

Industrial designs and models under Algerian Law: Legal protection and economic exploitation as intellectual property assets

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Abstract---Industrial designs and models are subject to the same legal rules, both with regard to the conditions required for their protection and the legal effects arising from such protection at both the national and international levels. Industrial property rights occupy an intermediate position between pure art and applied or industrial art. Industrial property and literary and artistic property are connected through the principle of the unity of art; consequently, industrial designs and models may also be protected under copyright and related rights legislation, particularly Ordinance No. 03-05. Industrial designs and models are entitled to criminal protection only after the completion of the procedures of filing, registration, and publication in accordance with the applicable legislative and regulatory provisions. The definition of industrial designs and models adopted by the Algerian legislator has been overtaken by developments, as it originates from an old law enacted nearly sixty years ago. During this period, legislation has undergone significant reforms that elevated industrial designs and models to the rank of fundamental industrial property rights, particularly with regard to registration procedures and the strengthening of legal protection.

Keywords---industrial designs, legal protection, intellectual property assets.

Introduction

Today, industrial manufacturers are increasingly concerned with giving their products a distinctive external appearance and place greater emphasis on aesthetic aspects than ever before, with the aim of differentiating their products from similar ones available on the market and influencing consumer preferences to attract customers. Consequently, industrial designs and models have acquired significant importance in contemporary times, as they contribute to the appearance of countless products,

How to Cite:

Yamina, H. (2026). Industrial designs and models under Algerian Law: Legal protection and economic exploitation as intellectual property assets. *The International Tax Journal*, 53(3), 1805–1822. Retrieved from <https://internationaltaxjournal.online/index.php/itj/article/view/692>

The International tax journal ISSN: 0097-7314 E-ISSN: 3066-2370 © 2026

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Submitted: 01 August 2025 | Revised: 09 March 2026 | Accepted: 07 May 2026

including furniture, household electrical appliances, toys, patterns and ornaments displayed on carpets and fabrics. Among the most common examples are automobile bodies, perfume bottles, watches, and many other products. Studies and statistics indicate a continuous increase in applications for the registration of industrial designs and models, driven by the desire to benefit from the legal protection they provide, which enables rights holders to gain access to broader markets. Industrial designs and models therefore constitute an important component of industrial property, despite the limited attention they have received from legal scholars and the relatively small number of studies devoted to them compared with other branches of industrial property. Industrial designs and models only recently acquired an independent legal status. Historically, they were incorporated within the scope of patent law on the basis that they constituted inventions. They were also considered within the framework of copyright law as artistic works. Subsequently, legislative systems began to adopt specific legal frameworks governing industrial designs and models, including Algerian legislation. Providing legal protection for industrial designs and models is capable of attracting investment, as it offers business operators guarantees for their industrial activities, safeguards their intellectual property rights, and promotes the development of research and innovation activities undertaken by companies. Accordingly, the following question arises: Do Algerian legislative provisions provide adequate protection for industrial designs and models? Through this study, we seek to clarify the concept of industrial designs and models as a component of industrial property within certain legal systems by examining their characteristics and the conditions required for acquiring rights therein (Chapter One). We will also address the legal protection afforded to them (Chapter Two).

Chapter One: The Nature of Industrial Designs and Models

This chapter examines the concept of industrial designs and models (Section One) before addressing the conditions required for their legal protection (Section Two).

Section One: The Concept of Industrial Designs and Models

The reference to designs alongside industrial models does not imply that they share the same definition. Rather, each has its own distinct legal definition. Accordingly, designs will be defined first, followed by industrial models.

First Subsection: Legislative Definitions of Industrial Designs and Models

First: Definition by the World Intellectual Property Organization (WIPO)

The World Intellectual Property Organization (WIPO) defines an industrial design as the ornamental or aesthetic aspect of an article. A design may consist of three-dimensional features, such as the shape or surface of an article, or two-dimensional features, such as patterns, lines, or colors. **(WIPO)**

Second: Definition under Algerian Legislation

Pursuant to Article 1 of Ordinance No. 66-86 of 28 April 1966 relating to industrial designs and models, **(Gazette, 1966)** the Algerian legislator defines a design as follows:

“A design shall mean any arrangement of lines or colors intended to give a distinctive appearance to an industrial or handicraft product.”

The same provision defines an industrial model as follows:

“A model shall mean any shape capable of being molded, whether colored or not, or any industrial or handicraft object that may serve as an original pattern for the manufacture of other units and that is distinguished from similar models by its external appearance.” **(Models., Article 1(2) of Ordinance No66-86.relatng to Industrial Designs and)**

Based on this definition, an industrial model is characterized by the fact that it constitutes an industrial form or mold taking a specific shape, such as the mold of a bottle, a vehicle, a machine, or any other industrial or handicraft product.

It can also be inferred from this definition that a design possesses two principal characteristics. First, it involves a composition of lines and/or colors. Such a composition is not required to represent a specific or real object; for example, it may depict an imaginary rather than a natural scene.

Furthermore, designs may consist of parallel or intersecting lines, geometric shapes, and various colors. The method by which the design is reproduced is immaterial: it may be created manually, as in

decorative engravings or embroidery; mechanically, as in textile printing; chemically, as in dyeing processes; or through any other technique developed within the field of industry. (Fadli, 2003, p. 265)

The characteristic of a design lies in its ability to confer a distinctive appearance upon an object, distinguishing it from other existing objects. A design is merely a combination of shapes and colors possessing an artistic character, applied to goods and products during their manufacture in order to enhance their aesthetic appeal. (Al-Din, 2000, p. 234)

However, this definition is no longer fully aligned with the developments witnessed in the field of industrial designs, as it fails to encompass certain designs generated by the technological revolution prevalent in developed countries. Nevertheless, such developments have not been incorporated into the definition provided under the Algerian Law on Industrial Designs and Models.

Second: Definitions of Industrial Designs and Models in Certain Legislations

1. Definition under Jordanian Legislation

The Jordanian legislator defines a design as: “Any composition or arrangement of lines that gives a product an attractive appearance and confers upon it a distinctive form, whether achieved by mechanical means or manually, including textile designs.” (Article 2 of the Jordanian Industrial Designs and Industrial Models Law No. 14 of 2000.)

The industrial model is defined as: “Any three-dimensional form, whether associated with lines or colors or not, which provides a distinctive appearance and can be used for industrial or handicraft purposes.” (Article 2 of the Jordanian Industrial Designs and Industrial Models Law No. 14 of 2000.)

2. Definition under Egyptian Legislation

The Egyptian legislator defines industrial designs and models as follows: “Any arrangement of lines or any three-dimensional form, whether colored or uncolored, that possesses a distinctive appearance characterized by novelty and is capable of industrial application shall be considered an industrial design or model.” (Article 119 of the Egyptian Intellectual Property Law No. 82 of 2002.)

It may be observed from these legislative definitions that both the Algerian and Jordanian legislators have defined the industrial design and the industrial model separately, unlike the Egyptian legislator, who provided a single definition encompassing both concepts simultaneously.

Section Two: Doctrinal Definitions of Industrial Designs and Models

An industrial design consists of a particular arrangement of lines or colors that produces an original ornamental effect, thereby creating a distinctive decorative appearance. This means that a design constitutes an ornamental feature that grants an object a new and unique character.

In other words, it is any individual arrangement of lines and colors resulting in an original decorative effect. (Burst, 1998, p. 403) Industrial design differs from artistic drawing in that it must be capable of industrial application.

Some scholars define industrial designs and models as: “Any arrangement of lines or three-dimensional form, whether colored or uncolored, intended for reproduction in industrial production through mechanical, manual, or chemical means.” (Al-Sanhour, 1998, p. 462)

Others define them as: “An arrangement of lines used to confer elegance and attractiveness upon goods or products, distinguishing them from other similar goods and products.”

As for the industrial design, it is the external form of the product itself; it confers upon the product an appearance that distinguishes it from similar products. (Fadhli, 2013, p. 138) The industrial model is the new external shape in which products appear, giving them attractiveness and aesthetic appeal. Accordingly, an industrial model is considered to be the form of the product or the production itself, namely the shape in which the invented machine or the product is embodied, such as the body of a car, the casing of a refrigerator, the mold of utensils, or the shape of footwear.

Some scholars (Al-Fatlawi, 1988, p. 350) have defined it as a three-dimensional form of a product that gives it a distinctive, aesthetic, and attractive character for industrial production purposes, such as fashion models, automobile body structures, perfume bottles, and uniquely shaped beverage containers.

Others (Mohamed Hassanein, 1988, p. 188) have defined it as the external appearance of a product, which imparts to it a distinctive look that differentiates it from similar products; in other words, it is the

form in which the invented machine or the product itself is embodied, such as a Coca-Cola bottle or children's toys.

It has also been defined **(Saleh, n.d, p. 291)** as a three-dimensional configuration that necessarily includes volume, unlike an industrial drawing, which is applied to a flat surface. The term “three-dimensional” means that the model consists of length, width, and height.

In general, an industrial drawing or model is any creation that imparts an original and distinctive external appearance to an industrial product. **(Khater, 2005, p. 158)**

Some authors have defined an industrial drawing or model as any arrangement of lines that gives a product a distinctive character, confers upon it an individual identity, and differentiates it from other products belonging to the same category by creating in the mind of the observer a perception of the product's unique nature and identity.

The industrial model has also been defined as the mold into which a product is cast in a three-dimensional form, giving it an appearance that distinguishes it from similar products. **(Mahrez, 1986, p. 291)**

Others have defined industrial drawings and models as artistic designs and forms applied to products during their manufacture in order to endow them with aesthetic appeal and an attractive appearance that draws customers and distinguishes them from competing products. **(Al-Nahi, 1983, p. 211)**

As for industrial designs, they are the external forms adopted by certain products, such as automobiles or mobile phones, giving them an aesthetic appearance or a distinctive shape that sets them apart. The essential requirement is that the design be innovative. There is no distinction between a drawing, design, or industrial model created manually and one produced mechanically.

Therefore, the artistic idea itself must be excluded from the scope of application of the legal text. The idea must be implemented, moving from mere conception to actual execution and tangible realization. **(Azéma, 2017, p. 1016)**

Section Two: The Relationship Between Industrial Designs and Other Elements of Intellectual Property

This section examines the relationship between industrial designs and patents on the one hand, and trademarks on the other (First Subsection), as well as their relationship with trademarks (Second Subsection) and copyright (Third Subsection).

First Subsection: The Relationship Between Industrial Designs and Patents

A patent is a certificate granted by the state to an inventor, the subject matter of which may consist either of product innovations or new industrial processes, granting its holder an exclusive right to exploit the invention.

Based on this definition, an industrial drawing or model may also be regarded as an invention protected under patent law, provided that it is eligible for simultaneous registration and that the elements of novelty are inseparable from the subject matter of the invention. The legislator has allowed the application of patent law where the external appearance of an object is not merely decorative but produces an industrial result. **(Article 1, last paragraph, of Ordinance No. 66-86 relating to Industrial Designs.)**

Accordingly, all the conditions stipulated under patent law must be fulfilled, and the invention must not have been previously attributed to another person who has already filed it. Furthermore, the invention must not be contrary to public order or public morals.

It is worth noting that the same substantive elements required for inventions are also present in industrial designs. However, they differ in that the document evidencing the right to protection of a design is the industrial design registration certificate, whereas the document evidencing the right to protection of an invention is the patent certificate. **(Mohamedein, 2000, p. 99)**

Industrial designs also differ from patents in terms of their function. While a patent serves as a factor of production, the purpose of an industrial design is to promote products by conferring upon them an artistic and aesthetic character. **(Hatamleh, 2006, p. 30)** They also differ with respect to the duration

of protection. Patent protection extends for twenty (20) years from the filing date, whereas the protection granted to an industrial design lasts only ten (10) years.

Moreover, inventions are primarily characterized by their industrial nature, whereas industrial designs are predominantly artistic in character, focusing on the external appearance of products. For this reason, they are often referred to as applied art or industrial art.

Section Two: The Relationship Between Industrial Designs and Trademarks

A trademark is any distinctive sign used by a trader, manufacturer, or service provider to distinguish their goods, products, or services from similar ones. A trademark may also take the form of drawings or graphic representations. **(Article 2 of Ordinance No. 03-06 relating to Trademarks.)** In contrast, a design consists of a specific arrangement of lines that produces a particular shape, thereby giving a product or commodity a distinctive appearance and aesthetic appeal. **(Article 1 of Ordinance No. 66-86 relating to Industrial Designs and Models.)** In such cases, the owner of the design should register it as a trademark in addition to obtaining protection under industrial design law, in order to preserve customer recognition and commercial value before the expiration of the design right, **(Salami, 2011, p. 36)** particularly since the duration of protection under industrial design law is comparatively shorter.

Industrial designs and trademarks share a common function, namely the differentiation of products from one another. The external appearance of industrial products performs the same function **(Zaoui, n.d, p. 33)** as a trademark in distinguishing a product or service from others. Nevertheless, the fundamental distinction between a trademark, on the one hand, and an industrial design or model, on the other, lies in the primary purpose of each. The objective of a trademark is to distinguish the products of one enterprise from similar products of other enterprises, whereas the purpose of an industrial design or model is to enhance the product's appearance and emphasize its aesthetic qualities. **(Hamdan, 1999, p. 32)**

Industrial designs and models also differ from trademarks with regard to the scope of the right conferred. An industrial design or model grants its owner an absolute exclusive right of exploitation, whereby all third parties are prohibited from using it. By contrast, a trademark grants its owner a relative right, **(Hammadi, 2012, p. 343)** meaning that another producer of dissimilar goods may lawfully use the same mark without infringing the trademark owner's rights.

Furthermore, the two differ in terms of the duration of protection. Protection for industrial designs and models is limited to ten years, after which they enter the public domain. Conversely, a trademark owner may retain protection for an extended period by renewing the registration every ten (10) years for an unlimited number of successive terms. Consequently, the right in an industrial design or model is temporary, whereas trademark rights may be perpetual. **(Alouache, 2015, p. 18)**

It should also be noted that a trademark may itself consist of a particular design or model, commonly referred to as a figurative mark. Although this category was not expressly addressed by the legislator under trademark law, it has been recognized in practice. For example, the Coca-Cola Company successfully registered the shape of its bottle as a trademark.

Third Section: The Relationship Between Industrial Designs and Models and Copyright

Industrial designs and models possess an artistic character that makes them closely related to artistic works protected under copyright law. Through their distinctive features, industrial designs and models stand at the intersection of art and industry. It should be noted that neither industrial design law nor copyright law provides clear criteria for distinguishing pure art from applied art. **(Saleh, n.d, p. 292)** Therefore, an industrial design or model should be assessed according to its intended use: if it is created for exploitation in products, it is considered industrial; whereas if it is used in another field solely for aesthetic appreciation, such as a painting, it is regarded as artistic. **(Al-Fatlawi, 1988, p. 352)**

The legislator **(Article 02/01 of Ordinance No. 66-86 relating to Industrial Designs and Models.)** grants the owner of an industrial design or model the right to exploit it under the conditions specified by the relevant ordinance. This does not exclude the application of the provisions governing industrial designs and models on the basis that they are subject to their own special legal regime. Rather, such

provisions remain applicable to industrial designs and models even when they are simultaneously protected under copyright law. **(Hussein, 2015, p. 37)**

Industrial designs and models differ from copyright with respect to the deposit (registration) system. While industrial designs and models are subject to registration and their protection cannot be conceived without this mandatory procedure, artistic works are not subject to such a system. Ownership of artistic works arises automatically upon creation and does not require any additional formalities.

They also differ regarding confiscation. Although confiscation is optional in matters relating to industrial designs and models, it is mandatory under copyright law. In copyright cases, the judge must order the confiscation of all equipment specifically created for carrying out the unlawful activity, as well as all counterfeit copies. **(Article ... (reference incomplete in the original text).)**

Egyptian jurisprudence has held that a trademark consisting of a "Delta" drawing constitutes an imitation of a trademark composed of the word "Delta," because the graphic representation of a trademark should be regarded as equivalent to its meaning, while the designation serves as the verbal expression of that representation. A drawing, like writing, has a similar impact since it addresses the visual perception of the public, and a purchaser cannot describe a drawing except through the word that signifies it. **(Fernane., 2001, p. 43)**

The Algerian legislator has adopted the criterion of a form that is separable from its function. Consequently, legal protection is granted only to symbols used to distinguish goods and services. This allows one to conclude that the distinctive character of symbols constitutes the cornerstone of the trademark system.

Undoubtedly, this is the fundamental condition for the application of trademark protection. If a particular form is imposed by functional considerations, such a form cannot be considered distinctive, as it becomes available for use in relation to all goods performing the same function. As a result, consumers cannot rely on that form when comparing similar goods.

Therefore, the concept of a trademark is broader and more comprehensive than that of an industrial design, as the former encompasses the latter. In other words, every industrial design may potentially be used as a trademark if its owner deems it beneficial to do so; however, it is difficult to argue that every trademark constitutes an industrial design. **(Al-Kasawneh, 1988, p. 142)**

Section Two: Conditions for the Protection of Industrial Designs and Models

The legal protection of industrial designs and models requires the fulfillment of a number of conditions, which may be classified into two categories: substantive conditions and formal conditions.

Subsection One: Substantive Conditions

The legislator requires several substantive conditions to be met for industrial designs and models. These include the originality of the industrial design or model, its industrial applicability, and its compliance with public order and public morals, meaning that it must be lawful.

First: The Requirement of Novelty

The requirement of novelty is intrinsically linked to the protection of industrial designs and models. Article 1 of Ordinance No. 66-86 expressly provides that the protection granted under this law applies exclusively to new designs and models. A design or model is considered new if it has not previously been created.

This condition implies that the industrial design or model must possess distinctive characteristics and intrinsic features that differentiate it from other industrial designs and models. Such distinctiveness must be perceptible through visual observation. A design may still be regarded as new even if some of its constituent elements are not themselves new. For example, a wooden chair may be manufactured in a distinctive manner that sets it apart from other wooden chairs, thereby reflecting the designer's creativity and innovation.

Furthermore, two designs or models may share the same subject matter and consist of similar lines, colors, or components, yet still differ in their overall appearance. In such a case, each design is considered distinct from the other because the assessment must be based on the design or model as a

whole, [**(Al-Fatlawi & Samir Jamil, 1988, p. 358)** rather than on one or several of its individual elements.

Accordingly, the element of novelty in an industrial design or model is what distinguishes it from others, as it entails the creation of something that did not previously exist. In all cases, novelty is considered a question of fact, **(Cherifi, n.d, p. 117)** the determination of which falls within the jurisdiction of the trial judge.

Under Algerian law, the required novelty is absolute novelty, both in terms of time and place. This means that the industrial design or model must not have been previously registered for the same or different products, nor disclosed to the public through any means of publication. **(Al-Wali, 1983, p. 91)** Some of the design's elements may already exist; however, the design may still exhibit a new, distinct, and original appearance that differentiates it from previously existing forms and configurations. In addition, it must satisfy the conditions of reproducibility and reflect personal creative efforts that differ from those embodied in prior industrial designs or models. Consequently, the design must be assessed as an integrated whole, rather than solely through its individual components.

An industrial design or model is considered any design or model that has not previously been created. Therefore, the owner of the design or model must be the first person to file it with the competent authority, in accordance with Article 2 of Ordinance No. 66-86 relating to industrial designs and models. If the owner discloses or publishes the design, it loses the element of novelty and may no longer be registered. Should registration nevertheless occur, any interested party may request its invalidation. **(Fadli & Idris, 2004, p. 266)**

Innovation constitutes an essential condition for the protection of an industrial design or model. It is closely related to the requirement of novelty to the extent that the two concepts may overlap. However, the innovative character of a design or model confers modernity and distinctiveness upon it, making it easily distinguishable from others.

It appears that a design or model is not required to exhibit a high degree of innovation; rather, it is sufficient that it possesses an individual character distinguishing it from other designs. Its constituent elements may be derived from nature or from previously existing objects, provided that the creator, through personal effort, modifies them in a manner that makes the design distinguishable from similar ones. **(Al-Din, 2000, pp. 214-215)**

From the foregoing, it is evident that an industrial design or model must be innovative and novel. In other words, both innovation and novelty are required for the grant of protection to the owner of the design or model. The law does not prescribe any additional conditions for the protection of industrial designs and models beyond those established by the legislator.

The legislator has introduced several exceptions to the novelty requirement by providing situations in which a pre-existing design or model does not lose its novelty pursuant to Article 19 of Ordinance No. 66-86. Such situations include disclosure of the design or model by its owner through publication prior to filing, as well as its exhibition by the owner at an official exhibition or one officially recognized. In these cases, protection is not forfeited; rather, the owner benefits from a right of priority and temporary protection, provided that the design or model is filed within six (06) months from the date of exhibition. This provision is consistent with Article 11 of the Paris Convention for the Protection of Industrial Property.

Secondly: The Industrial Applicability of the Design or Model

Industrial applicability refers to the possibility of exploiting the design or model as an original template for manufacturing other units. Conversely, a design or model that is unsuitable for industrial or artisanal exploitation—such as artistic drawings, advertising brochures, or architectural works—does not qualify as a design within the legal meaning. Instead, such creations are protected under copyright law.

(Ordinance No. 03-05 concerning Copyright and Related Rights.)

On the other hand, where a design or model serves only a functional industrial purpose without any aesthetic aspect, it is considered closer to an invention than to an industrial design or model.

Third: The Industrial Design or Model Must Not Be Contrary to Public Order and Public Morality

The Algerian legislator has established this requirement, providing that any application containing elements contrary to public order or public morality shall be rejected. **(Article 07 of Ordinance No. 66-86 relating to Industrial Designs and Models.)** Industrial designs and models, like other industrial property rights, do not benefit from legal protection if they are unlawful; that is, if their form or appearance infringes public order or public morality.

Public order refers to the set of fundamental principles upon which the political, economic, social, and moral structure of society is based. Public morality, on the other hand, encompasses the ethical principles underlying the social order, or the rules of conduct observed by individuals within a given society. The concepts of public order and public morality vary according to time and place. **(Al-Zoubi, 2001, p. 129)**

Legal provisions further stipulate that any application relating to objects that do not constitute a design or model within the meaning prescribed by the Industrial Designs and Models Law, or that violate public morality, shall be refused. Consequently, designs that offend public morality and accepted ethical standards must be excluded. Examples include designs that infringe religious beliefs or represent symbols belonging to a particular State. The concept of public order differs from one country and society to another; thus, an industrial design depicting an indecent situation may be considered offensive in one country, while in another it may carry a positive connotation, such as fertility.

Section Two: Formal Requirements

The registration of industrial designs and models requires compliance with specific legal procedures. These procedures begin with the submission of an application for registration by the interested party to the Registrar, who then examines the application. The formal requirements consist of the procedures prescribed by law for the registration and protection of industrial designs and models. The Algerian legislator set out these requirements in Ordinance No. 66-86, the most important of which are filing, registration, and publication.

First: Filing

Where the substantive requirements of an industrial design or model are satisfied, and the design is independent from any other work and not associated with a functional work, it must be filed in order to initiate the registration procedures.

Filing constitutes the essential element for acquiring ownership of an industrial design or model. **(Article 2(2) of Ordinance No. 66-86.)** Accordingly, the owner of the design or model may not invoke legal remedies relating to infringement or imitation unless the filing procedures have been duly completed. **(Article 13 of Ordinance No. 66-86.)**

Each industrial design may be filed either in the form of a drawing or in the form of a specimen (sample). A filing may comprise from one to one hundred designs, provided that they are intended to be incorporated into articles belonging to the same class and that the dimensions of the drawings and models range between eight (8) centimeters and forty-eight (48) centimeters, in accordance with Article 09(2) of Ordinance No. 66-86, Article 06 of Executive Decree No. 66-87 of 28 April 1966 implementing Ordinance No. 66-86, and Decree No. 74-207 of 1 October 1974 establishing the fees applicable to industrial designs.

Any creator of an industrial design, or his representative, must submit an application for filing to the competent authority. Every filing of an industrial design shall be effected by sending the application in a sealed registered envelope with acknowledgment of receipt requested to the competent authority.

In addition, a declaration of filing must be submitted, consisting of printed forms in four (4) copies. The declaration must contain mandatory information, including the name and address of the right holder. Where there is more than one right holder, the full name, surname, domicile, and nationality of each must be indicated. If the application concerns a legal entity, its name and registered office address must be specified. If the application is submitted through an agent, the agent's name, address, and date of birth must also be provided.

The law further requires that the applicant, agent, or claimant be domiciled in Algeria. Consequently, even foreign applicants residing abroad must appoint an Algerian representative in Algeria to carry out the filing procedures relating to their industrial designs.

The declaration must also indicate the number and type of the designs, together with their serial numbers. Furthermore, the filing declaration must be dated and signed by the applicant or his representative. Certain supporting documents must be attached to the declaration, namely the power of attorney authorizing representation and proof of payment of the prescribed fees, in accordance with Article 2 of Ordinance No. 66-86.

The law also requires any person wishing to claim a right of priority, or what is commonly referred to as a priority claim, to attach to the application a certificate attesting to the identity of the industrial design, issued by the Algerian National Institute of Industrial Property, together with proof of payment of the prescribed fees, in accordance with Article 10 of Ordinance No. 66-86.

Documents containing the design drawings must be submitted in rolled form rather than flat form, in order to prevent the lines from being damaged or deteriorated as a result of folding or creasing at the corners of the sheets.

The container used for the filing must be made either of wood or metal. Its total weight may not exceed eighty (80) kilograms, and its dimensions may not exceed fifty (50) centimeters in length, fifty (50) centimeters in width, and twenty-five (25) centimeters in height. Where necessary, a design may be divided into several parts that can be identified and assembled by means of connecting lines and reference numbers. Nevertheless, the depositor is required to provide an overall representation of the design on a separate sheet.

The depositor shall sign on the reverse side of the drawing or photograph. In the upper right-hand corner, the number assigned to the deposited item shall be indicated. Where the deposit concerns a multi-part design, the filing may be accompanied by a descriptive statement for each industrial design or model. After the samples or drawings have been placed in the container, it shall be secured with a cord crossing between its base and lid and authenticated by the depositor's seal and signature. **(Article 07(3) of Ordinance No. 66-86 relating to Industrial Designs and Models.)**

These procedures demonstrate the legislator's intention to preserve the confidentiality of the container, as it may only be opened by damaging the means used to ensure its secrecy, namely the seal and signature. Furthermore, the depositor may rely on the external appearance of the container as evidence of the deposit

Secondly: Registration of the Deposit

Following the completion of the filing declaration procedures, the competent authority shall record the deposit in the Register of Industrial Designs and Models, or in the register book in which the date and time of submission of the documents, or receipt of the envelope containing them, as well as the filing number, are entered. The authority must also affix its official stamp and registration number to the submitted documents. **(Article 11, paragraphs 1 and 2, of Ordinance No. 66-86 relating to Industrial Designs and Models.)**

Before proceeding with registration, the competent department of the Algerian National Institute must first verify the documents accompanying the filing application, as well as the fees payable. It shall then record the relevant information in the Register of Industrial Designs and Models, indicating the date and time of submission of the documents and receipt of the envelope containing them. The authority shall send or deliver to the depositor stamped copies of the declaration, which shall serve as a certificate of registration of the design or model. **(Article 12 of Ordinance No. 66-86 relating to Industrial Designs and Models.)**

The Algerian legislator has fixed the term of protection for an industrial design or model at ten (10) years, calculated from the date of filing. **(Article 13 of Ordinance No. 66-86 relating to Industrial Designs and Models.)** This period is reasonable and consistent with international agreements. The legislator divided it into two periods: the first lasting one year and the second lasting nine years.

During the first period of one year, the industrial design or model remains confidential unless the depositor requests its publication. Upon the expiry of this period, the depositor is granted six (6)

months to submit an application for renewal to the competent authority and to pay the prescribed fees. Where the deposit concerns several designs or models, the depositor may request that confidentiality be maintained for some items while withdrawing others for which publication has not been requested.

The depositor or his successors in title may submit a request during the initial protection period or upon the total or partial withdrawal of the deposit. Such withdrawal relates to the items for which publication has not been requested. If the depositor does not withdraw the industrial design or model upon the expiry of the one-year period, it shall become the property of the State.

As for the second period, which lasts nine (9) years, it begins upon the expiry of the initial one-year period, provided that an application for renewal has been submitted and the maintenance fee has been paid for each design or model in accordance with Article 01/03 of Executive Decree No. 74-207 determining the applicable fees. During this period, the industrial design or model becomes mandatorily public pursuant to Article 16 of Ordinance No. 66-86.

The renewal application shall be submitted in the same manner as the filing declaration and shall be registered by the competent authority. It may be submitted either together with the filing declaration accompanied by a request for publication, or before the expiry of the initial one-year period, or within the six (6) months following the submission of the renewal application.

In both cases, the application must be signed by the depositor, his representative, or his successor in title, in two copies addressed to the competent authority, and sent by registered mail with acknowledgment of receipt.

The competent authority shall publish the industrial designs and models for which publication has been requested, in accordance with the applicable provisions, in order to avoid the risk of double protection where another party submits an application for the registration of an industrial design or model that has already been registered.

Third: Publication

The competent authority shall publish industrial designs and models according to specific procedures. These procedures require the owner of the design or model, or his representative, to submit a request for publication. Such request may be submitted either at the time of filing the declaration application or during the initial protection period. The request must be signed by the depositor, his successor in title, or his representative, and must be submitted in duplicate to the competent authority together with a request for acknowledgment of receipt. The applicant may stipulate that the request concerns all designs or models included in the deposit.

The publication request must contain certain mandatory information. Where the request is submitted by the depositor, it must include the following particulars:

If the applicant is a natural person, his surname, given name, and domicile must be indicated. If the applicant is a legal person, its name and principal place of business must be specified.

The place and date of filing, and, where necessary, the registration number.

The request must also indicate the number and identification of the industrial designs or models whose publication is sought, together with a statement as to whether they are to be maintained for a period of ten (10) years or not. It must further specify the fees payable, the method of payment, the date of payment, and the payment receipt number.

Where the request is submitted by the successor in title, it must include the document establishing his entitlement, as well as proof of payment of the prescribed fees, in accordance with Article 9 of Executive Decree No. 66-87, as referred to in Article 13 thereof.

The competent authority shall then record the publication request in the special register of industrial designs and models. The authority shall proceed to open the deposit box in accordance with Articles 10 and 11 of Executive Decree No. 66-87. If the filing is found to be irregular, an official report shall be drawn up, the box shall be sealed and kept at the disposal of the applicant for publication, and notification thereof shall be sent by registered mail.

A copy of the representation of the articles for which publication is requested shall be made available to the public. Any person may request a copy thereof, together with a copy of the explanatory annex, in accordance with Article 18 of Ordinance No. 66-86. Each copy issued to the requester shall bear the

surname and given name of the depositor, his profession, domicile, the serial number assigned to the filing, and, where appropriate, the date of publication accompanied by an explanatory statement. The registrations relating to industrial designs and models shall be entered and made available to any person requesting such copies. Persons obtaining such copies shall be entitled to reproduce the representations or articles obtained, for any reason whatsoever.

Section Three: Effects of Acquiring Ownership of an Industrial Design or Model

The acquisition of ownership of an industrial design or model grants the owner the exclusive right to exploit industrial designs and models (First Branch), the right to dispose of them (Second Branch), and the right to authorize their exploitation (Third Branch).

First Branch: Exclusive Exploitation of Industrial Designs and Models

Upon acquiring ownership, the owner alone enjoys the benefits and privileges attached to that ownership and has the right to prevent any other person from sharing in them. Consequently, the owner of an industrial design or model has the exclusive right to exploit his or her creation and to prevent others from using the design or model without prior authorization. Any unauthorized use constitutes an infringement of the owner's rights. However, the right of exclusivity in favor of the owner of an industrial design or model arises only after the completion of the registration (deposit) procedure. (Abbas, n.d, p. 158) Prior to such registration, no exclusive right exists, and third parties cannot be prevented from benefiting from the results of the creator's intellectual effort; otherwise, they may be subject to legal sanctions.

Once the industrial design or model has been registered, its owner acquires the exclusive right to exploit it by manufacturing the product embodying the design or model, as well as the molds and plates used for reproducing such designs or models. The owner may prevent others from using the design or model without prior consent. Any unauthorized use is deemed an infringement and exposes the infringer to legal liability. (Al-Din, 2000, p. 227)

The right of exclusivity is limited to the exploitation of specific products. Therefore, if an industrial design or model is registered for a particular industrial product and another person uses the same design or model in relation to dissimilar products, such use does not constitute imitation or unfair competition.

Second Branch: The Right to Dispose of Industrial Designs or Models

The legislator has granted the owner of an industrial design or model the right to dispose of it by transferring ownership to another person, pledging it as security, subjecting it to seizure, or granting others authorization to exploit it. Accordingly, the owner may exploit the design or model personally or assign it to a third party. The owner may also undertake to grant another person the right to exploit the design, either wholly or partially. Furthermore, the design or model may be pledged in accordance with the relevant legal provisions.

Donation of an Industrial Design or Model

Ownership of an industrial design or model may be transferred without consideration through what is legally known as a donation or gift contract.

1. Assignment of Industrial Designs and Models

The owner of an industrial design or model may assign their design or model, that is, transfer their rights either wholly or partially. Such assignment may be made for consideration, such as through sale, or without consideration, such as through donation, gift, or testamentary disposition.

The legislator has required that the assignment contract be in writing. This requirement is stipulated in Article 21 of Ordinance No. 66-86, which provides that contracts involving either the transfer of ownership, the granting of an exploitation license, the assignment of such a right, the creation of a pledge, or the release of a pledge must be executed in writing and recorded in the special register of industrial designs and models, failing which the right shall not be enforceable.

Accordingly, the requirements of writing and registration in the special register of industrial designs and models constitute conditions for the validity and formation of the contract rather than mere evidentiary requirements, since the absence of either or both results in the nullity of the contract. Based on Article

21 of Ordinance No. 66-86, the validity of an assignment contract concerning industrial designs and models requires the existence of the general elements of a contract, namely consent, object, and cause, in addition to the contract being in writing and duly registered in the Register of Industrial Designs and Models under penalty of nullity.

The Algerian legislator has imposed the requirement of writing in contracts assigning industrial designs and models; however, it has not specified the nature of the required writing, whether it must be in an official or private form. Writing nevertheless remains an essential condition for the transfer of rights; otherwise, the contract shall be deemed null and void.

A written request for the registration of the assignment contract must be submitted either by mail or directly to the National Institute of Industrial Property. The request must include the applicant's surname and first name, or those of their representative, their place of residence, the amount of fees paid and the method of payment, together with the deed of assignment.

The original copy of the assignment contract must be submitted for registration if the contract is executed in a private form. However, if the contract has been officially authenticated, established through a notarial deed, or incorporated into an inventory report in the case of succession, the submission of a certified copy shall suffice.

The application must be accompanied by three (03) copies of the forms provided by the National Institute of Industrial Property. The information contained in the application must correspond exactly to that contained in the three forms. The competent authority retains the original document submitted for registration and returns one stamped acknowledgment receipt to the applicant. Any person may obtain copies of the registered entries or other recorded information. **(Al-Fatlawi S. J., 1988, p. 382)** Likewise, any person may, upon request, obtain either a copy of the registrations entered in the Register of Industrial Designs and Models or a certificate attesting to the absence of any registration.

The legal effects of assigning industrial designs and models vary according to the nature of the assignment. Where the assignment is total, ownership of the design or model passes to the assignee upon conclusion of the contract, and the assignor is bound by the warranty against disturbance. Conversely, where the assignment is partial, such that the owner retains ownership while granting exploitation rights to another party, the beneficiary acquires only the right to use the design or model in accordance with the agreed contractual terms.

Section Three: Licensing the Exploitation of Industrial Designs and Models

The legislator has not expressly defined a licensing contract relating to industrial designs and models. Nevertheless, Article 21 of Ordinance No. 66-86 authorizes the owner of an industrial design or model to grant third parties the right to exploit it.

The competent authority is also empowered, in return for consideration, to grant any enterprise requesting it the right to use a design or model.

First: Contractual Licensing

A contractual or voluntary license is an exploitation license granted pursuant to an agreement concluded between the licensor, who is the holder of the industrial design or model certificate, and the licensee. This may be inferred from the relevant legislative provisions. **(Articles 20 and 21 of Ordinance No. 66-86 concerning Industrial Designs and Models.)** Such a license may be either exclusive or non-exclusive. In all cases, it must be in writing and registered, and the registration procedures are identical to those applicable to assignment contracts.

A contractual licensing agreement creates a personal right. Its legal nature does not differ from that of the voluntary license relating to patents, and the rules governing its temporal and territorial scope are essentially the same. **(Al-Fatlawi & Samir Jamil, 1988, p. 383)**

The distinguishing feature of a licensing contract is that it enables the licensee to exploit the innovation without transferring ownership of the design or model. Ownership remains vested in the licensor, who continues to be the legal owner. **(Hamada, 2002, p. 54)**

This contract is also characterized by its personal nature, meaning that the licensee is generally expected to possess a good commercial reputation and financial credibility. The licensee may not assign the

license to a third party without the consent of the owner unless otherwise agreed in the licensing contract. **(Al-Bayati, 2002, p. 125)**

The duration of the licensing agreement generally continues for as long as the protection period of the industrial design or model remains in force. However, the parties may agree on a shorter period. The licensee must respect the agreed term of the contract, as any continued use of the design or model after the expiration of the license exposes them to liability and renders them an infringer of the licensor's rights. **(Al-Arif, 1959, p. 613)**

Secondly: Compulsory Licensing

The conclusion of a licensing agreement for the exploitation of industrial designs and models gives rise to several obligations binding upon both parties. The licensor is required to comply with the obligations relating to delivery and warranty, while the licensee is obligated to pay the amounts specified in the licensing agreement. The licensee must also exploit the industrial design or model licensed under the terms of the contract.

As a general rule, licensing agreements are contractual in nature. However, as an exception to this principle, a license may be compulsory in cases of non-exploitation, insufficient exploitation, or whenever required by the public interest. In all cases, the owner of the industrial design or model retains ownership thereof but loses the exclusive right to exploit it.

The granting of a compulsory license requires either non-exploitation or insufficient exploitation. Where the owner of an industrial design or model is unable to exploit it, whether due to a lack of financial resources or for any other reason, it is equitable for the State to intervene in order to regulate the utilization of the production abandoned by its owner through the granting of compulsory licenses.

A compulsory license may be granted due to non-exploitation or cessation of exploitation, despite the fact that Ordinance No. 66-86 does not expressly provide for this situation. This differs from the provisions of the Paris Convention, which addresses the matter in the relevant section of paragraph (a). Paragraph (b) of the Convention also provides for the forfeiture of industrial designs and models due to non-exploitation. Consequently, the law governing industrial designs and models is considered amended by virtue of these Convention provisions. **(Al-Fatlawi & Samir Jamil, 1988, p. 384)**

The refusal of the owner of an industrial design or model to conclude contractual licenses may also justify the granting of compulsory licenses. While licensing is, in principle, contractual, an exception exists in the form of compulsory licenses, **(Article 20 of Ordinance No. 66-86 relating to Industrial Designs and Models.)** which may not be granted where the owner has already undertaken to conclude contractual licensing agreements.

The legislator further requires the existence of a public interest justifying recourse to compulsory licensing. Public interest is understood broadly to include the economic, cultural, and educational interests of society.

The first procedural step consists of submitting an application to the National Institute of Industrial Property. The applicant undertaking must be capable of exploiting the industrial design or model and must provide guarantees demonstrating such capability. In addition, the applicant seeking the compulsory license must offer appropriate financial compensation in consideration thereof. Once the decision granting the compulsory license is issued, it must be recorded in the relevant register at the expense of the interested party.

Section Four: Pledge of Industrial Designs and Models

The legislator also permits the owner of an industrial design or model to pledge the certificate incorporating the design or model. Accordingly, the owner may use it as security for a debt, pursuant to Article 21 of Ordinance No. 66-86, which refers to the legal procedures governing assignments and licenses, subjecting them to the same formal requirements, **(Mesfah, 2009, p. 64)** namely the execution of a written agreement and its registration. Ordinance No. 66-86, however, does not specifically regulate such pledges.

The pledge of an industrial design or model is considered a possessory pledge, given that it constitutes an intangible movable asset. Consequently, it is governed by the general rules relating to possessory pledges as provided under the Civil Code. The owner of the industrial design or model may create such

a pledge as security for a debt owed by himself or by another person, provided that he owns the design or model and possesses the legal capacity to dispose of it. This contract is characterized by its indivisible nature, (Adja, 2015, p. 49) in that it extends to the entirety of the industrial design or model.

A possessory pledge over a commercial establishment does not extend to industrial designs and models unless this is expressly and specifically stipulated in the contract as is the case with patents and trademarks.

An industrial design or model may be pledged independently (Al-Momani, 2016, p. 74) of the commercial establishment, notwithstanding its status as an intangible component thereof. It may also be pledged together with the commercial establishment, provided that the pledge is registered in the Industrial Designs and Models Register and published in the Official Bulletin.

The term of protection granted under this law is ten years for each industrial design or model, calculated from the filing date, that is, from the date on which the registration application is submitted. The design or model remains valid throughout this period, which constitutes the initial term of protection.

Chapter Two: Legal Protection of Industrial Designs and Models

The owner of an industrial design or model is entitled to enjoy the legal protection granted by both domestic legislation and international conventions.

Section One: National Protection of Industrial Designs and Models

This protection encompasses precautionary measures (First Branch), civil protection (Second Branch), and criminal protection (Third Branch).

First Branch: Precautionary Measures

The owner of an industrial design or model may undertake precautionary measures prior to instituting an infringement action, such as seizure proceedings, in order to safeguard his rights on the one hand and to obtain evidence establishing the act of infringement on the other. (Article 26 of Ordinance No. 66-86 relating to Industrial Designs and Models.)

The owner of an industrial design or model who wishes to undertake this procedure is required to submit an application to the president of the competent judicial authority in order to obtain authorization to carry out a detailed description of the items infringing his rights, or of the tools used in their manufacture, with or without seizure.

The judicial bailiff must serve the order for description and seizure and leave a copy thereof with the holders of the described or seized items; otherwise, the seizure request shall be deemed null and void pursuant to Article 26(4). The bailiff must also draw up a seizure report concerning the counterfeit items described and the tools used in their manufacture, and a copy of the order must be left with the holders of the described or confiscated items; otherwise, the request shall be invalid and compensation may be claimed.

Second Branch: Civil Action

The elements of an action for unfair competition (First) and compensation (Second).

First: Elements of an Unfair Competition Action

The essential elements of an unfair competition action are fault, damage, and the causal link between them:

1. Fault:

Fault constitutes a fundamental element for the institution of this action. It is necessary that the wrongful act be committed within the context of actual competition, meaning that the competition must exist between two persons or entities engaged in the same type of industry, trade, or services, or in similar activities, where the conduct of one may influence the clientele of the other.

The concept of fault encompasses all fraudulent practices that adversely affect another person's trade or industry, since the basis of fault lies in the breach of a general duty binding upon all persons. This duty requires participants in industrial activities, in their broad sense, to refrain from using methods that are

inconsistent with honest commercial practices and fair competition. (Al-Fatlawi & Samir Jamil, 1988, pp. 430-433)

Any act of competition contrary to honest practices in industrial or commercial matters shall be considered an act of unfair competition. In particular, the following acts are prohibited:

Any acts likely, by whatever means, to create confusion with the establishment, products, industrial activity, or commercial activity of a competitor.

False allegations made in the course of trade that are liable to discredit the establishment, products, industrial activity, or commercial activity of a competitor.

Statements or allegations whose use in trade is likely to mislead the public as to the nature of goods, their method of manufacture, characteristics, suitability for use, or quantity.

This provision also identifies the principal forms of unfair competition, namely: creating confusion between establishments, making false allegations contrary to the truth, and causing disturbances within a competing enterprise.

2. Damage:

Damage is one of the most important elements of tort liability. It may be material, such as the loss of customers, or moral, such as harm to commercial reputation and goodwill, whether present or future. The damage must be actual and certain rather than merely hypothetical.

The burden of proving damage rests upon the claimant, (Al-Fatlawi S. J., 1988, p. 286) since this action is based on tort liability.

The damage that must be established in an unfair competition action generally consists of the diversion of customers from the claimant's products as a result of unlawful methods employed by the defendant. Consequently, judicial decisions do not always require proof of actual damage, due to the difficulty of establishing it, but rather infer its occurrence from the facts and circumstances that are capable of causing harm to the claimant.

3. Causal Link:

For an unfair competition action to be upheld, the fault must constitute the direct cause of the damage suffered. The examination of causation arises only in cases where actual and effective damage results from acts of unfair competition, (Al-Din, 2000, p. 389) and not where the damage remains merely hypothetical or future, even if its occurrence appears certain, since damage remains speculative until it has actually materialized.

Secondly: Civil Compensation

The claimant has the right to seek civil compensation for acts of infringement. Such compensation becomes due once infringement is established and remains subject to the discretionary authority of the judge. The legislator recognized this right under Article 23 of the Industrial Designs and Models Law, granting the claimant, as the owner of the design or model, the right to compensation for the damages suffered.

The most important remedy awarded by the court is the reparation of the material damage sustained by the owner of the industrial design or model as a result of the infringement.

Most legal systems agree that the assessment of compensation should be based on the profit lost by the claimant and the losses incurred. Although the Algerian legislator did not expressly adopt this criterion in the Industrial Designs and Models Law, there is no obstacle to its application on the basis of the general provisions set forth in the Civil Code.

When assessing compensation, due consideration must be given to adverse economic circumstances, including the profits lost by the injured party, the losses incurred, and the profits unlawfully gained by the infringer through the exploitation of the counterfeit designs or models. The competent judicial authority may also award lump-sum compensation, which shall not be less than the amount of fees and royalties that the infringer would have been required to pay for the lawful exploitation of the industrial designs or models.

Section Three: Criminal Protection of Industrial Designs and Models

The Industrial Designs and Models Law provides protection for registered industrial designs and models and imposes sanctions on those who commit acts of infringement. Criminal protection refers to

the institution of infringement proceedings whenever the legal requirements are satisfied, the most important of which is the deposit and publication of the design or model. Registration constitutes an essential condition for initiating an infringement action. Consequently, acts of infringement committed prior to registration do not confer upon the owner any right to institute infringement proceedings.

Likewise, acts constituting infringement that occur after registration but prior to publication do not give rise to a right of action unless the injured party proves the defendant's bad faith. **(Article 25(2) of Ordinance No. 66-86 relating to Industrial Designs and Models.)**

First: Acts Constituting Infringement

The offense of infringement consists in the creation or manufacture of a design or model that resembles a registered and protected design or model. It is an offense based on the falsification of reality and constitutes an encroachment **(Al-Na, 2009, p. 149)** upon the rights of the owner of the design or model. It also includes the sale, offering for sale, importation, distribution, or concealment of counterfeit products, goods, or merchandise. These acts are akin to infringement and may be inferred from the legal provision **(Article 23 of Ordinance No. 66-86 relating to Industrial Designs and Models.)** that penalizes any violation, a general term employed in Article 23, notwithstanding the fact that the legislator did not expressly define this offense.

The offense of usurping the rights of industrial design and model owners is among the most common violations in practice. Although the legislator did not explicitly refer to it, emphasis was placed on the exclusive right of exploitation and on preventing third parties from exploiting a design or model without the consent of its owner.

The legislator did not require that the imitation be complete for the offense to be established. Rather, it is sufficient that one or more constituent elements of the design or model be reproduced in a manner likely to create apparent confusion capable of misleading a reasonably prudent person. **(Al-Fatlawi & Samir Jamil, 1988, p. 406)** In determining whether infringement exists, the assessment should focus on the overall similarities between the genuine design or model and the allegedly infringing one, rather than on differences in minor details. It is sufficient that the overall resemblance be such as to mislead consumers.

Secondly: Sanctions

The legal provisions governing industrial designs and models prescribe penalties for individuals who infringe upon the rights of industrial design and model owners. These penalties may be classified into two categories: principal penalties and supplementary penalties.

1. Principal Penalties

The principal penalties consist of sanctions in the form of a fine ranging from 500 to 15,000 Algerian Dinars (DZD). If the perpetrator of the offense of counterfeiting was employed by the injured party, he shall, in addition to the fine, be subject to imprisonment for a period ranging from one month to six (06) months.

The penalties shall be doubled where the infringement affects the rights of the self-managed sector or the State sector. **(Article 22, final paragraph, of Ordinance No. 66-86 concerning Industrial Designs and Models.)**

2. Supplementary Penalties

Confiscation

The Algerian legislator distinguishes between the confiscation of items infringing the rights of the owner of the industrial design or model and the confiscation of tools specifically used in the manufacture of such items, with their delivery to the injured party. The court may order the confiscation of the tools used in the manufacture of the infringing items and their transfer to the injured party in accordance with Article 24(2) of Ordinance No. 66-86.

The judge may order the confiscation of the tools used in the manufacture of counterfeit products only upon the conviction of the accused. The power to order confiscation falls exclusively within the jurisdiction of the criminal court and is considered a discretionary penalty. **(Article 24(2) of Ordinance No. 66-86 concerning Industrial Designs and Models.)**

3. Publication of the Judgment

The legislator also referred to this supplementary penalty, allowing the court to order the posting of the judgment in places designated by it and to order the publication of the judgment in full or in part in newspapers designated by the court, at the expense of the convicted person.

Conclusion

From the foregoing, it is evident that the legislative provisions relating to industrial designs and models emphasize the necessity of registering ownership of the industrial design or model in the official register and publishing it in the Official Bulletin. Industrial designs and models are subject to the same legal rules, both with regard to the conditions required for their protection and the legal effects arising from such protection at both the national and international levels.

Industrial property rights occupy an intermediate position between pure art and applied or industrial art. Industrial property and literary and artistic property are connected through the principle of the unity of art; consequently, industrial designs and models may also be protected under copyright and related rights legislation, particularly Ordinance No. 03-05. Industrial designs and models benefit from dual protection: specific rules governing industrial designs and models, as well as the provisions of copyright law, due to their common characteristics with artistic works under the principle of the unity of art. Accordingly, two possible systems exist for the protection of industrial designs and models: the specific regime governing industrial designs and models, and the copyright and related rights regime.

In this respect, the Algerian legislator, following the example of the French legislator, has adopted the principle of cumulative protection, which is likewise consistent with the approach of the Hague Agreement, which does not oppose the principle of dual protection. Industrial designs and models are entitled to criminal protection only after the completion of the procedures of filing, registration, and publication in accordance with the applicable legislative and regulatory provisions.

The definition of industrial designs and models adopted by the Algerian legislator has been overtaken by developments, as it originates from an old law enacted nearly sixty years ago. During this period, legislation has undergone significant reforms that elevated industrial designs and models to the rank of fundamental industrial property rights, particularly with regard to registration procedures and the strengthening of legal protection.

Furthermore, the amount of the prescribed fine is extremely low and undoubtedly undermines the rights of owners. This is due to the fact that Ordinance No. 66-86 has become outdated and no longer keeps pace with contemporary developments. As one of the oldest industrial property laws, it has not yet been amended. Therefore, it is necessary either to amend it substantially or repeal it entirely and replace it with new legislation capable of modernizing the legal framework governing industrial designs and models and establishing effective legal mechanisms for their protection.

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