
Argentina: AMENDMENTS TO TRADEMARK LAW

By Alejandra Camacho Luna

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On May 27, 2019, the Argentine National Institute of Industrial Property (INAP) issued Resolution No. 123/2019, which introduces various amendments to the Argentinean Trademark Law. The amendments include new declaration of use requirements, modifications to renewal terms, time-extensions to respond to Office actions, and increases in official fees. The amendments are intended to gradually clear the Argentinean Register of marks that are not in use, shorten the response period, and conform Argentinean renewal deadlines with the Madrid Protocol.

The resolution requires trademark holders to file mid-term declarations of use between the fifth and sixth year of registration for trademarks registered on or after January 12, 2013. The resolution also provides a grace period until January 12, 2020 to file the mid-term use declarations for registrations that are already past or close to the sixth-year deadline.

Failure to file a mid-term declaration of use will result in a rebuttable presumption of non-use. The registration will not be automatically invalidated as third parties still need to file non-use revocation actions to cancel the registration. Although trademark owners may file the mid-term declaration after the fifth or sixth year of registration, the owners must pay a late fee for each year of delay.

If owners declare use for only some of the goods/services covered by their registrations, the goods for which use has not been declared will be treated the same as if no declaration of use were filed or if a declaration of non-use were filed. Thus, the rebuttable presumption of non-use will apply to those goods/services.

Further, the resolution allows INAP to refuse renewal of a registration if the mid-term use declaration is not filed, although owners may avoid such refusals by paying additional official fees and belatedly filing the mid-term use declaration.

As a result of the amendments, registrations may be renewed six months before or after the expiration date subject to the payment of additional official fees, and the renewal application should be accompanied by a declaration of use. In effect, therefore, registrants are required to file use declarations every five years.

The resolution also reduces the term for responding to Office actions. The new response term is thirty days from the application's publication date in the Trademark Bulletin, and the permitted number of automatic time extensions is limited to two, the first one being an extension of ten days, and the second of five days. Finally, as of July 1, 2019, the INAP increased official fees for trademarks, patents, industrial models, and designs; some increases are by 30%.