

Monaco

Administrative procedure

Opposition

No formal opposition procedure is available.

Appeal

There is no possibility of appeal against the decision on the application, as no publication to third parties is available.

Third parties will only learn of the patent at the end of the filing stage, at which time it will be announced in a decree by the State Ministry (Art. 11, Law 606). However, this announcement may be subject to an action at the Supreme Court (Art. 89-92 of the Constitution) for abuse of power based on failure to respect the terms of Art. 6 of Law 606. To date there has been no such action.

Civil procedure

Infringement

Civil and criminal proceedings are provided for.

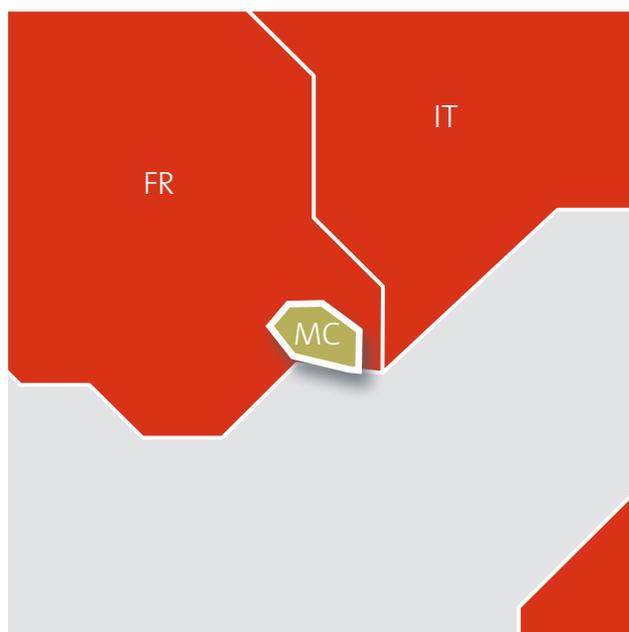
Criminal sanctions (Law 606, 20 June 1955) include fines and imprisonment in case of recidivism. These actions can be brought before a first-instance criminal court, but only by the infringed party.

The owner of the patent may request a detailed description by a bailiff of infringing goods with or without seizure of same. In such cases the requester must institute civil or criminal proceedings within one week.

Invalidity may be used as a defence both in the first-instance civil court (Art. 382, CPC) and in the first-instance criminal court (Art. 48, Law 606).

Nullity/counterclaim for revocation

Any interested party may request nullification before the court.



Nullity actions do not have to be lodged as separate proceedings. Although a nullity action may be lodged on its own, it can also be introduced during the first-instance infringement proceedings. Before criminal proceedings a nullity action can be raised only in defence of criminal infringement proceedings.

Representation is mandatory in civil proceedings (Art. 179 CPC) and discretionary in criminal proceedings.

If the action is withdrawn in civil proceedings, the proceedings will, if the parties agree, also be withdrawn (Art. 412 CPC).

A judgment of nullity has retroactive effect (Art. 24, Law 606).

Appeals may be lodged at the Court of Appeal.

Remedies

Seizure, damages, confiscation of infringing articles, fine, imprisonment.

Other actions

There is no provision for this.

Appeal

Appeals are heard at the Court of Appeal of Monaco for both civil and criminal proceedings.

A further appeal may be lodged before the Court of Revision following the general principles of law and procedure.

Parallel proceedings

There are no opposition proceedings for national patents, so infringement proceedings are not affected. However, in the case of a European patent designating Monaco, a stay could be declared at the discretion of the judge. To date there have been no cases of parallel proceedings in national courts and the EPO.

Arbitration/mediation

The legislation does not cover arbitration or mediation.

Enforcement

The bailiff is the authority responsible for enforcing an order [Art. 50 Law 606].

Compulsory licence

May be granted by the court.

Relevant national law

Law 606 of 20 June 1955 on patents of invention [cited as: Law 606];

Code de procédure civil [cited as: CPC].

Competent authorities or courts

