



**SABA**  
INTELLECTUAL  
PROPERTY

# BULLETIN

April 2021



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THE BIGGER YOU GROW,  
THE STRONGER WE GET



**90<sup>+</sup>**  
YEARS

**50<sup>+</sup>**  
JURISDICTIONS

**1**  
FIRM

COUNSELING | PROSECUTION | ENFORCEMENT | ANTI-COUNTERFEITING

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**KUWAIT | RECORDALS GOING PAPERLESS AT THE TMO**

Given the recent trend in going paperless in the member states of the Gulf Cooperation Council, the Trademark Office in Kuwait announced the upcoming activation of the online recordal system.

Once fully operational, applicants will be able to submit applications for recordal via the online platform. For the time being, however, the TMO is only accepting the electronic submission of records of assignment, merger, and change of name and address.

In light of this update, it is also worth mentioning that the TMO will be issuing e-certificates of recordal in lieu of the obsolete paper copies.

**TRADEMARK PROTECTION FRAMEWORK IN KUWAIT*****Classification***

10th edition – single class application. Class 33, alcoholic goods in class 32, and pork meat in class 29 cannot be registered

***Examination***

On formal, absolute, and relative grounds

***Opposition***

60 days from last publication date

***Protection Term***

10 years from filing date and renewable for like periods

***Use***

Vulnerable to cancellation if mark has not been used for 5 consecutive years from filing

***Filing Requirements***

POA, legalized, copy of certificate of incorporation or extract from the commercial register, and certified copy of priority document, if priority is claimed. POA must be submitted at the time of filing and priority document may be submitted within 3 months from filing date



## SUDAN | NAVIGATING THE SANCTIONS REGULATIONS

On December 14, 2020, the US Government announced Sudan's removal from the list of State Sponsors of Terrorism (the "SST List"). This follows another update, on August 11, 2020, when the US Treasury Department's Office of Foreign Assets Control (OFAC) announced that US persons are no longer prohibited from engaging in transactions with respect to Sudan or the government of Sudan that were previously prohibited by the Sudanese Sanctions Regulations, 31 C.F.R. part 538 (SSR).

It is worth noting, however, that the national emergency declared with respect to Sudan in Executive Order (E.O.) 13067 remains in effect, as expanded upon in scope by subsequent executive orders to include the violence in Sudan's Darfur region. The aforementioned national emergency in Sudan provides the basis for OFAC's sanctions on individuals and entities in connection with the conflict in Darfur.

As Sudan aims to develop non-oil sources of revenues, it becomes salient for brand owners to consider the protection of their intellectual property rights (IPRs) in the North Africa nation. Sudan maintains an adequate legislative framework for the protection of IPRs, and in order to have an effective protection strategy, all intellectual property rights must be registered and enforced in Sudan, under local laws.

By way of background, Sudan is a member of the Madrid Agreement, the Madrid Protocol and the African Regional Intellectual Property Organization (ARIPO). A trademark registration is available through a national filing or international filing. Patents applications can be filed via national filings in Sudan, regional filing at ARIPO, and national phase Patent Cooperation Treaty (PCT) application. Designs applications are possible throughout ARIPO and national filings.





**SUDAN | NAVIGATING THE SANCTIONS REGULATIONS**

Accordingly, certain prohibitions and licensing considerations still apply with respect to Sudan, including, but not limited to:

***Export controls***

US persons and non-US persons need to obtain any licenses required by the Department of Commerce's Bureau of Industry and Security (BIS) to export or reexport to Sudan certain items (commodities, software, and technology) that are on the Commerce Control List (CCL), Supp. No. 1 to part 774 of the Export Administration Regulations, 15 C.F.R. parts 730-774 (EAR). Section 742.10 of the EAR sets forth certain anti-terrorism licensing requirements and policies that are specific to Sudan. In limited circumstances, US persons and non-US persons may also need to obtain licenses from BIS to export or reexport to Sudan items that are subject to the EAR but

not specifically listed on the CCL ("EAR99" items) if such transactions implicate certain end-use or end-user concerns (see 15 C.F.R. part 744).

***Humanitarian transactions***

Pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA), an OFAC license is required for certain exports or reexports to the Government of Sudan or any other entity in Sudan of agricultural commodities, medicine, or medical devices. These activities are currently generally licensed under the Terrorism List Governments Sanctions Regulations, 31 C.F.R. § 596.506 (TLGSR), to the extent prohibited by the TLGSR. No license is required for these exports or reexports, including for financing these exports or reexports.

## MOROCCO | SOWING THE SEEDS (OF STRAWBERRIES): PLANT VARIETY PROTECTION IN MOROCCO

The humble seed is the foundation of agriculture and a major contributor to the global efforts of sustainable food production. The global market for seeds is projected to reach USD 100.36 billion by 2026, growing at a compound annual growth rate (CAGR) of 8.10 percent over the forecast period. Concurrent with this growth in commercial seeds is a series of innovations in cultural practices, science, engineering, and of course, intellectual property law.

Being aware of the importance of this field, in all senses of the word, Morocco is member of the UPOV Convention and as per the TRIPS Agreement, the country has adopted Law 9-94 on the Protection of Plant Varieties that was promulgated by Decree No 1-96-255 of 1997. The authorities concerned in Morocco have setup a framework for the protection of plants (filing) and the registration of plant in the national catalogue (commercialization).

### I. The Protection of Plants (Filing):

The protection concerns varieties belonging to a list of kinds and species determined by the Ministry of Agriculture. This decision determines as well, for each type, the duration of the protection and the elements concerned by the right of the breeder between 20 to 30 years.

Plants may be protected under one of three main categories in Morocco, which are:

- **Group A:** Cereals, vegetables, fodder cultures, industrial cultures, flora and ornamental species, potatoes and strawberry plants;
- **Group B:** Arboricultural and vine species; and,
- **Group C:** Other plant variety plants.

According to the provision of Article 5 of Law 9-94, the breeder's right is granted when the variety is recognized as novel, distinct, uniform and stable.





## MOROCCO | SOWING THE SEEDS (OF STRAWBERRIES): PLANT VARIETY PROTECTION IN MOROCCO



Pictures provided by Saba IP - Morocco Office

Article 6 of the same law stipulates that the variety is deemed to be new if, on the date of filing of the application for the breeder's right, the material for reproduction or vegetative propagation, or a product of the harvest, or a processed product of the variety has not been sold or handed over to third parties in any other way, by the breeder or with their consent, for the purpose of exploiting the variety for more than one year in Morocco, or, for more than four years, or in the case of trees and vines for more than six years abroad.

The deadline for filing a plant variety application is six years for category B and four years for categories A and C from the first commercialization of the varieties outside Morocco, and one year from the first commercialization in Morocco for arboricultural and vine species.

### FILING REQUIREMENTS:

- Power of Attorney, showing the name and title of the signatory, simply signed
- Forms provided by the authorities duly completed and signed and sealed

- Priority document, if priority is claimed
- Original copy of the "engagement protection" document, signed and sealed in which the applicant will be committed to provide National Office for Health Security of Food Products at the Ministry of Agriculture (ONSSA) with samples in case of need
- Deed of Assignment from the applicant and breeder (in case the applicant is not the breeder), signed and notarized

### II. The Registration of Plants in the National Catalogue (Commercialization):

Only the varieties appearing on the national catalogue can be imported, multiplied, and marketed in Morocco. The procedures for submitting application files, as well as the examination procedures, are defined by the procedure for registering varieties in the Moroccan catalogue established for this purpose.

All new varieties resulting from national varietal creation programs or introduced from abroad must undergo experimentation prior to registration in the catalogue.



## MOROCCO | SOWING THE SEEDS (OF STRAWBERRIES): PLANT VARIETY PROTECTION IN MOROCCO

This experiment includes a test for the distinguishing characteristics, uniformity, and stability of the variety.

In this effort, Saba IP recently was able to secure certificates for four strawberry plant varieties in Morocco. Our colleagues in Casablanca were able to successfully assist in ensuring the production 2,000 plants of each variety. The said harvests were subject to thorough testing that proved the fruits are distinct, consistent, and stable.

By way of background, in Morocco, the seed sector is estimated to grow at a CAGR of 2.1 percent during the forecast period 2020-2025, with the agricultural sector including both agriculture as well as agro-industry, contributing 19 percent of the country's GDP. The Green Morocco Plan enables the Moroccan agriculture in terms of high productivity by encouraging the private investments, improving the export opportunity and modernizing the agriculture. In 2018, the agriculture sector saw a growth of 27 percent along with a 4 percent increase in exports compared to the previous year, despite the late rainfall as per the Food and Agriculture Organization's (FAO) report.

The seed system in Morocco includes

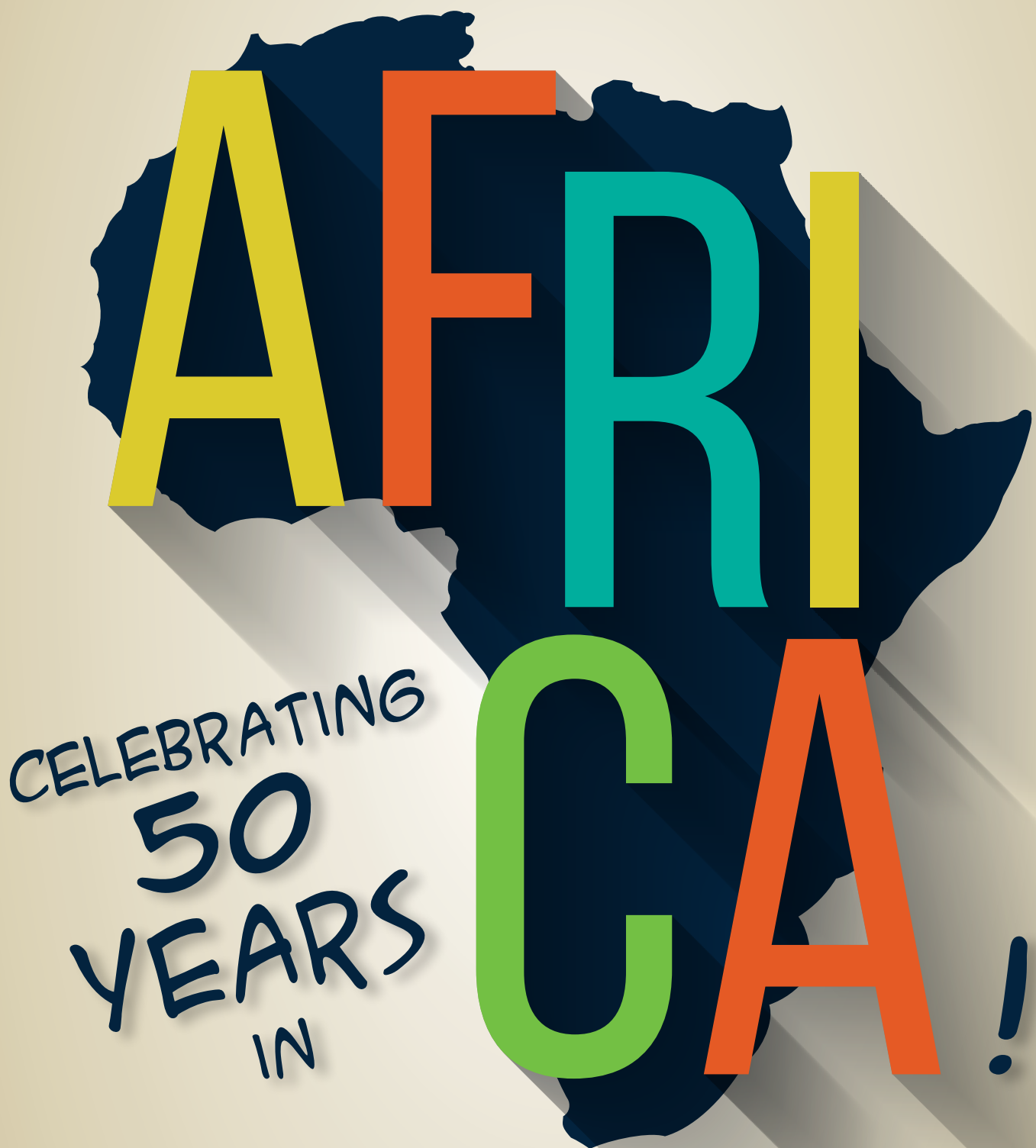
national and foreign seed producers, producers' associations, importers and exporters of seed and planting material, research institutions, farmers, the government, and two national seed traders' associations: the Moroccan Association of Seeds and Plants (AMSP) and the Moroccan Association of Seed Multipliers (AMMS).

The Agricultural Development Fund of Morocco (FDA) provides subsidies for marketing and storage of certified seeds. The ADF also aids in funding for the Monogram sugar beet seed and imported rice seed corporates for the carry-over stocks. This subsidy is paid to the seed corporations that deduct the seed price upon selling to a farmer. These subsidies are applicable only if the seeds marketed are certified by the National Office for Health Security of Food Products at the Ministry of Agriculture (ONSSA).

### FILING REQUIREMENTS:

- Forms provided by the authorities
- A certificate, signed by the breeder authorizing the filing if the applicant is not the breeder
- A sworn statement certifying that the variety is not transgenic
- Report of test results
- Authorization to introduce the sample





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