrial designs: national and regional (ARIPO)

<sup>1</sup> WIPO: World Intellectual Property Organization.

<sup>2</sup> TRIPS Agreement: Agreement on Trade-Related Aspects of intellectual Property Rights the World Trade Organization (WTO).

- 5) plant breeders rights: national
- 6) geographical Indications: national
- 7) layout designs of integrated circuits: national
- 8) copyright and neighbourhood rights: national

#### 1.6 IP PROTECTION NOT AVAILABLE:

- 1) traditional knowledge and handicrafts.

#### 1.7 AVAILABLE IP PROTECTION ROUTES

IP protection in Ghana is available through three routes: national, regional and international.

#### 1.8. NATIONAL

IP protection in Ghana is administered by the Registrar General's Department of the Ministry of Justice. Information about the Registrar General's Department, IP protection procedures and requirements for protection is available [here](#).

#### 1.9 REGIONAL



- The ARIPO regional route can be used in Ghana for:

1) the grant of [patents](#) and registration of [utility models](#) and industrial designs under the Harare Protocol.

#### Patents, utility models and industrial designs

Ghana is a signatory of the Harare Protocol under which ARIPO grants patents and registers utility models and industrial designs on behalf of those of its member states that are contracting parties to the Harare Protocol. More information about ARIPO's processes and applicable fees is available

here for [patents](#), [utility models](#) and [industrial designs](#).

A list of current ARIPO member states that have joined the Harare Protocol is available [here](#).

Compared to the trade mark system, the Harare Protocol system works well and is the most heavily utilised of ARIPO's IP registration protocols; the statistics can be seen in ARIPO's [Annual Reports](#). You can also obtain statistics and other related information about searches conducted through the ARIPO's [e-service platform](#) or from the [Regional IP database](#).

Information that you may need about the relevance of the ARIPO system to your IP protection strategy in Ghana

#### Patent filings

- ARIPO is a member of the Patent Cooperation Treaty (PCT); over 75 % of its applications are PCT-based.
- Ghana receives most of its patent applications through its designation under the ARIPO region in PCT applications. In 2019, Ghana's national IP office, the Registrar General's Department of the Ministry of Justice, received 20 patent applications compared to 625 ARIPO PCT-based applications and, in 2018, 26 patent applications compared to 595 ARIPO PCT-based. The pattern is similar for most ARIPO member states. See the ARIPO Annual Report 2019 available [here](#).

#### Substantive examination of patents and utility models

- ARIPO offers technical support to its member states, including Ghana, to carry out the substantive examination of patents and utility models.

#### Searches

- You can carry out free online simple and advanced searches for trade marks, patents, utility models and industrial designs from the [ARIPO's e-service platform](#), even if you are not registered for e-services.
- Go to the ARIPO homepage then to the e-service platform then select the IP Digital Library. From the ARIPO homepage select Regional IP Database and then choose IP title. You then click on the can only choose from patents, trade marks and designs against the country you want to search. This will then take you to the landing page for the searches.
- You can also access the Regional IP Database through this [link](#).

## 1.10 INTERNATIONAL



- The WIPO international route can be used for Ghana for three IP rights:

- 1) the registration of trade marks under the Madrid System;
- 2) the registration of industrial designs under the Hague Agreement;
- 3) the filing and processing of patents in accordance with the Patent Corporation Treaty (PCT).

### Trade marks: Madrid System

- Ghana is a signatory of the Madrid Protocol, which means it can be designated for the purpose of registering trade marks under the Madrid trade mark system.
- The Madrid system makes it possible for a brand owner to designate a country in an international application to secure trade mark protection in that country. Brand owners can also extend their trade mark protection to other countries that are members of the Madrid Protocol.
- A brand owner can file one application and pay a single fees to obtain the registration of a trade mark in many other countries that are members of the Madrid System. Information about the Madrid trade mark system is available through these links: [General information](#) and [How to file](#).

### Industrial Designs: Hague Agreement

- Ghana is a signatory of the Hague Agreement Concerning the International Registration of Industrial Designs, which means it can be designated for the purpose of registering an industrial design under the Hague System. More information about the Hague System is available [here](#) and a list of Contracting Parties can be downloaded [here](#).
- The Hague System allows applicants to register an industrial design by filing a single application with the International Bureau of WIPO, enabling design owners to protect their designs with minimum formalities in multiple countries or regions. The Hague Agreement also simplifies the management of an industrial design registration, since it is possible to record subsequent changes and to renew the international registration through a single procedural step.
- International design applications may be filed directly with the International Bureau of WIPO or through the IP office of the Contracting Party of origin if the law of that Contracting Party so permits or requires. In practice, however, virtually all international applications are filed online directly with the International Bureau of WIPO.

The Hague Agreement is integrated into Ghana's national legal framework for the protection of industrial designs. As a result, an international design registration which designates Ghana enjoys the same force of law as a nationally registered industrial design.

### Patents: PCT

- The PCT makes it possible to seek patent protection for an invention simultaneously in many countries by filing a single international patent application instead of several separate national or regional patent applications. More information about the PCT is available through this [link](#).
- Ghana is a contracting party to the PCT and is also a member state of ARIPO which, as a region, is also a contracting party to the PCT. As a result, Ghana can be designated in a PCT application as a country or under the designation of ARIPO as a regional block.

### 1.11 National/Regional/International: How do I choose a route?

- The choice will depend mainly on the nature of the IP right(s) involved. Professional advice may be necessary to establish the most suitable protection route for your IP right(s).

The questions below may provide a general guide.

### 1.12 When would I use the national route?

- When the national route is the only available route for the protection of the IP right in question. Some IP rights– geographical indications, for example – can only be protected under national law because protection is not available under regional and international systems.
- When IP protection is required in one country only it may not be necessary to use regional or international routes.
- When used in response to specific national law provisions. ARIPO confers IP protection as a 'bundle of rights' which an IP holder must enforce in each designated state, based on the laws of that state. Some IP rights – pharmaceutical patents, for example – are not readily accepted in all ARIPO member states. In this case, a patent holder may choose the national route in the state where the right is likely to be contested to avoid a conversion from a regional into a national application, and then use the regional route for the other potentially unproblematic states.
- When the national route provides special advantages. Examples include:
- preferential substantive examination time frame: it takes an average of 18 months for a patent filed through a national IP office to complete substantive examination compared to an average of 36 months if a patent application is filed directly with ARIPO.
- exemption from substantive examination fees and surcharges: patent applications submitted through a national IP office are currently exempt from the substantive examination fees and surcharges for excess claims and pages that are payable in all other applications. However, this is being reviewed by ARIPO and is likely to change.

### 1.13 When would I use the regional (ARIPO) route?

This route is currently available for trade marks, patents, utility models and industrial designs only.

It is advisable to use the ARIPO regional route when:

- IP protection is required in multiple ARIPO states. In this case, a single application for the registration of an IP right using the regional system may be more efficient and cost-effective than applying for registration in two or more countries.
- the regional route offers more technical capacity. For example, ARIPO has more capacity to substantively examine patents, especially those with a complicated subject matter.

### 1.14 When would I use the international route?

You can use this route if you want IP protection that covers Ghana for international trade marks under the Madrid System, international industrial designs under the Hague Agreement and patent filings under the PCT.

#### Trade Marks and Industrial Designs

In general, it is advisable to use the international route when:

- you want a wider coverage of IP protection than that available under the national and regional routes. The international route can be used to secure and extend protection to multiple countries and continents. Ghana's national and regional IP protection routes are limited to Ghana and to the ARIPO region only and not all ARIPO member states can be designated in trade mark and industrial design applications. Therefore, use of the Madrid and Hague systems will give more coverage for the protection of your trade marks and designs.

#### Patents

- In addition to the reasons listed above, you may choose the PCT route because it offers a streamlined multi-country patent filing service that is not available under national and regional patent routes. More information about the PCT's services is available [here](#).

## SECTION 2: OVERVIEW OF NATIONAL IP ENFORCEMENT

Ghana is a signatory of the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). See: [Read about TRIPS](#). Ghana's laws are substantially TRIPS compliant in terms of providing a legal framework for the protection and enforcement of IP rights.

The Registrar General's Department Ministry of Justice Intellectual Property Office, Ghana is mandated by the Trade mark Act to enforce compliance and bring IP infringers to justice. The national IP office engages constantly with other stakeholders who have a role to play in

combating IP infringements. These include Interpol, border officials, customs officials, the legal profession, the Department of Trade and Consumer Affairs, retailers and the general public.

Despite the national IP office and State efforts to curb IP infringement, rights holders must play a significant role in policing the use of their IP in Mozambique. They must constantly check that the industrial and commercial markets in which they sell their goods or services take appropriate action against the infringement of their IP rights by competitors, retailers or street vendors. The Law entitles rights holders to take civil action against infringers to recover their lost revenue and/or to have the infringing products destroyed.

## SECTION 3: AVAILABLE IP PROTECTION

### 3.1 TRADE MARKS

#### WHAT YOU SHOULD KNOW ABOUT GHANA TRADE MARKS

- Foreigners need to appoint a local agent.
- Multi-class filing system.
- Member state of Madrid Protocol.
- First to file' jurisdiction – pre-filing rights clearance searches are advisable.
- Nice Classification is used.
- Cancellation for non-use period is 5 years.
- Appointment and recordal of licensees at the IP office is advisable.
- Opposition period is 2 months.
- Registration fees are paid in 3 stages: trade mark search: USD 110, application fee: USD 200, and certification of trade mark: USD 200.

#### 3.1.1 Who can register a trade mark?

- A natural person, a company or any other entity can apply to register a trade mark.
- However, a person who does not have their place of business in Ghana needs a professional representative.

#### 3.1.2 Do I need a local representative?

- You must be represented by an agent if you are a foreign national (i.e. not a citizen of Ghana) or if you are applying on behalf of a company that has its principal place of business outside Ghana.
- Representation is optional for local applicants.
- You can find a local agent for Ghana [here](#).

### 3.1.3 What qualifies for registration?

A trade mark is any word, phrase, symbol, design, shape, group of letters or numbers, or combination of these, used by a company as its brand or logo. Consumers can rely on trade marks to help them distinguish between different goods in the marketplace and to help them identify brands they are loyal to. An organisation's logo and slogan, a T-shirt brand, a family symbol, the name of an event or festival are some of the things that can be registered as trade marks.

### 3.1.4 What cannot be registered?

What cannot be registered?

A trade mark cannot be registered if it:

- is incapable of distinguishing the goods or services applied for;
- contains false indications, is deceptive or is likely to deceive or mislead the public or cause confusion;
- is contrary to law, public order or morality;
- is likely to cause confusion with an earlier registered trade mark or pending application;
- constitutes a name or likeness of individuals without the authorisation of such individuals;
- contains a representation of the head of state of any foreign state, or any colourable imitation thereof;
- contains a likeness to a specific armorial bearing, flag emblem;
- contains a title or abbreviation of any international intergovernmental organisation;
- consists of or contains the Olympic symbol;
- may serve in trade to designate the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service, or other characteristics of the goods or service;
- consists of a mark, sign or indication which has become customary in the current language or in the bona fide and established practices of the trade in respect of the goods or services for which registration is sought;
- consists of a sign that consists exclusively of:
  - (i) the shape which results from the nature of the goods themselves,
  - (ii) the shape of goods which is necessary to obtain a technical result, or
  - (iii) the shape which gives substantial inherent value to the goods.

### 3.1.5 Where can I file an application?

National Registrar General's Department Ministry of Justice Intellectual Property Office Ghana.

International (Madrid) applications can be filed directly at [WIPO](http://www.wipo.int) through the [WIPO IP Portal](http://www.wipo.int) or through the Ghana IP office, the Registrar General's Department of the Ministry of Justice.

### 3.1.7 How do I register?

The national office registration process involves five stages: preliminary search, application, review/examination by the trade marks office, publication and registration. More information is available at: <http://rgd.gov.gh/Industrial%20Property.html>.

### 3.1.8 How much does it cost?

Government/official fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (cedil). Application forms and information on fees are available through this link: Registrar [General's Department \(rgd.gov.gh\)](http://rgd.gov.gh)

### 3.1.9 How long does registration take?

The trade mark registration process takes 18-30 months from the filing date to complete, assuming that there are no unusual delays and no oppositions. This includes an opposition period of 2 months.

### 3.1.10 What is the duration of protection?

- 10 years from the filing date, renewable.

### 3.1.11 When are renewal fees paid?

- Current renewal fees are available from the Ghana [national IP office](#) or from a [local agent](#).

### 3.1.12 Links to legislation

Trade marks Act:

<https://wipolex.wipo.int/en/legislation/details/17315>

or

<https://wipolex.wipo.int/en/legislation/details/9180>

Trade marks Regulations:

<https://wipolex.wipo.int/en/legislation/details/14348>

## 3.2 PATENTS

### WHAT YOU NEED TO KNOW ABOUT PATENTS IN GHANA

- The national IP office carries out a formal examination of applications and, subsequently, ARIPO carries out a substantive examination as part of its technical assistance to ARIPO member states under the objectives of the Lusaka Agreement. More information about the Lusaka Agreement objectives is available [here](#).
- Currently, the applicant does not pay any substantive examination fees or surcharges for surplus claims and pages.
- ARIPO examines patent applications submitted by its member states on a preferential basis. Substantive examination is completed on average within 18 months from the receipt date of the application compared to 36 months for other applications.
- Unlike applicants that file directly with ARIPO, the applicant cannot apply for expedited or delayed examination. However, in justified circumstances, the Registrar General's Department of the Ministry of Justice can request ARIPO to expedite or delay the examination.

#### 3.2.1. Who can register a patent?

An inventor (or successor in title) or an assignee of an invention can apply to register a patent.

#### 3.2.2 Do I need a local representative?

- You must be represented by an agent if you are a foreign national (i.e., not a citizen of Ghana) or if you are applying on behalf of a company that has its principal place of business outside Ghana.
- Representation is optional for local applicants.
- You can find a local agent for Ghana [here](#).

#### 3.2.3 What qualifies for registration?

A registrable patent must meet the following requirements:

- novelty which must be absolute novelty in that the invention must be a new characteristic which is not known in the body of existing knowledge in its technical field. It must not be anticipated by prior art;
- inventive step which means that, having regard to prior art, the invention is not obvious to a person skilled in the art;
- susceptible of industrial applicability in that it can be used in any kind of industry, including agriculture; and
- patentable invention under national patent law. Unregistrable patents are those

relate to the treatment of humans or animals or to pharmaceutical inventions. These inventions are not patentable to avoid undue restrictions to access to medical care and medicines by people or animals in need.

#### 3.2.4 What cannot be registered?

The following inventions cannot be patented:

- a discovery of a plant, animal, microorganism or substance as found in nature, including the human body;
- a scientific theory or mathematical method;
- a literary, dramatic, musical or artistic work or other aesthetic creation;
- a scheme, rule or method for doing business, performing mental acts or playing a game;
- methods for the treatment of the human or animal body by surgery or therapy, including diagnostic methods practised in relation to them, except products for use in any such methods;
- an invention whose commercial exploitation is necessary to protect public order or morality, including the protection of human or animal health, plant life or to avoid prejudice to the environment;
- plants and animals other than microorganisms;
- essentially biological processes for the production of plants or animals.

#### 3.2.5 Where can I file an application?

- National applications must be filed with the National IP Office, Registrar General's Department Ministry of Justice.
- Regional applications can be filed at national office or, clearly indicating that they are regional applications, through ARIPO. Applications filed through ARIPO can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings. see: [Procedure for the filing and granting a patent or utility model at the ARIPO office](#).
- International applications filed through the PCT in which Ghana is designated are registered by Registrar General's Department Ministry of Justice.

Regional (ARIPO) patents

Information about ARIPO's patent application filing procedure is available [here](#).

### 3.2.7 How do I register?

- A Formality examination is carried out by the Patent Registry to ensure that all the formal requirements in respect of fees and information required are provided.
- A Search and Substantive examination is subsequently carried out for the invention claimed in the application.
- The application is Refused if it does not meet the patentability requirements of the Patent Act.
- The application is Granted if it meets the patentability requirements of the Patent Act.
- The application is published in the Industrial and Commercial Bulletin.

A certificate is issued for the patent.

### 3.2.8 How much does it cost?

#### Government/official fees

- The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (cedi). Application forms and information on fees are available through this link: Registrar General's Department ([rgd.gov.gh](http://rgd.gov.gh))

#### ARIPO-route patent registration fees

Fees must be paid through ARIPO if an applicant chooses to register a patent for Ghana using the ARIPO route. ARIPO's fees are reviewed regularly. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>.

Application fees consist of three components, as follows:

Type of Fee	ARIPO Fee (USD)	Total Fees (USD)
Application fee, regardless of the number of states designated in the application	232	932
State designation fee	85 per state (multiplied by the number of designated states)	Depends on the number of designated states
Mandatory annuity fee: for PCT-based applications, the first ARIPO annuity fee will usually be due and must be paid with the application fee	50 per state (multiplied by the number of designated states)	Depends on the number of designated states
Total fees, assuming only Ghana is designated and payment of first annuity fee	317	<u>1 037</u>
Total fees, assuming all 18 Harare Protocol states, including Ghana, are designated and payment of first annuity fee	2 662	3 722

#### Note on professional fees

Professional fees vary depending on several factors, such as the level of experience of the professional concerned and the time spent on a task, amongst others.

It is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>.



### 3.2.9 How long does registration take?

National the usual timeframe is between 12- 24 months on average.

Regional-route Ghana applications are substantively examined by ARIPO and take 3-4 months on average to complete registration, assuming that there are no objections.

### 3.2.10 What is the duration of protection?

- Protection lasts 20 years from the filing date, subject to the payment of annual maintenance fees.

### 3.2.11 When are renewal fees paid?

National patents

- Renewal fees are paid to the Registrar annually and in advance for each year, starting 1 year after the filing date of the application for grant of the patent. National renewal fees are available from the Ghana [national IP office](#) or from a [local agent](#).

ARIPO-route Ghana patents

- Renewal fees are payable up to the 19th year. Before payment, it is advisable to confirm the amount of the fees on the ARIPO website as the official fees may change. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>.

## 3.3 UTILITY MODELS

### 3.3.1 Who can register?

An inventor or assignee of an invention can apply to register a utility model.

### 3.3.2 Do I need a local representative?

- You must be represented by an agent if you are a foreign national (i.e., not a citizen of Ghana) or if you are applying on behalf of a company that has its principal place of business outside Ghana.
- You can find a local agent for Ghana [here](#).

### 3.3.3 What qualifies for registration?

A registrable utility model must meet the following requirements:

and

- novelty: the invention must be a new characteristic and must not be anticipated by the prior art;

- industrial applicability: the invention must be useful in any kind of industry

### 3.3.4 What cannot be registered?

The following inventions cannot be registered as utility models in Ghana:

- utility models related to the treatment of humans or animals or to pharmaceutical inventions. These inventions are not registrable to avoid undue restriction to access to medical care and medicines by people or animals in need.
- inventions whose commercial exploitation would be contrary to public policy or morality, public health and safety, and principles of humanity and environmental conservation;
- a discovery of a plant, animal, microorganism or substance as found in nature, including the human body;
- a scientific theory or mathematical method;
- methods for the treatment of the human or animal body by surgery or therapy, including diagnostic methods practised on them (as opposed to medical products);
- a literary, dramatic, musical or artistic work or other aesthetic creation;
- a scheme, rule or method for doing business, performing mental acts or playing a game;
- presentations of information;
- software.

### 3.3.5 Where can I file an application?

National applications for utility models must be filed Registrar General's Department Ministry of Justice.

Regional applications can be filed at the national office or, clearly indicating that they are regional applications, through ARIPO. Applications filed through ARIPO can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings. If an applicant wishes to obtain a utility model instead of a patent in Ghana on the basis of an international application, this must be indicated in the international application when filed.

### 3.3.8 How much does it cost?

Government/official fees

- The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (ceci). Application forms and information on fees are available through this link: Registrar General's Department ([rgd.gov.gh](http://rgd.gov.gh))

#### ARIPO-route utility model registration fees

Fees must be paid through ARIPO if an applicant chooses to register a utility model in Ghana using the ARIPO route. ARIPO's fees are reviewed regularly. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>.

#### Note on professional fees

Professional fees vary depending on several factors, such as the level of experience of the professional concerned and the time spent on a task, amongst others.

It is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>.

#### 3.3.9 How long does registration take?

National utility model applications are examined substantively. The average time frame is 12-15 months. It is advisable to check applicable processing time frames before starting the registration process.

Regional-route filed national applications are substantively examined by ARIPO and take longer than national utility model applications to reach registration. These applications can take 24-36 months to complete registration, assuming that only minimal official actions are needed and there are no objections.

#### 3.3.10 What is the duration of protection?

In Ghana, the duration of utility models is 7 years from the filing date. It is not renewable.

ARIPO-registered utility models have a duration of 10 years from the filing date.

#### 3.3.11 When are renewal fees paid and how much do I pay?

National utility models:

Renewal fees must be paid each year, starting one year after the filing date of the application or the grant of the utility model.

Late payment of the annual fees, with a corresponding surcharge, is possible within a grace period of 6 months after the due date.

ARIPO-route filed Ghana utility models

Renewal fees are payable up to the 10th year. Before payment, it is advisable to confirm the amount of the fees on the ARIPO website as the official fees may change. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>.

### 3.4 INDUSTRIAL DESIGNS

What you need to know about Utility models in Ghana

- Two or more industrial designs may be the subject of the same application if they relate to the same class of the International Classification or to the same set or composition of articles.

#### 3.4.1 Who can register?

A creator or assignee of an industrial design can apply to register a design in Ghana .

It is possible for two or more persons or companies to jointly own and apply for the registration of an industrial design.

#### 3.4.2 Do I need a local representative?

- You must be represented by an agent if you are a foreigner i.e., not a citizen of Ghana or if you are applying on behalf of a company, its principal place of business is outside Ghana.
- You can find a [local agent for this country](#).

#### 3.4.3 What qualifies for registration?

An industrial design qualifies for registration if it:

- is new;
- significantly differs from known designs or combinations of known design features;

and

- it has not been disclosed to the public.

#### 3.4.4 What cannot be registered?

An industrial design which is contrary to public order or public morality is not registrable.

### 3.4.5 Where can I file an application?

National-route design applications must be filed at Registrar General's Department Ministry of Justice.

Regional-route design applications can be filed at national office or, clearly indicating that they are regional applications, through ARIPO. Applications filed through ARIPO for Ghana designs can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings.

### 3.4.6. What do I need to register?

A design application must contain the following:

- a request for registration with drawings, photographs or other adequate graphic representations of the industrial design;
- where the applicant is not the creator, a statement justifying the applicant's right to the registration of the industrial design;
- an indication of the article that constitutes the industrial design or in relation to which the industrial design is to be used;
- a specimen of the articles embodying the industrial design, where the industrial design is two-dimensional;
- a declaration claiming priority, as provided for in the Schedule, of one or more earlier national or regional applications or international deposits filed by the applicant or their predecessor in title in or for any state party to the Convention or a member of the World Trade Organization;
- 
- payment of the prescribed application fees.

### 3.4.7 How do I register?

The registration process consists of the following stages: Application, Examination, Opposition to registration and Registration and Publication.

- Regional (ARIPO) design
- Although an application can be filed at the Registrar General's Department of the Ministry of Justice for transmission to ARIPO, the common practice is to file the application online and register directly with ARIPO. More information about how to register an ARIPO industrial design is available [here](#).
- International (Hague System) design
- Although an application can be filed at the Registrar General's Department of the Ministry of Justice for transmission to the International Bureau of WIPO, the common practice is to file the application online and register the design directly with WIPO. More information about the Hague System is available [here](#).

### 3.4.8. How much does it cost?

Government/official fees

- The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (ceci). Application forms and information on fees are available through this link: Registrar [General's Department \(rgd.gov.gh\)](http://rgd.gov.gh)

ARIPO-route design registration fees

These fees are paid through ARIPO. ARIPO's fees are reviewed regularly. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>.

Note on professional fees

Professional fees vary and it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>.

Hague System design fees

- These are paid directly to the International Bureau of WIPO: [Hague System fees](#).

### 3.4.9 How long does registration take?

National-route applications usually take 12-18 months to complete registration.

Regional-route applications usually take 8-12 months to complete registration. This includes a period of 6 months for states to examine and decide if a design will have legal effect in their territories after ARIPO has issued them with a notice of intention to register a design.

International (Hague System) designs: more information about the WIPO process and timelines is available [here](#).

### 3.4.10 What is the duration of protection?

A national industrial design has an initial duration of 5 years from the filing date, with the possibility of two further consecutive 5-year terms, a total of 15 years.

ARIPO-route design registrations are valid for 10 years, with no possibility of extension.

An international design registration has an initial duration of 5 years from the filing date, with the possibility of two further consecutive 5-year terms, a total of 15 years.

### 3.4.11 When are renewal fees paid?

In Mozambique, renewal fees must be paid within 6 months after the due date.

In ARIPO, renewal fees are payable 12 months before the registration period expires. Late payment of the renewal fees is possible, with a corresponding surcharge, within a grace period of 6 months after the due date.

ARIPO-registered design renewal fees

Before payment, it is advisable to confirm the amount of the fees on the ARIPO website as the official fees may change. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>.

Professional services renewal fees

These are usually payable as a flat-rate fee per annuity payment, regardless of the number of designated states. They range between USD150 to USD250 per renewal. It is advisable to compare the fees of different IP agents.

- International (Hague System) designs, renewal fees and procedures are in accordance with the WIPO's procedures, read more [here](#).

## 3.5 PLANT BREEDERS RIGHTS

About Plant Breeders Rights in Ghana

- Ghana has a dedicated Act for the registration of Plant Breeders Rights (PBRs), namely the Plant Breeders Bill, 2013. It is available through the following link:
- [https://www.upov.int/meetings/en/doc\\_details.jsp?meeting\\_id=29623&doc\\_id=251263](https://www.upov.int/meetings/en/doc_details.jsp?meeting_id=29623&doc_id=251263)
- In the international framework, Ghana is a member of the International Union for the Protection of New Varieties of Plants, UPOV. Although ARIPO has the Arusha Protocol for the Protection of New Varieties of Plants, it does not yet have an operational PBR registration system. As a result, currently PBRs can only be registered through the national route in Ghana.

### 3.5.1 Who can register?

An application for registration of a PBR can be made by:

- the State or government of a reciprocating country;
- an individual who is a citizen or resident of Ghana or of a reciprocating country;
- a company or body corporate that carries on business or has its principal office in Ghana or in a reciprocating country;
- where the State or its government, the individual, company, or body corporate, is a breeder of the new variety concerned.

- In most cases, foreign applications are filed on the basis that the applicant is a citizen or resident of a reciprocating country.
- A local agent must file a power of attorney for a PBR application.

### 3.5.2. Do I need a local representative?

- You must be represented by an agent if you are a foreign national (i.e. not a citizen of Ghana) or if you are applying on behalf of a company that has its principal place of business outside Ghana.
- You can find a local agent for Ghana [here](#).

### 3.5.3 What qualifies for registration?

A variety will be deemed suitable for the purpose of the protection of a PBR if it is:

- new;
  - distinct;
  - uniform,
- and
- stable.

### 3.5.4 What cannot be registered?

The following cannot be registered as a PBR:

- subject matter that does not constitute a new plant variety in terms of the PBR Act;
- subject matter that is not distinct, uniform, stable and novel.

### 3.5.5 Where can I file an application?

An application for registration must be submitted to the Registrar of PBRs through the Registrar General's Department of the Ministry of Justice.

### 3.5.6 What do I need to register?

An application for registration must include the following:

- payment of the prescribed fee;
- the applicant's name and address;
- the name and address of the person that has bred or discovered and developed a variety, if it is different from the applicant;

### 3.5.7 How much does it cost?

The latest information on fees is available from the Ghana national IP office or from a local agent.

### 3.5.8 How long does registration take?

- Unless substantive objections are raised or there are unusual delays, a PBR application takes 12-15 months to complete registration. This period includes an opposition period of 3 months.

### 3.5.9 What is the duration of protection?

- A PBR for varieties of trees and vines expires 25 years after the grant of the breeder right.
- Protection for varieties of all other genera or species expire 20 years after they have been granted.

### 3.5.10 When are renewal fees paid?

There are no renewal fees payable for PBRs during their period of registration. However, this has been raised as an anomaly so it is likely that a new law will require future PBR registrations to be renewed annually.

## 3.6 GEOGRAPHICAL INDICATIONS (GIs)

### About Geographical Indications in Ghana

- Ghana has a dedicated Act for the registration of geographical indications (GIs), namely the Geographical Indications Act, 2003 (Act 659).
- The Act is administered by the Controller of Patents, Trade Marks and Industrial Designs.
- It is possible to register foreign GIs in Ghana as collective or certification marks; an applicant may file a single application either at one of the contracting states or directly with ARIPO, and designate the states where protection is sought. More information is available [here](#).
- Ghana is a member of the African Union (AU) which, in partnership with the Food and Agriculture Organization of the United Nations (FAO), is developing a Continental Strategy for GIs in Africa (2018-2023). More information is available [here](#).
- Ghana is a signatory of the AfCFTA Agreement but has not yet ratified it. The Agreement is available [here](#). Amongst other objectives, AfCFTA seeks to promote among African states economic integration, agricultural development, food security, industrialisation and structural economic transformation, and to promote as well as to protect IP rights.
- Developments in the implementation of the Continental Strategy's goals and AfCFTA

may have an impact on the protection of GIs in Ghana. The questions and answers covered here must therefore be regarded from the perspective that they are based on a summary of what the GI legal framework of Ghana provides rather than how it is implemented in practice. It is advisable to obtain professional advice.

### 3.6.1 Who can register?

The following can apply for the registration of a GI:

- a person who sells or who manufactures, imports or exports for sale a product to which the GI is applied or is to be applied;
- a person who, in the course of business, consumes or uses a product to which the GI is applied or is to be applied;
- any organisation established to represent or further the interests of the persons referred to above.

A GI application can be made individually by any of the above or jointly with others. European GIs do not appear to be registrable under the current national law. For information about the protection of the European GIs in African countries, the Organization for an International Geographical Indications Network should be consulted at: <https://www.origin-gi.com/i-gi-origin-worldwide-gi-compilation-uk.html>.

### 3.6.2 What qualifies for registration?

Any GI can be registered. A GI is defined in the Act as:

an indication which identifies a good as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of the goods is essentially attributable to its geographical origin'.

"goods" means any natural or agricultural product or any product of handicraft or industry and includes Kente.

### 3.6.3 What cannot be registered?

- Any indication that does not fall within the Act's definition of a GI.
- Indications that are contrary to public order or morality.
- Indications that are not or cease to be protected or that have fallen into disuse in their country of origin.

#### 3.6.4 Where can I file an application?

- Applications for registration must be submitted to Registrar of PBRs through the Registrar Generals Department Ministry of Justice.

#### 3.6.5 How much does it cost?

The latest information on fees is available from the Ghana national [IP office](#) or from a [local agent](#).

#### 3.6.8 How long does registration take?

Unless substantive objections are raised or there are unusual delays, a GI application takes on average 15 months to complete registration. This includes an opposition period of 2 months.

#### 3.6.6 What is the duration of protection?

The term of a GI registration in Ghana is 10 years. It is not renewable.

#### 3.6.7 When are renewal fees paid?

- Renewal fees are payable every 10 years from the registration date which is also the filing date of the application.
- The latest information on fees is available from the Ghana [national IP office](#) or from a [local agent](#).

#### 3.6.8 What information is recorded in a GI registration certificate?

The following information must be recorded:

1. the application number and its date;
2. the effective date of registration and registration number;
3. the name, address, and nationality of the holder of the right to use the GI;
4. the protected GI;
5. the geographical area to which the GI applies;
6. the product identified by the GI and its description;
7. the quality, reputation or other characteristic of the product which is:
  - a) attributable to its geographical origin and details establishing the link;
  - b) between the product's quality, reputation, or other characteristic and the product's geographical origin;
8. the name and address of the authorities or, if available, the name and address of the bodies

- verifying compliance of the product with the corresponding product specification;
- 9. where the GI is from a foreign country, a reference to the law, registration number or other basis for protection in the country of origin;
- 10. any imposed conditions of registrations.

### 3.7 INTEGRATED CIRCUIT LAYOUT DESIGNS

About Integrated Circuit Layout-Designs in Ghana

- Ghana has a dedicated Act for the registration of integrated circuit layout-designs, namely the Layout-Designs (Topographies) of Integrated Circuits Act, 2004 (Act 667).
- The Act is administered by the Controller of Patents, Trade Marks and Industrial Designs.
- Unlike other IP rights such as patents, industrial designs and trade marks, there is currently no alternate regional or international registration framework through which integrated circuit layout-designs can be registered.
- As a result, this special kind of design can only be registered through the Ghana IP office.

#### 3.7.1 Who can register?

An application for registration of a layout design can be made by, or on behalf of, the following:

- a person claiming to be the proprietor of the design;
- a person claiming to be the proprietor's assignee or successor in title.

#### 3.7.2 Do I need a local representative?

- You must be represented by an agent if you are a foreign national (i.e., not a citizen of Ghana) or if you are applying on behalf of a company that has its principal place of business outside Ghana.
- Representation is optional for local applicants.
- You can find a local agent for Ghana [here](#).

#### 3.7.3 What can be registered?

A layout design, is registrable if:

- it is original, which means that it is the result of its creator's own intellectual effort and is not commonplace among creators of layout designs and manufacturers of integrated circuits at the time of its creation; and
- it has not yet been exploited commercially anywhere in the world or has not been exploited commercially anywhere in the world for more than 2 years prior to the application for its registration.

A layout design consisting of a combination of elements and interconnections that are commonplace is only registrable if the combination, taken as a whole.

#### 3.7.4 What cannot be registered?

Any layout design whose use would be contrary to the law, public policy or morality is not registrable.

A layout design that is not original and has been exploited commercially for more than 2 years prior to the application for its registration is also not registrable.

#### 3.7.5 Where can I file an application?

An application on the prescribed form must be submitted to Registrar General's Department, Ministry of Justice

#### 3.7.6 How much does it cost?

The latest information on fees is available from the Ghana national [IP office](#) or from a [local agent](#).

#### 3.7.7 How long does registration take?

- Unless substantive objections are raised or there are unusual delays, an integrated circuit layout-design takes 18-24 months to complete registration. This period includes an opposition period of 2 months.

#### 3.7.8 What is the duration of protection?

- The term duration integrated circuit lay-out design registration in Ghana is 10 years.

#### 3.7.9 When are renewal fees paid?

There are no prescribed renewal fees to be paid after the 10-year registration term.

### 3.8 COPYRIGHT AND NEIGHBOURING RIGHTS

About Copyright and Neighbouring Rights in Ghana

- Ghana has a dedicated Act for the protection of copyright and neighbouring rights, namely the Copyright Act, 2005 (Act 690).
- The Act is administered by the [Ghana Copyright Office](#).

- Ghana is also a party to the following international copyright agreements:

- [Berne Convention for the Protection of Literary and Artistic Works](#)
- [Universal Copyright Convention \(Geneva\)](#)
- [Agreement on Trade-Related Aspects of Intellectual Property Rights \(TRIPS\)](#)
- [WIPO Copyright Treaty](#)

#### 3.8.1 Can I register?

A copyright is registrable in Ghana.

Ghana is a member ARIPO which is currently considering the possibility of creating a voluntary copyright registration system for its Member States. It remains to be seen if this system will become a reality.

#### 3.8.2 What qualifies for protection?

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

- a) literary work;
- b) musical work;
- c) sound recording;
- d) audio-visual work;
- e) choreographic work;
- f) derivative work;
- g) computer software or programmes; and
- h) folklore.

#### 3.8.3 What cannot be protected?

Any work whose subject matter does not qualify for legal protection.

Any work whose author is not Ghanaian by:

- 1) citizenship;
  - 2) domicile;
- or
- 3) by virtue of being incorporated in Ghana.

Any work that is contrary to law, public order, or morality.

### 3.8.4 What are the requirements for legal protection?

The original work must be in one of the following categories:

- a) literary work
- b) musical work
- c) sound recording
- d) audio-visual work
- e) choreographic work
- f) derivative work
- g) computer software or programmes
- h) folklore

In addition to the above, the author must submit the following:

- 2 copies of the work;
- the payment of the prescribed fee;
- completed registration forms (forms are typed and applicants receive a copy);

The certificate of registration will be issued within 30 days.

### 3.8.5 What are examples of acts permitted in relation to copyright works?

Permitted acts that do not infringe copyright include:

- fair use: copyright in a work is not infringed by any fair dealing for the purposes of research or private study by the person using the work. Fair dealing does not apply if the person who reproduces the work knows or has reason to believe that it will result in copies of substantially the same material being provided to more than one person at substantially the same time.
- fair use for purposes of criticism, review or news reporting;
- educational use;
- copies made to replace or conserve library or archival copies of works;
- use of anonymous or pseudonymous works, subject to conditions;
- use of work for parliamentary or judicial proceedings or inquiries;
- quotations from copyright works;
- public readings and recitations.

### 3.8.6 What acts are not permitted in relation to copyright works?

Unpermitted/restricted acts include:

- reproducing the work;
- publishing the work;
- importing the work into Ghana or exporting it from Ghana, otherwise than for personal and private use;

- causing the work to be transmitted in a cable programme service, unless the service transmits a lawful broadcast and is operated by the original broadcaster;
- making an adaptation of the work.

### 3.8.7 How much does it cost?

The latest information on registration fees is available [here](#) or from a [local agent](#).

### 3.8.8 What is the duration of protection?

The duration of copyright protection (economic and moral rights) is as follows:

for individuals: the lifetime of the author (or last surviving author in the case of co-authored works) plus 70 years;

- for bodies corporate: 70 years from the date on which the work was either made or first published, whichever is the later;
- anonymous works: 70 years from the date on which the work was either made or first published, whichever is the later;
- audiovisual works: 70 years after the year of publication or, if the sound recording has not been published, from the fixation of the sound recording;
- expressions of folklore: the rights vested in the President on behalf of and in trust for the people of Ghana in respect of folklore exist in perpetuity;
- moral rights: exist in perpetuity. This right is enforceable by the author during the author's lifetime, and, after the author's death, by the author's successors, whether or not the economic rights vested in the author are still vested in the author or the author's successor in title.

### 3.8.9 Can I renew copyright after its term of protection expires?

- Copyright cannot be renewed in Ghana once its term has expired. The work lapses into the public domain at the end of the term of protection.



