

REPORT

LEGISLATIVE TRENDS REGARDING TRADEMARKS IN LATIN AMERICA AND THE CARIBBEAN: AN OUTLINE OF CURRENT BILLS AND ON THE LEGISLATIVE PROCESS

December 03, 2009

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REPORT

1. INTRODUCTORY REMARKS

1.1. Methodology

Since January 1st, 2008, the Latin American & Caribbean Subcommittee of INTA's Legislation and Regulation Committee has been monitoring and analyzing legislative developments regarding trademarks and related rights in the region.

Based on the experience acquired during the first year of its term, the Subcommittee considered that it would be objectively important to do a survey to verify the trends of the present legislative projects affecting trademark owners' rights and also to learn more about the legislative process in the Latin American and Caribbean countries.

The group decided to draft a Questionnaire (dated March 31, 2009 and enclosed herewith as **Appendix 2**) and to answer it as of April 1st, 2009 with regard to their own jurisdictions, at the same time submitting it to colleagues in other countries, so as to obtain a broader geographical representation.

Responses from 17 (seventeen) countries were received by June 1st, 2009. The Subcommittee thanks all trademark professionals who took part in the survey and whose names are mentioned in **Appendix 1** and to the Leadership and INTA Staff for their contribution in the preparation of this report..¹

A Compilation Chart summarizing the results of all responses is attached herewith as **Appendix 3**.

1.2. Contents

It is relevant to note that bills concerning enforcement and anti-counterfeiting measures were excluded from the scope of this study as the subject is dealt by another INTA Committee. Enforcement related bills or issues are only indirectly mentioned, in some chapters.

The present report is divided in two parts:

Part 1 – LEGISLATIVE DEVELOPMENTS

This part is focused:

- on the existing types of law dealing with trademarks in the surveyed countries,
- on pending bills and their subjects and
- on comments about issues that should deserve legal improvement in such countries, covered by Questions 1 to 3 respectively.

Part 2 – LEGISLATIVE PROCESS

The second part of the Report intends to compare the procedures applied to propose and pass bills in the region's countries, summarizing the responses to Questions 4 and 5.

¹ The Survey gathered the responses and opinions of 1 (one) representative per country, with the exception of Brazil and Uruguay, covered by the responses of 2 (two) professionals each.

1.3. Objectives

This work is a preliminary study. However, the Subcommittee finds it useful in terms of:

- congregating knowledge on trademark legislation of the covered countries;
- providing a general picture of the legislative initiatives regarding trademarks and related rights in the region;
- presenting subjects missing legislative improvement in the region, in a methodical way;
- enabling some comparative comments;
- congregating information on the legislative process in the countries surveyed;
- serving as a tool to identify current trends in the region;
- in studying the trend of new bills, looking to find whether there is a tendency towards harmonization;
- stimulating further studies and actions, concerning trademark issues in Latin America and the Caribbean.

2. LEGISLATIVE DEVELOPMENTS AND PROCESS IN THE REGION

PART 1 – LEGISLATIVE DEVELOPMENTS
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2.1. Report on Q1: Current legislation

Considering that three legislation levels (international, regional and national) rule on industrial property rights, this study will present, as a starting point, a brief outline of the principal treaties that are relevant in this context with regard to the Latin American and Caribbean countries.

2.1.1. INTERNATIONAL AND REGIONAL INTELLECTUAL PROPERTY RIGHTS TREATIES

The Subcommittee researched the international and regional I.P. treaties to which Latin American and Caribbean countries are members and summarizes the result in the following table and map, commented below:

TABLE OF TREATIES AFFECTING INDUSTRIAL PROPERTY RIGHTS TO WHICH LATIN AMERICAN AND CARIBBEAN COUNTRIES ARE MEMBERS²

INTERNATIONAL TREATIES			REGIONAL TREATIES			
COUNTRY	PARIS CONVENTION	TRIPS	NAFTA	ANDEAN COMMUNITY	CAFTA	MERCOSUR
Antigua and Barbuda	MS	MS				
Argentina	MS	MS		AM		MS
Bahamas	MS					
Barbados	MS	MS				
Belize	MS	MS				
Bolivia	MS	MS		MS		AM
Brazil	MS	MS		AM		MS
Canada	MS	MS	MS			
Chile	MS	MS	AM	AM		AM
Colombia	MS	MS		MS		AM
Costa Rica	MS	MS			MS	
Cuba	MS	MS				
Dominica	MS	MS				
Dominican Republic	MS	MS			MS	
Ecuador	MS	MS		MS		AM
El Salvador	MS	MS			MS	
Grenada	MS	MS				
Guatemala	MS	MS			MS	
Guyana	MS	MS				
Haiti	MS	MS				
Honduras	MS	MS			MS	
Jamaica	MS	MS				
Mexico	MS	MS	MS	OM		OM
Nicaragua	MS	MS		OM	MS	
Panama	MS	MS				
Paraguay	MS	MS		AM		MS
Peru	MS	MS		MS		AM
Puerto Rico	MS	MS				
Saint Kitts and Nevis	MS	MS				
Saint Lucia	MS	MS				
Saint Vincent and the Grenadines	MS	MS				
Suriname	MS	MS				
Trinidad and Tobago	MS	MS				
United States	MS	MS	MS		MS	
Uruguay	MS	MS		AM		MS
Venezuela	MS	MS				AM

MS = Member State
 AM = Associate Member
 OM = Observer Member

² Compiled by INTA's LRC LA&C SC – Status Nov. 24, 2009.

**MAP OF REGIONAL FREE TRADE OR COMMON MARKET ZONES
IN LATIN AMERICA AND THE CARIBBEAN***



Only Member States to these treaties are depicted in this map (not Associate or Observer Members, that are indicated in the Table above).

* By INTA LRC LA&C Subcommittee – Status November 24, 2009

INTERNATIONAL INTELLECTUAL PROPERTY TREATIES

As it can be seen from the above table, all Latin American and Caribbean countries are contracting parties to the Paris Convention and to TRIPS – Agreement on Trade Related Aspects of Intellectual Property Rights, with exception of Bahamas, which did not adopt the latter.

REGIONAL TREATIES

While the table above shows a dynamic scenario of Observer and Associate memberships, for simplification purposes, the map shows only the Member States to the 4 (four) regional free trade or common market agreements concerning Latin American and Caribbean countries, listed below:

NAFTA

Mexico is the only Latin American Member State of the North American Free Trade Agreement (NAFTA), enacted on January 1st, 1994. Chile is currently an associate member.

ANDEAN PACT

The Andean Community of Nations was established in 1969 with the Cartagena Agreement. Venezuelan President Hugo Chávez announced the withdrawal of his country from the Andean Community in April 19th, 2006. Currently, therefore, Bolivia, Colombia, Ecuador and Peru are Member States.

CAFTA

The Central America and Dominican Republic Free Trade Agreement or CAFTA was established in 2007, as an initial step for implementation of the FTA. Its Member States are Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua and United States.

MERCOSUR

The Southern Common Market (MERCOSUR) was created by the Asunción Treaty on March 26th, 1991 and was transformed in a customs union on January 1st, 1995. Venezuela is very close to become a Member State or Full Member, joining the same membership status as Argentina, Brazil, Paraguay and Uruguay.

2.1.2. NATIONAL LEGISLATION

Question 1 – Current national trademark legislation

1.1. Does your country have:

- a. A Trademark Law, dealing basically only with trademarks; or*
- b. A law covering trademarks and related areas, such as trade names, unfair competition, etc., or*

c. An Industrial Property Law, dealing with several IP rights and having a specific chapter on trademarks; or
d. Other: please specify.

1.2. Please inform the number, date and complete name of the current law governing trademarks in your country (corresponding to the item you marked in 1.1):

Concerning the responses received to items 1.1 and 1.2 of this Question, no countries were found to have a specific law dealing only with trademarks. The 17 (seventeen) countries surveyed can be grouped in two categories:

Countries that have a law dealing specifically with trademarks and related rights

In Argentina, there is a law covering trademarks and trade names. This law is Act No. 22,362 of December 26, 1980, called the Trademarks and Designations Act (“*Ley de Marcas y Designaciones*”).

El Salvador has a law covering trademarks and other related areas, such as trade names, unfair competition, etc., to wit: Act No. 868 of July 17, 2002, called the Trademarks and other Distinctive Signs Act.

Haiti’s law covers trademarks and other related areas, such as trade names, unfair competition, etc. This law is Act of July 17, 1954, called the Special Trademarks in Commerce Act, as amended by Act of July 15, 1956, by Decree of August 28, 1960, by Presidential Order of September, 1965, by Decree of October 12, 1967 and by Decree of September 24, 1970.

In Panama, a law and a decree establish the rules concerning trademarks and other related areas, such as trade names and unfair competition: Act No. 35 of May 10, 1996 and Executive Decree No. 7 of February 17, 1998, respectively.

Paraguayan Act No. 1294/1998 of August 6, 1998, called the Trademarks Act, rules on trademarks and other related areas, such as trade names and unfair competition.

In Puerto Rico, Act No. 63 of August 14, 1991, as amended, called the Trademarks Act of Puerto Rico, covers trademarks and other related areas, such as trade names, service marks, certification marks, collective marks, trade dress, slogans, sounds, forms, etc. In addition, this country has a Regulation for the Registration of Marks of the State Department (Regulation No. 9638) of February 21, 1992.

Finally, in Uruguay Act No. 17,011 of September 25, 1998, called the Trademarks, Commercial Names and Geographic Indications Act (“*Ley de Marcas, Nombres Comerciales e Indicaciones Geográficas*”) is applicable in this area.

Countries that have an Industrial Property Law, dealing with several IP rights and containing a specific chapter on trademarks

This category is divided in two groups.

First, the countries where an “Industrial Property Act” is in force, independently of any regional Industrial Property treaty, can be listed as follows:

- Brazil, with Act No. 9.279 of May 14, 1996, called the Industrial Property Act ("*Lei da Propriedade Industrial*");
- Chile, with Act No. 19.039 of 1991, called the Industrial Property Act ("*Ley de Propiedad Industrial*").

Second, the countries where a regional treaty dealing with Industrial Property is in force besides an "Industrial Property Act" are the following:

Andean Community

Bolivia, Colombia, Ecuador and Peru are the signatories to a treaty dealing with several industrial property rights and having a specific chapter on trademarks: the Common Regime on Industrial Property ("*Régimen Común sobre Propiedad Industrial*") or the Andean Pact No. 486 of September 14, 2000, also known as Decision 486 of the Andean Community Commission.

Some complementary information on these countries is worth reporting:

In Peru, industrial property law in force is Legislative Decree (L.D.) 1075 of June 28, 2008, as amended by Emergency Publication of January 15, 2009. Since Peru is a signatory of Andean Pact No. 486, legislative decrees complement the provisions of the Andean Community Commission.

In Ecuador, a law dealing with all intellectual property rights -including copyrights, neighboring rights and plants varieties- having a specific chapter on trademarks is in force: Act No. 83 of May 19, 1998 called the Intellectual Property Act ("*Ley de Propiedad Intelectual*"). In addition, there is the Regulation of the Intellectual Property Act issued by Decree No. 508 of February 1, 1999. However, since Ecuador is a signatory of Andean Pact No. 486, the decisions of the Andean Community Commission in matters of intellectual property prevail over national legislation.

The Venezuelan Trademark Registrar decided that currently, valid legislation is a former law dealing with several industrial property rights and having a specific chapter on trademarks: Act No. 25227 of August 29, 1955, called the Industrial Property Act. This understanding causes many difficulties and uncertainties to trademark owners and professionals, while the applicability of the Common Regime on Industrial Property of the Andean Community Commission (Decision No. 486) is pending before the Venezuelan Supreme Court.

CAFTA

As seen in the above Table of Treaties, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua are Member States, together with the United States of America, to the CAFTA Agreement. They have a common regional regime, but also, their own national laws. For instance, in the two CAFTA countries surveyed, the following acts are in force:

- in the Dominican Republic, Act No. 20-00 of May 8, 2000, called the Industrial Property Act ("*Ley de Propiedad Industrial*");
- in Guatemala, Act No. 57-2000 of November 1, 2000, called the Industrial Property Act ("*Ley de Propiedad Industrial*"), amended by Decree No. 11-2006 of May 30, 2006, which approved the CAFTA Agreement. Decree 11-2006 became valid as from May 29, 2006 and counting as from

such date, some changes in Industrial Property law have already come in force while others will be considered valid only as from May 29, 2010.

NAFTA

In Mexico, the NAFTA treaty is applicable together with the Mexican Industrial Property Act of 1991.

2.1.3. Comments on the responses to Q1 and on regional harmonization

From the responses to this Question, it can be observed that in 9 (nine) of the researched countries, industrial property laws apply, dealing with several rights and having a specific chapter on trademarks, while the 7 (seven) other countries have a Trademark Law, dealing basically with trademarks.

As to regional harmonization, it is noted that Bolivia, Colombia, Ecuador and Peru have a Common Regime on Industrial Property, known as the Andean Pact No. 486, which prevails over national legislation, whenever there is one. However, In Venezuela, currently a decision is pending as to which law is applicable: the Industrial Property Act of 1955 or the **Andean Pact** No. 486.

CAFTA countries also have a common regime that prevails over local legislation.

As seen in the Table of Treaties above, Brazil, Argentina, Paraguay and Uruguay are Full Members of the **Mercosur** while Chile, Colombia, Ecuador, Peru and Venezuela are its Associate Members. In this block, there is free commerce and customs union among the Full Members and measures to simplify tariff issues impulse intra-regional commerce. A macro-economical policy leads the process of regional integration and harmonization of customs legislation, improvement of ports, compatibility and rationalization of customs' systems and bureaucracy³. However, the *Protocol on Harmonization of Normative Rules on Intellectual Property in the Mercosur with regard to Trademarks, Geographical Indications and Denominations of Origin*, signed in 1995 in Asunción, Paraguay, was only ratified by Paraguay and Uruguay. This treaty foresees the cooperation among the member states so as to examine and give a solution to the difficulties arising from the circulation of goods and services in the Mercosur area resulting from issues concerning intellectual property, but it is not in force yet.

Thus, no “Mercosur” regional regime on trademarks applies to the member countries.

On the other hand, as far as **operational integration** is concerned, the Patent and Trademark Offices of eight Latin American countries (Argentina, Brazil, Chile, Colombia, Ecuador, Paraguay, Suriname and Uruguay) are working on a common project aiming at achieving Information Technology integration and database sharing among them.

³ In the Mercosur, piracy and counterfeits are dealt within the Intellectual Property Commission linked to Work Subgroup 7 – SGT 7 (Industry subgroup) and Technical Committee 3 – CT 3, on Commercial Rules, deals with these subjects under the customs point of view. Agreements numbers 05 and 06 were adopted in 2002 by the Mercosur countries, on the Complementation of the General Regional Security Plan Concerning Piracy. In 2004, they signed the *Operational Agreement on the Implementation of Actions in the Fight against Piracy and Smuggling of Cigarettes and other Sensitive Products*.

Question 2 – Pending bills

On which subjects listed below does your country have pending bills? If possible, specify the number and year of the bill. Please do not mention existing passed legislation, but only pending bills.

1. *Signs registrable as marks; non- traditional marks*
2. *Acquisition of rights; protection afforded by the registration*
3. *Dilution*
4. *Use requirements*
5. *Well-known marks*
6. *Trade dress*
7. *Collective and/or certification marks*
8. *Geographical indications*
9. *Domain names or other Internet-related issues*
10. *Trade names*
11. *Crimes against marks; remedies (excepted bills related to anti-counterfeiting)*
12. *Regulatory issues, pharmaceutical marks*
13. *Trademark licensing and/or tax issues*
14. *Comparative advertising*
15. *Parallel imports*
16. *Procedural aspects of the trademark registration*
17. *Madrid protocol*
18. *Harmonization with regional or international treaties: if yes, which treaty/treaties?*
19. *Other: please specify:*

2.2. Report on Q2: Existing bills

2.2.1. Pending bills in the region

According to the responses received, 11 (eleven) countries (Argentina, Dominican Republic, Ecuador, El Salvador, Haiti, México, Panamá, Paraguay, Peru, Uruguay and Venezuela) have no pending bills concerning trademarks or related matters.

There are pending legislative projects/bills in 5 (five) countries: Bolivia, Brazil, Chile, Colombia, Guatemala and Puerto Rico. A brief summary on such pending legislation in each of them follows.

In Bolivia, there is a pending project which does not yet constitute a bill submitted to the Congress, concerning the protection of native and indigenous cultural expressions and traditions. Such project is apparently in line with the current political trend in the country and was created by the Ministry of Rural Development and Environment. In 1999, some work was done towards the creation of an Industrial/Intellectual Property Code. Nevertheless, such initiative did not succeed and was not even considered within Congress.

The largest number of bills is found in Brazil. One of the most relevant Brazilian bills to be commented is Bill No. 4890/09, submitted during current year 2009 and referring to the re-creation of a system to specially protect well-known marks. The proposed system will grant such special protection for the same term of validity of the registration of the mark. Each time the trademark registration is renewed, the status of well-known would have to be also requested (i.e.,

such status would not be automatically renewed upon renewal of the registration of origin). In addition, contestability of the status of well-known mark will be possible for third parties only as from the third calendar year after such recognition is granted by the BPTO. The transit of the instant bill in Congress is going smoothly and apparently quickly, having already obtained approval of some of the internal commissions within which it has been analyzed.

Other than such bill, trademark and related matters and topics like use requirements, geographical indications, domain names and other Internet-related issues, trade names and remedies concerning crimes against marks are receiving special attention by the Brazilian legislator, having deserved a number of bills in the last decade, each aiming at changing different angles and technical aspects.

The detail on such Brazilian legislative projects follows, classified according to the year they were presented:

- 1999: bills nbs. 1682/99 (on Domain Names or other Internet-related Issues) and 333/99 (on Remedies for Crimes against Trademarks)⁴;
- 2002: bills nbs. 7070/02 (on Trade Names) and 7066/02 (on the Compensation of Damages for Infringement of Industrial Property Rights);
- 2003: bills nbs. 256/03 (on the Conditions for Registration of Domain Names) and 2729/03 (on Increase of the Penalty for Infringement of Trademarks and Other Rights);
- 2004: bills nbs. 4144/04 (on Cyber Crimes, authorizing the Interception of Internet Providers' Databases) and 3378/04 (on the Private Criminal Actions for Crimes against Industrial Property Rights);
- 2006: bill nb. 6931/06 (on Criminal Behaviours in the Internet);
- 2007: bills nbs. 2189/07 (on Trademark Use Requirements), 1807/07 (on Increase of the Penalty for Crimes against Trademark Registrations) and Bill nb. 1893/07 (on Cross Retaliation Measures, wherein mechanisms such as the suspension of the rights on trademarks and of the remittance of royalties on trademark licenses are foreseen, together with retaliation measures affecting other IP rights);
- 2008: bills nbs. 2906/08 (on Geographical Indications) and 4424/08 (on the Definition of Rules for the use of the Internet).

In addition, the responses pointed out the existence of some pending bills in areas that indirectly affect trademarks, like for instance:

- 2008: Bill nb. 4283/08 (on Changes to the Brazilian Industrial Property Law);
- 2009: Bill nb. 06/09 or former Bill 3927/04 (on changes in the Brazilian Competition Defense System), to be considered by trademark owners in the course of mergers and acquisitions.

Finally, it is relevant to note that Brazil passed on October 1st, 2009 the "Olympic Act", Law nb. 12035, which had been submitted as Bill nb. 4.667/09 on June 24th of the same year, assuring security, immigration visas and health conditions for Rio de Janeiro's candidacy to host the 2016

⁴ Bill 333/99 concerns remedies for crimes against marks and was the object of submission of INTA's comments on December 17, 2008 to the special Anti-Piracy Commission of the Brazilian House of Representatives as a result of a Task Force created between the Brazilian and Argentinian members of this Subcommittee and of the ACEC – Anti-Counterfeiting and Enforcement Committee's Latin American and Caribbean Subcommittee.

Olympics. The new law will expire at the end of 2016. Some of its articles protect the official names, symbols, mascot, etc. of the Olympic Games and it should be further studied if its article 6 can be interpreted as covering trademarks in general.

An important bill is pending in Chile, which may affect procedural aspects of the registration of trademarks: the reference is to Bill No. 1343-356, intended to approve the Trademark Law Treaty (TLT) adopted in Geneva on October 27, 1994. The bill has already been approved by the House of Representatives (on June 2, 2009) and was sent for Senate's approval. Enactment might be expected by the end of 2009 or beginning of 2010.

In Colombia, Bill 277/2009 was introduced in Congress calling for accession to the Madrid Protocol. Another pending bill is Act 1343 of 2009, by means of which the country decided to adopt the TLT. A final decision of the Constitutional Court to approve this treaty was expected still for this year.

In the context of this report, Puerto Rico is probably the country with the most relevant project of new piece of legislation, since two bills of a complete Trademark Law were submitted to Congress, providing major changes to the current Trademark Law (Law nb. 63, of August 14th, 1991), including signs registrable as marks, non-traditional marks, acquisition of rights, protection afforded by the registration, dilution, well-known marks and trade dress. The same project was submitted on September 10th, 2009 by the Senate, as Bill nb. 1114, and on September 8th, 2009, by the House of Representatives, as Bill nb. 1995.

2.2.2. Comment on the responses to Q2

There is neither substantial connection nor harmonization intention between the pending bills of the countries researched, as it can be seen that they address different topics.

2.3. Report on Q3: Missing legislation

QUESTION 3: TRADEMARK ISSUES THAT NEED LEGISLATIVE IMPROVEMENT

*Which of the topics 1 to 19 listed above that do not have pending bills, are missing from your country's legislation?(List numbers of the topics in order of priority, most important first).
Comments: If you have concrete suggestions on what improvements should be made in your country's existing laws, please include them here: (...)*

According to the Subcommittee's survey, Ecuador and Haiti miss legislation regarding **signs registrable as marks** and **non-traditional marks**.

Dilution is a topic that is missing in many Latin American countries and has not deserved any bills up to the present, as in the case of Argentina, Brazil, Chile, Haiti and Mexico.

However, in many countries, like in Argentina, case law has addressed matters missing from the legislation, such as **dilution**, **domain names**, **Internet related issues** and **comparative advertising**, in several cases.

By looking at the results of the Questionnaire, it might be concluded that a missing topic in Peru and Uruguay which is neither subject of pending bills is **use requirements**. In particular, owners of Peruvian brands would support legislative improvements with regard to evidence of use, which should be addressed in a way to avoid the cancellation of marks that are effectively used in the

local market by third parties willing to take advantage of their good reputation and fame. Currently, owners face a number of obstacles to prove the use of their marks when their cancellation is requested. It was also pointed out that Peru and Puerto Rico have no bill pending on **crimes against marks and remedies against such crimes**, subjects which miss better regulation in these jurisdictions. Peru, for instance, does not have clear regulations to define the amount of the damages to be repaired by the infringer to the trademark owner.

An additional information on Peru is that this country is the only one missing a bill regarding **trade names** in its legislation. The Peruvian response commented that there is a big gap in the law in relation to trade names, stressing that it is impossible to hinder the use of a trade name even when it is prior to a trademark, as well as to prevent a mark older than five years from being used even though the similarity between the name and the mark may cause confusion among consumers.

It is also noticed from the responses received from Ecuador, Uruguay and Venezuela that rules on **well known marks** are missing from their legislation.

The **trade dress** topic is missing from Argentina, Brazil and Uruguay's legislations and no pending bills were submitted to cover it in these jurisdictions.

As to the topic of **collective and/or certification marks**, it is missing from the legislation of Haiti, Uruguay and Venezuela, where it lacks pending bills.

According to the comments received from Venezuela, it is of vital importance that the Supreme Court renders a decision regarding which existing legislation is applicable and the proposition of new IP legislation, in order to determine a new course of action.

In a large number of Latin American countries, there are no bills pending on a very important topic, namely **domain names or other Internet-related issues**, which is missing from their legislation. These countries are: Argentina, Haiti, Paraguay, Uruguay and Venezuela, although this is an area covered in Argentina's case law, as previously mentioned in this report.

As per response received from Puerto Rico, the improvements that could be included in the existing trademark law are already proposed in the bills for adoption of a new Trademark Act, recently submitted to Congress as reported on Q2.

A topic that worries practitioners from Brazil, Ecuador, Mexico, Puerto Rico, Uruguay and Venezuela is the lack of bills for **regulatory issues and pharmaceutical marks**, subjects that are missing or call for improvements in their legislation.

Another conclusion obtained through the Questionnaire is that Argentina, Brazil, El Salvador and Haiti miss legislation (or a better one) on **comparative advertising**. Again, Argentina has had jurisprudence addressing this area.

Although **parallel imports** are a topic missing from the legislations of Argentina, El Salvador, Haiti and Uruguay, no bills have been presented in these jurisdictions.

With reference to the topics of **acquisitions of rights, protection afforded by the registration, geographical indications, trademark licensing and/or tax issues**, and procedural aspects of trademark registration, the Subcommittee found out that they are not missing from any of the countries subject to the Questionnaire.

The response from Ecuador expresses concern with regard to the lack of specialized courts. Since this country's new Judicial Branch Organic Code (Addendum to the issue No. 544 of the

Official Gazette, dated March 9, 2009) related to intellectual property issues, eliminates the “Intellectual Property Judges,” the “Intellectual Property Courts,” and the “Intellectual Property Chamber” of the Supreme Court. Although these functions were never executed since other judicial authorities have taken over temporarily the IP jurisdiction, new legislation creating **specialized courts** would be a great advance, in the opinion of the Ecuadorian practitioner.

Argentina and Haiti miss the submission of bills on the **harmonization** of their laws with regional or international treaties. As to the latter, it was stressed that the adherence to the **Nice Classification**, to the **Singapore Treaty** and harmonization with **TRIPS** would improve its IP practice.

An important topic was pointed out with regard to El Salvador, regarding the lack of a bill pending in that jurisdiction to rule on **security interests** in trademarks, which is missing from its legislation.

Concerning Colombia, it was suggested that a **unified judgment** within the PTO, empowered to decide IP matters, as well as between this Office and the Superior Entities (Council of State, etc.) would improve its Industrial Property system.

On the other hand, no missing topics were pointed out as to Colombia, Dominican Republic, Guatemala and Panama.

As per the comments received from Guatemala, its Industrial Property Law is modern and complete, therefore no improvement would not be necessary.

Comments

Considering that there is a logical connection between Questions 2 and 3, it seems from a preliminary analysis of the responses obtained to these questions that four groups of countries exist:

- Group "A": countries with no missing legislation and no pending bills: Dominican Republic and Panama.
- Group "B": countries with missing legislation and no pending bills: Argentina, Haiti, El Salvador, Mexico, Paraguay, Peru, Uruguay and Venezuela.
- Group "C": countries with missing legislation on some topics and pending bills on some of them and also on different topics: Bolivia, Brazil and Puerto Rico.
- Group "D": countries with no missing legislation and pending bills introducing changes, additions, improvements, "modernization" or harmonization: Guatemala, Chile and Colombia with the adoption of the Trademark Law Treaty. The latter is close to adoption of the Madrid Protocol.

However, at the conclusion, this division will need to be reviewed in a second approach, taking into consideration all other aspects addressed in this study.

PART 2 – LEGISLATIVE PROCESS

2.4. Report on Q4: Legitimacy to present bills

QUESTION 4: LEGITIMACY TO PRESENT BILLS ON NEW LAWS AND AMENDMENTS

In your jurisdiction, who is entitled to:

4.1. Present a new bill to Congress?

- The President of the Republic*
- Congressmen (Deputies) and/or Senators*
- The Commissions of the House of Representatives or of the Senate*
- The citizens*
- Other?*

4.2. Present amendments to an existing law?

- Same answer as to question 4.1*
 - If different, describe.*
- Comments, if any: (...)*

2.4.1. Report on Q4.1

With regard to who is entitled to present a **bill for a new law** (this is the scope of Q.4.1) to Congress in the researched jurisdictions, it can be noticed that most of the legislations of the Latin American and Caribbean countries grant this faculty to the President of the Republic, Congressmen and the Commissions of the House of Representatives.

In Puerto Rico, only the legislators can present such bills.

Argentina, Brazil, Colombia, Ecuador, Paraguay, Peru and Venezuela recognize the right of the Citizens to present bills for new laws to Congress.

Brazil, Colombia, Ecuador and Guatemala empower other entities to present these bills. The particular case of Guatemala is very interesting, where an educational entity, the National University San Carlos, is granted with this faculty.

In other countries, the legislative function is exclusively restricted to Congressmen, like in the cases of El Salvador and Panama. It is remarkable the case of Uruguay, where only the Commissions of the House of Representatives, and not Congressmen individually, can present bills for new laws to the Congress. Also, in Ecuador, The Commissions of the House of Representatives do not have this faculty, but several government and non-governmental entities do have it.

It deserves special mention the case of Colombia, where Congressmen and Citizens can present bills as well as a great number of state-owned entities such as the Constitutional Court, the Supreme Judicial Council, the Supreme Court, the State Council, the National Electoral Council, etc. Then, this country as well as Brazil own the greatest number of state-owned entities allowed to present bills for new laws to the Congress.

Colombia, El Salvador, Panama and Uruguay do not recognize the faculty of the President of the Republic to present such bills to the Congress.

Argentina, Brazil, Ecuador, Paraguay (by means of the popular initiative process), Peru and Venezuela recognize the right of the Citizens to present these bills to the Congress.

2.4.2. Report on Q4.2

Concerning who is entitled to present **amendments to an existing law**, it is pointed out that in almost all Latin American and Caribbean countries, the same people/entities with faculties to present bills for new laws to the Congress are also entitled to present amendments to the existing laws.

This last faculty is exclusively reserved for the Congressmen only in Brazil and Colombia.

2.5. Report on Q5: Stages of the legislative process

QUESTION 5: PROCEEDINGS AT CONGRESS

*Do the following items apply, in general lines, to the legislative procedure in your jurisdiction?
(Mark the correct items with an "X"):*

- 5.1. The rules of the legislative procedure are established in the Federal Constitution.*
- 5.2. At the House of Representatives and/or in the Senate, bills are submitted to congressional committees, such as Justice Committee, Industry and Trade Committee, etc., for analysis.*
- 5.3. A new bill is firstly examined by the House that originated it and then by the Revising House (House of Representatives and Senate, in both cases).*
- 5.4. When the Revising House submits amendments, the bill returns to the House that originated it.*
- 5.5. After getting both Houses' final approval, the bill is submitted to the President of the Republic.*
- 5.6. The President of the Republic has the right to present vetoes, which can be either maintained or rejected by the Congress.*
- 5.7. The final stage of a bill represents the sanction and promulgation done by the President of the Republic, and the bill's publication, after that, the new law comes into effect within the term established therein.*

Add complementary information or comments, if any, on the items that are different in your country:

2.5.1 (Q5.1): Are the rules of the legislative process established in the Federal Constitution?

According to the responses received, the rules of the legislative process are established in the Federal Constitution in Argentina, Bolivia, Brazil, Chile, Colombia, Dominican Republic, Ecuador, Guatemala, Haiti, Mexico, Paraguay, Puerto Rico, Uruguay and Venezuela.

A different tendency can be seen in El Salvador and Panama, where the procedures are not established in the Federal Constitution.

2.5.2 (Q5.2): In the House of Representatives and/or in the Senate, are bills submitted to congressional committees such as Justice Committee, Industry and Trade Committee, etc., to be analyzed by them?

The responses indicate that the bills are submitted to congressional committees in most of Latin American countries.

Only El Salvador and Haiti do not have the submission of bills to congressional committees.

According to the Argentine Constitution, submission of bills to committees for approval/revision is not mandatory, it is a voluntary action of the Houses.

2.5.3 (Q5.3): Is a new bill firstly examined by the House that originated it and then reviewed by the Revising House (House of Representatives and Senate, in both cases)?

Apparently, in almost every country of the region, a new bill is firstly examined by the House that originated it and then reviewed by the Revising House (House of Representatives and Senate, in both cases). However, some countries such as Ecuador, El Salvador, Guatemala, Panama and Peru do not follow this pattern.

In Brazil, according to a special rule, if a new bill is presented by the President of the Republic, the Federal Supreme Court and the Superior Courts, it must be firstly examined by the House of Representatives (Deputies) and then revised by the Senate.

2.5.4 (Q5.4): When the Revising House submits amendments, does the bill return to the House that originated it?

Following the answers to Question 5.3, in the same countries - Argentina, Bolivia, Brazil, Chile, Colombia, Dominican Republic, Haiti, Mexico, Paraguay, Puerto Rico, Uruguay and Venezuela where new bills are examined firstly by the House that originated them and then by the Revising House, any amendment must be revised by the House where the bill was originated.

However, this pattern is not observed in Ecuador, El Salvador, Guatemala, Panama or Peru.

2.5.5 (Q5.5): After final approval by both Houses, is the bill submitted to the President of the Republic?

Based on the responses received, it can be noted that, with the exception of Panama and Peru, which follow a different trend, in the rest of the Latin American and Caribbean countries the bill is submitted to the President of the Republic after it is approved by both Houses.

2.5.6 (Q5.6): Has the President of the Republic the right to present vetoes, which can be maintained or rejected by Congress?

Unanimous responses were received from Argentina, Bolivia, Brazil, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Mexico, Panama, Paraguay, Peru, Puerto Rico, Uruguay and Venezuela regarding the President's right to present vetoes, which can be maintained or rejected by Congress.

2.5.7 (Q5.7): Is the bill's final stage composed of its sanction and promulgation by the President of the Republic, followed by its publication, after which the new law remains in force within the term, originated therein?

There is uniformity in all Latin American and Caribbean countries concerning the final stage of a bill: in Argentina, Bolivia, Brazil, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Mexico, Panama, Paraguay, Peru, Puerto Rico, Uruguay and Venezuela, the final stage is its sanction and promulgation by the President of the Republic, followed by its publication. Afterwards, such new law remains in force within the term provided therein.

3. CONCLUSION

All the five questions studied herein are interrelated and the observations they brought to light will be structured in this conclusion in the same sequence as they were in the chapters of this Report, allowing their individual analysis as well as an overall picture.

Conclusions on Part 1 – Legislative Developments

Question 01 asked in summary if the current trademark legislation in each country is a specific act or an Industrial Property Law. The responses demonstrated that presently the most common type of law adopted by the surveyed countries is an "Industrial Property Law" or "code", dealing with several industrial property rights and having a specific chapter on trademarks, as opposed to a "Trademark Law", dealing with trademarks and related rights, being in force. However, the total number of countries belonging to each of these two categories is very close: 9 (nine) to 7 (seven), respectively. This question was studied because it is possible to argue that laws covering many areas generally take longer to be replaced by a new act than laws that just cover one area. Those dealing with many subjects take longer to be amended or replaced, requiring a complex legislative process and allowing rather small and gradual amendments, sometimes requiring a variety of bills, which usually have interlinked or even contradictory points among them. Following this line of thinking, laws covering few areas are easier to be amended.

As signaled by the responses to Question 2, which asked to list the bills existing in each country and the subject they cover, legislative initiatives in the region do not show trends to uniform developments with regard to trademarks and related rights. The responses reveal that there is a significant discrepancy in the development of trademark related matters in the Latin American countries. Pending bills on trademark matters exist in approximately one third of the countries researched and they have neither connecting nor harmonizing purposes, addressing different topics.

Considering that harmonization facilitates business for trademark owners and removes obstacles to the circulation of goods, the Subcommittee found it relevant to find whether there is a tendency in this sense and it concluded that although the new bills do not show trends towards

harmonization in substantive matters and only a few jurisdictions seek uniformity in procedural matters through the TLT, the countries of the region have already achieved a certain level of harmonization at a higher level, being all of them contracting states to the Paris Convention and to TRIPS⁵ and having ratified international agreements such as the Nice Treaty on Classification. Some of the jurisdictions have TRIPS Plus rules, adopted either by accession to regional agreements such as NAFTA or CAFTA or by introduction of specific advanced norms in their national laws.

Operational integration between the Trademarks Offices by means of Technology Information is in due course within a group of eight countries, independently of MERCOSUR. This is a development that should be subject to further monitoring.

One of the reasons of the lack of uniformity of the bills on substantive matters is that while the communities, as the Andean one, follow their Council's decisions, a Council for the whole Latin American region does not exist.

The responses to Question 3, on trademark issues that need legislative improvement, demonstrate that all countries of the region have substantive laws protecting trademarks, but many of them do not cover topics such as non-traditional marks, dilution, trade dress, well know marks, parallel imports and security interests on trademarks. Many issues call for improvement or updating, according to the comments gathered on this Question.

Reviewing the division presented at the end of Chapter 2.3, in summary, the seventeen countries under study can be separated, with regard to Q2 and Q3, in two different groups:

- A. Countries with no pending bills: Argentina, Dominican Republic, Haiti, El Salvador, Mexico, Panama, Paraguay, Peru, Uruguay and Venezuela;
- B. Countries with pending bills: Bolivia, Brazil, Chile, Colômbia, Guatemala and Puerto Rico;

Special mention must be made to the current developments in five countries.

The most comprehensive bills (actually, two identical ones) are found in Puerto Rico, intending to adopt a new Trademarks Act, providing major changes to the current one.

The largest number of bills is found in Brazil, the first country where a bill on “cross retaliation measures” affecting trademark rights was submitted to Congress.

With regards to accession to Trademark Treaties, Colombia and Chile have pending bills intended to adopt the Trademark Law Treaty (TLT). Colombia has also pending legislation in the House of Representatives of its Congress to adhere to the Madrid Protocol.

In Venezuela, a retrograde step occurred with the revival of an old Act of 1955, which is being applied instead of the Andean Pact⁶. This resulted in serious difficulties to the trademark owners and professionals.

⁵ With the exception of Bahamas, as seen in the Table of Treaties above.

⁶ See page 9 above and INTA's letter sent to Venezuelan authorities on July 2, 2009, addressing searching requirements and the trademark classification system, as well as comments on Resolution N° 056 regarding tobacco packaging regulations, with the participation of the Venezuelan members of this Subcommittee.

Conclusions on Part 2 – Legislative Process

The second part of this study dealt with the legislative process in each country. The object of Question 4 was to verify who is entitled to present bills for new laws or amendments to existing laws. The answers indicated that in almost every Latin American and Caribbean country, the same people and entities have the faculty to present both types of legislative developments.

Proceedings at Congress present quite a variety of solutions at every stage to pass a bill and, as seen in the responses to Question 5, the legislative process only becomes uniform at its final stage which, in all the surveyed countries, consists in the sanction and promulgation by the President of the Republic followed by its publication and its effectiveness within the term provided therein.

The average duration of the legislative process in the different jurisdictions could not be established, but based on the list of Brazilian bills, it is clear that it varies even within one single country, depending very much on local political urgencies⁷.

It must be considered that this work is based on the responses to the Questionnaire received by June 1st, 2009⁸ and further studies should be conducted to update the status of the bills mentioned herein.

General Remarks

In conclusion, the Subcommittee hopes that this Report can serve for further studies of interest to trademark owners and professionals, taking into consideration the objectives set at the beginning of its two year term, such as identifying opportunities to improve existing local legislation related to trademarks and intellectual property that might call for INTA's involvement, providing information on subjects that may lead to roundtables, as well as to possible joint educational opportunities for legislative developments with intellectual property organizations in the Latin America and Caribbean Latiregion. In particular, for this purpose, the Subcommittee calls the attention to chapter 2.3 of this Report, which reports the representatives' opinions on the main improvements that are missing in their countries' legal framework.

Respectfully submitted on December 03, 2009.

By the Latin America and Caribbean Subcommittee of the Legislation & Regulation Committee:

Elisabeth Kasznar Fekete, Momsen, Leonardos & Cia., Brazil (Subcommittee Chair)

Alain C. Delion, *Estudio Delion S.R.L.*, Peru

Alicia Molero Moran, *Hoet Pelaez Castillo & Duque*, Venezuela

Diego Bouché, *Ferrer Reyes Tellechea & Bouché Abogados*, Argentina

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Gilberto Martinez Maldonado, *Gonzalez Rossi & Asociados, S.C.*, Mexico

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Newton Vieira Junior, *Garé & Ortiz do Amaral Advogados*, Brazil

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⁷ For instance, Bill 333/99 on anti-counterfeiting measures has been pending for more than ten years at Congress, while Bill 4.667/09 passed in four months, assuring the country's compliance with the conditions required to host the 2016 Olympic Games.

⁸ After June 1st, 2009, only the bills from Puerto Rico, submitted on September 8th and 10th, 2009 and the Brazilian "Olympic Act", passed on October 1st, 2009, were considered in this Report and no other updates were made.

APPENDIX 1

The Subcommittee thanks the following trademark professionals for their responses to the Questionnaire and to the Leadership and INTA Staff for their contribution to the preparation of this report:

ARGENTINA	Diego Bouché, <i>Ferrer Reye Tellechea & Bouché Abogados</i>
BOLIVIA	Carlos Ferreira Vásquez and Alejandra Bernal, <i>C. R. & F. Rojas</i>
BRAZIL	Isabel Boardman, <i>Soerensen Garcia Advogados Associados</i> Newton Vieira Junior, <i>Garé & Ortiz do Amaral Advogados</i>
CHILE	Gresly Marcano, <i>Baker & McKenzie</i>
COLOMBIA	Natalia Garavito Pachón, <i>Servicios de Propiedad Industrial SPI S.A.</i>
DOMINICAN REPUBLIC	Zaida Lugo, <i>Angeles & Lugo Lovaton</i>
ECUADOR	Maria Rosa Fabara Vera, <i>Fabara & Guerrero</i>
EL SALVADOR	Marcela Mancía, <i>Romero Pineda & Asociados</i>
GUATEMALA	Ernesto R. Viteri, <i>Viteri & Viteri</i>
HAITI	Christian de Lespinasse, <i>Cabinet de Lespinasse</i>
MEXICO	Gilberto Martinez Maldonado, <i>Gonzalez Rossi & Asociados, S.C.</i>
PANAMA	Marisa Lasso De La Veja F., <i>Alfaro, Ferrer & Ramirez</i>
PARAGUAY	<i>Berkemeyer Attorneys and Counselors</i>
PERU	Alain C. Delion, <i>Estudio Delion S.R.L.</i>
PUERTO RICO	Dora Peñagaricano, <i>McConnell Valdes LLC</i>
URUGUAY	Diego Bouché, <i>Ferrer Reye Tellechea & Bouché Abogados</i> Juan Defféminis Paiva, <i>Posadas, Posadas & Vecino</i>
VENEZUELA	Alicia Molero Moran, <i>Hoet Pelaez Castillo & Duque, Venezuela</i>

Total: 17 (seventeen) countries.

Committee Chair: Debra A. Shelinsky Greene, Counsel, Trademarks and Copyrights
Subcommittee Chair: Elisabeth Kasznar Fekete, *Momsen, Leonardos & Cia.*
INTA Staff: Laura Cruz, External Relations Manager, Latin America

APPENDIX 2

TRADEMARKS IN LATIN AMERICA

QUESTIONNAIRE ON LEGISLATIVE DEVELOPMENTS

Dear Colleague,

Our Subcommittee monitors legislative developments on trademark and related issues in Latin America and the Caribbean. Responses to this Questionnaire will help us to analyze the current legislation and the evolution of legislative improvements affecting trademark owners' rights in Latin America and the Caribbean and to learn more about the legislative process in the countries of the region.

We thank you in advance for your cooperation in responding to this questionnaire with regard to the trademark-related legislation in your country.

Best regards,

The Subcommittee

- Observation: we have limited this questionnaire in the way that it does **not** cover legislation on anti-counterfeiting or anti-piracy measures.

QUESTIONNAIRE

ANSWERED BY: Name:

Company or Firm:

Country:

Date:

PART 1 – LEGISLATIVE DEVELOPMENTS

Question 1 – Current trademark legislation

1.1. Does your country have (please mark the applicable item with an “X”):

- 1.(____) A Trademark Law, dealing basically only with trademarks; or
- 2.(____) A law covering trademarks and related areas, such as trade names, unfair competition, etc., or
- 3.(____) An Industrial Property Law, dealing with several IP rights and having a specific chapter on trademarks; or
- 4.(____) Other: please specify: _____

1.2. Please inform the number, date and complete name of the current law governing trademarks in your country (corresponding to the item you marked in 1.1) :

Answer : Nr _____ Date _____

“Name” of the law: _____



Question 2 – On which subjects listed in the chart below does your country have pending bills? If possible, specify therein the number and year of the bill. Please do not mention existing passed legislation, but only pending bills.

	MARK WITH AN “X”	SUBJECT	BILL NUMBER	YEAR OF THE BILL
1	()	Signs registrable as marks; non- traditional marks		
2	()	Acquisition of rights; protection afforded by the registration		
3	()	Dilution		
4	()	Use requirements		
5	()	Well-known marks		
6	()	Trade dress		
7	()	Collective and/or certification marks		
8	()	Geographical indications		
9	()	Domain names or other internet-related issues		
10	()	Trade names		
11	()	Crimes against marks; remedies (excepted bills related to anti-counterfeiting)		
12	()	Regulatory issues, pharmaceutical marks		
13	()	Trademark licensing and/or tax issues		
14	()	Comparative advertising		

15	()	Parallel imports		
16	()	Procedural aspects of the trademark registration		
17	()	Madrid protocol		
18	()	Harmonization with regional or international treaties: if yes, which treaty/treaties?		
19	()	Other: please specify:		

Comments (if any):

=====

Question 3 – Which of the topics 1 to 19 listed in the above chart, that do not have pending bills, are missing from your country's legislation? .

Answer: (list numbers of the topics in order of priority, most important first):
 nbs. _____

Comments: If you have concrete suggestions on what improvements should be made in your country's existing laws, please include them here: _

=====

PART 2 – LEGISLATIVE PROCEDURE

Question 4 – In your jurisdiction, who is entitled to:

4.1. Present a new bill to Congress?

- () The President of the Republic
- () Congressmen (Deputies) and/or Senators
- () The Commissions of the House of Representatives or of the Senate
- () The citizens
- () Other: _____

4.2. Present amendments to an existing law?

- () Same answer as to question 4.1
- () If different: _____

Comments, if any:

=====

Question 5 – Do the following items apply, in general lines, to the legislative procedure in your jurisdiction? (Mark with an “X” only those items that are correct):

- 1.(___) The rules of the legislative procedure are established in the Federal Constitution.
- 2.(___) In the House of Representatives and/or in the Senate, bills are submitted to congressional committees, such as Justice Committee, Industry and Trade Committee, etc., for analysis.
- 3.(___) A new bill is examined first by the House where it was created and then by the Revising House (House of Representatives and Senate, in both cases).
- 4.(___) When the Revising House submits amendments, the bill returns to the House where it was created.
- 5.(___) After final approval by both Houses, the bill is submitted to the President of the Republic.
- 6.(___) The President of the Republic has the right to offer vetoes, which can be maintained or rejected by Congress.
- 7.(___) The final stage of a bill is the sanction and promulgation by the President of the Republic and its publication, following which the new law comes into effect within the term established therein.

Complementary information or comments, if any, to the items that are different in your country:

Thank you!

APPENDIX 3

SUMMARY OF THE
RESPONSES TO THE QUESTIONNAIRE

(COMPILATION CHART)

INTA – INTERNATIONAL TRADEMARK ASSOCIATION
LEGISLATION & REGULATION COMMITTEE
Latin America & Caribbean Subcommittee

COMPILATION CHART OF THE RESPONSES, COVERING 17 COUNTRIES

Country	Question 1 1.1. Type of law 1.2. Current Law	Question 2 Subjects of pending bills	Question 3 Missing legislation	Question 4 4. Entitled to present: 4.1. New bill / 4.2. Amendments	Question 5 Legislative procedure
Argentina	1.1.2 1.2: Law nb. 22,362 dated Dec. 26, 1980 Ley de Marcas y Designaciones		3, 6, 9, 14, 15, 17 and 18. see comments.	4.1: (all items). 4.2: same answer as to question 4.1.	5.1, 5.3, 5.4, 5.5, 5.6, 5.7. see comments.
Bolivia	1.1.3, 1.1.4 1.2: Law nb. 486 dated Sept. 14, 2000 Comum Regimen on Industrial Property	2.1 (2000).	17. see comments.	4.1: - The President of the Republic - Congressmen and/or Senators - The Commissions of the House ... 4.2: Same answer as to question 4.1. see comments.	5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7.
Brazil	1.1.3 1.2: Law nb. 9.279 dated May 14, 1996 Lei da Propriedade Industrial	2.4, 2.5, 2.8, 2.9, 2.10, 2.11 and 2.19. see comments.	6, 12, 3 and 14. see comments.	4.1: (all items), see other. 4.2: Only Congressmen (Deputies) and/or Senators.	5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7. See comments.
Chile	1.1.3 1.2: Law nb.19.039 dated 1991. Ley de Propiedad Industrial.	2.16	3 see comments.	4.1: - The President of the Republic; - Congressmen (Deputies) and/or Senators; - The Commissions of the House of Representatives or of the Senate.	5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7.
Colombia	1.1.3 1.2: Decision 486 of the Andean Community of Nations (Bolivia, Colombia, Ecuador & Peru). Dated 14/09/2000. Law: Régimen Común sobre Propiedad Industrial. Common Rules of Industrial Property	2.18 and 2.19.	None. See comments.	4.1: - Congressmen (Deputies) and/or Senators - The citizens; - see others. 4.2: - Congressmen (Deputies) and/or Senators.	5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7.
Dominican Republic	1.1.3 1.2: Law nb. 20-00 dated 08/05/2000 Industrial Property Law	2.17 See comments	None	4.1: - The President of the Republic; - Congressmen (Deputies) and/or Senators; - The Commissions of the House of Representatives or of the Senate. 4.2: The same as item 4.1.	5.1, 5.2, 5.3, 5.4, 5.5, 5.6 and 5.7.
Ecuador	1.1.4 1.2: Law nb. 83 dated 19/05/1998 Ley de Propiedad Intelectual (Intellectual Property Act) and Reglamento a la Ley de	See comments.	- regulation of pharmaceutical trademarks- related aspects; - recognition of famous and well-known trademarks without previous registration.	4.1.: - The President of the Republic - Congressmen (Deputies) and/or Senators - The citizens	5.1, 5.2, 5.5, 5.6, 5.7.

Country	Question 1	Question 2	Question 3	Question 4	Question 5
	Propiedad Intelectual (Its Rules and Regulations), issued by Decree nb. 509 dated 01/02/1999.		- 17, and - non-traditional trademarks.. See comments.	- Other: see comments. 4.2 : The same of item 4.1.	
El Salvador	1.1.2, 1.1.3. 1.2: Law nb. 868 - July 17, 2002 Trademark Law and Other Distinctive Signs	2.12	15, 17, 14, Security Interest in trademark matters, 3. see comments.	4.1: Congressmen (Deputies) and/or Senators. 4.2: Same answer as to question 4.1.	5.5, 5.6 and 5.7.
Guatemala	1.1.3 Congress Decree nb.57-2000, in effect on 01/11/2000, as Amended by Congress Decree nb. 11/2006, in effect since 30/05/2006, in order to comply with the provisions of Central America/Dominican Republic/USA Free Trade Agreement Industrial Property Law (Ley de Propiedad Industrial).	2.1, 2.2, 2.5, 2.6, 2.7, 2.8, 2.10, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16 and 2.18.	None. See comments.	4.1: - The President of the Republic; - Congressmen (Deputies) and/or Senators; - Other: Supreme Court, National University of San Carlos and the Supreme Electoral Court. 4.2: same answer as to question 4.1.	5.1; 5.2; 5.5, 5.6, 5.7.
Haiti	1.1.2 1.2: No number law. Dated 17/07/1954 and subsequent amendments by law dated 15/07/1956, by Decree dated 28/08/1960, Presidential Order dated 13/09/1965, Decree dated 12/10/1967, Decree dated 24/09/1970. Initially: Loi du 17 Juillet 1964 sur les Marques Speciales de Fabrique ou de Commerce	See comments.	1,3,7,9,14,15 and 18. See comments.	4.1: - The President of the Republic; - Congressmen (Deputies) and/or Senators; - The Commissions of the House of Representatives or of the Senate. .4.2: same answer as to question 4.1.	5.1, 5.3, 5.4, 5.5, 5.6 and 5.7.
Mexico	1.1.3 1.2: Dated 1991: Industrial Property Law	2.1, 2.3, 2.12, 2.14, 2.17	3 and 12	4.1: - The President of the Republic; - Congressmen (Deputies) and/or Senators; 4.2: The same as item 4.1	5.1, 5.2, 5.3, 5.4, 5.5, 5.6 and 5.7.
Panama	1.1.2 1.2: Law nb. 35 dated May 10, 1996 and Executive Decree No. 7 of February 17, 1998.	no pending bills	None.	4.1: - Congressmen (Deputies) and/or Senators. 4.2: Same answer as to question 4.1.	5.2, 5.6, 5.7.
Paraguay	1.1.2 1.2: law nb. 1294/1998 dated 06/08/1998		9 and 17	4.1(All items) 4.2 The same as item 4.1	5.1, 5.2, 5.3, 5.4, 5.5, 5.6 and 5.7.
Peru	1.1.3 1.2: Law nb. L.D. 1075 dated 28/06/2008;. 15/01/2009 Emergency Publication Legislative Decree (L.D) approves complementary provisions to Decision 486 of the Commission of the Andean Community, which established the Common System of	See comments.	4, 10 and 11 See comments	4.1: - The President of the Republic; - Congressmen (Deputies) and/or Senators; - The Commissions of the House of Representatives or of the Senate; - The citizens 4.2 The same as item 4.1.	5.1, 5.2, 5.6 and 5.7.

Country	Question 1	Question 2	Question 3	Question 4	Question 5
	Industrial Property.			See comments.	
Puerto Rico	1.1.1 1.2: Law nb. 63 dated 14/08/1991 Ley de Marcas del Estado Libre Asociado de Puerto Rico	2.1, 2.2, 2.3, 2.5 and 2.6 See comments	12 and 11. See comments	4.1: - Congressmen (Deputies) and/or Senators; - The Commissions of the House of Representatives or of the Senate; - The citizens 4.2: The same as item 4.1	5.2, 5.3, 5.4, 5.5, 5.6 and 5.7
Uruguay	1.1.1 1.2: law nb. 25/09/1998 Ley de Marcas, Nombres Comerciales e Indicaciones Geográficas	See comments	4, 5, 6, 7, 9, 12, 15 and 17 See comments	4.1: - The Commissions of the House of Representatives or of the Senate; 4.2: The same as item 4.1	5.1, 5.2, 5.3, 5.4, 5.5, 5.6 and 5.7
Venezuela	1.1.3 and 1.1.4 (see other) 1.2: Official Gazette nb 25227 dated 29/08/1955 Industrial Property Law Decision 486 dated 01/12/2000 - Common Regimen on Industrial Property of the Andean Community Commission	See comments	5, 7, 8, 9, 12, 17. See comments	4.1: (All items) 4.2: The same as item 4.1	5.1, 5.2, 5.3, 5.4, 5.5, 5.6 and 5.7