

A STEP AHEAD IN IP

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The recent implementation of new measures in connection with intellectual property administrative procedures in Peru as well as the improvement in infrastructure and services provided by the National Institute for the Defence of Competition and Protection of Intellectual Property (INDECOPI) has brought excellent benefits for the trademark community.

It is worth pointing out that in accordance with Article 15 of Legislative Decree 1075, it is possible to file powers of attorney as private documents in connection with applications for registration, applications for recordation of assignments, changes of address and mergers, apart from when the procedure involves infringement actions or desist orders for trademarks. This means that it is no longer necessary to have powers of attorney notarised or legitimised by a Peruvian Consul (when the applicant is domiciled abroad). The applicant's signature is sufficient and, in the case of organisations, a job title should also be included.

The Trademark Law Treaty (TLT) introduces a change to the filing date for trademark applications. At the moment, there are two filing dates: the legal filing date and the physical filing date. The legal filing date is met when the application is filed fulfilling all the minimum requirements:

- An indication that the registration of a mark is sought
- Indications of the identity and communication facilities of the applicant or its representative
- A clear reproduction of the mark whose registration is sought
- A list of the goods and/or services for which the registration is sought
- The payment receipt for the correct government fees.

On the other hand, the physical filing date is met if any of the minimum requirements has not been fulfilled. In this case, the office will request compliance with the missing requirement within 60 working days; once this takes place, the office will grant the trademark application a valid or legal filing date.

Equally important was the approval of the Hague Convention at the end of last year, which abolished the requirement of legalisation for foreign public documents. This convention is applied to public documents that have been executed in the territory of one contracting state and that have to be produced in the territory of another contracting state.

Finally, but no less important, is the improvement in services provided by INDECOPI, which has recently developed a bilingual Spanish/English website, opening it up to almost anybody involved in IP matters worldwide. It is also now possible to file electronic trademark applications, and while

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the payment of government fees can be made by a credit card, it is still necessary to list a domicile within the Peruvian territory. Additionally, INDECOPI has a number of offices in the main cities and districts of Peru, and in March of this year, opened a modern, new branch in the north of Lima, which receives and processes almost all the cases that are handled in its head offices.

All these measures reduce transaction costs, encourage individuals and companies seeking protection for their industrial property rights, and as a result, benefit IP lawyers. Because the administration's requirements are lower, lawyers can reduce their fees, which will in turn increase the demand for their services. All these measures help to develop the market and attract investment, and give wider benefits to the national economy.

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