

Mexico: Amendments to Industrial Property Law – Trademarks

On May 18, 2018 a Decree amending certain articles of the present Industrial Property Law and introducing new trademark provisions was published in the Official Federation Gazette in Mexico. The Decree will be in force as of August 10, 2018, and we anticipate that the Mexican Institute of Industrial Property (IMPI) will publish regulations in advance of the August 10th date that will clarify the scope of the amendments and new provisions. [More](#)

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The salient features of the decree are:

- Smell marks, sound marks, and movement marks will be protectable for the first time, and trade dress protection will be broadened.
- Class headings will no longer be deemed to cover all goods or services in a class. Rather, applicants must specify goods and services in accordance with the Nice Classification.
- Acquired distinctiveness will be recognized as an exception to absolute grounds for refusal.
- Consent and co-existence agreements may overcome prior rights, unless the prior marks are identical and cover identical goods and/or services.
- Bad faith will be a ground for oppositions and invalidation actions.

- Trademark Office decisions in oppositions will be binding. Presently, under the trademark opposition system introduced in August 2016, information filed in an opposition is considered during substantive examination of an application, but is not binding on the Examiner.
- Within three months of the third anniversary after issuance of a registration, the registrant must file a use declaration under oath in order to keep the registration in force. The registration will automatically lapse if an acceptable use declaration is not timely filed.
- Renewal of a trademark based on use of the same mark in a different class will no longer be possible.

Primary Contacts

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