European Commission

LATIN AMERICA
IPR SME HELPDESK

FACTSHEET

IP Systems Comparative: Argentina vs Europe

1. IPRs IN ARGENTINA FOR SMEs

1.1.Intellectual Property Rights for SMEs: Why is this relevant to you?

According to certain European Commission's numbers, the EU is Argentina's third larger trade partner and import supplier. It comprised 17.2% of Argentina's total trade in 2018. As a founding member of MERCOSUR, Argentina is a key market for European companies in the South American region. Nevertheless, European SMEs should be cautious when entering the Argentine market to ensure that their intellectual property rights are adequately protected there. Remember that registered IP rights are territorial in nature and are therefore protected only in the territory in which they have been registered. Consequently, any IPRs registered in Europe will have no legal validity in Argentina, until they are also registered in this country.

In light of the above, failure to designate a proper global IPR strategy before moving abroad can have serious consequences, such as having your product copied by local competitors with no possibility of stopping such activity. It is not possible to stress enough the importance of establishing a global strategy in advance: in the case of Argentina, for example, businesses must keep in mind that the registration procedures for trade marks or patents can take considerably longer than in Europe. It is thus not only relevant, but actually crucial for any SME to take into account the IP strategy to be implemented before starting to export or move to the Argentine market.

This document aims to help them do so by outlining the main differences between the EU's IP legal environment which SMEs are familiar with and Argentina's legal framework.

1.2.How does Argentina's IP Legal Framework compare to EU and International Standards?

The type of IP rights covered and the scope of their protection in Argentina is very similar to that in Europe. Furthermore, like the EU, Argentina is a member of the World Intellectual Property Organisation (WIPO) and party to many of the international treaties related to intellectual property managed by WIPO. This means that, on the substance, the Argentine legislation on intellectual property is to a great extent aligned with that of European countries. Argentina is pending accession to relevant WIPO treaties which do facilitate to IP right holders the international protection of their trademarks, designs and patents worldwide: Madrid system for the international registration of marks, the Hague system for the international

registration of designs, and the Patent Cooperation Treaty (PCT). Additionally, EU SMEs which are active in Argentina or think of entering this market should bear in mind that, from a practical perspective, it is important to take into account not only the letter, but also the manner in which it is applied. Furthermore, newcomers to the Argentine market must be aware of the trickiness of enforcement of IP rights, which is certainly more complicated in practice than in the EU.

In this sense, it can be useful for newcomers to the Argentinian market to be aware of the main differences with the EU IP framework. The tables below offer a broad comparison between the main types of intellectual property rights in Argentina and the European Union, and highlight some of the main differences and similarities. For more detailed information on the Argentine IPR system, do not hesitate to read our Argentina country factsheet, available here. In pursuit of clarity, a glossary has been introduced at the end of the document, which defines the technical terms included in the table.

DO I NEED A REPRESENTATIVE FOR THE MANAGEMENT OF MY IPRS IN ARGENTINA?

IPR applicants in Argentina do not need to be represented by a specialised IP attorney, be it for trade marks, patents, utility models or design rights. However, this is always strongly recommended. Moreover, if the applicant does not have an address in Argentina, they must be represented by a local agent. In practice, this means that EU SMEs that do not already have an address will have to go through a representative in their dealings with the INPI, the Argentinian IP office.

Note that the same rule applies in Europe: people or businesses which have a legal address in Europe will not need representation when registering their IP rights in Europe. Foreign companies without an address in Europe will need to be represented by local agents.

2. IP RIGHTS IN ARGENTINA: COMPARING BASICS

A. COPYRIGHT AND RELATED RIGHTS

Copyright is a legal term used to describe the rights (moral and economic) that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture and films, to computer programs, databases, advertisements, maps and technical drawings. The exclusive rights are enjoyed by the author of the work and by the successors. These so-called economic rights give the power to exploit the work for economic gain, including the reproduction, distribution, adaptation, translation, communication to the public and any other use. It also includes moral rights that are personal to the author, unwaivable and non-transferrable. Related rights, on the other hand, refer to the rights enjoyed by producers, performers and broadcasters for their investment and participation in and around the creation of the work.

ARGENTINA	EUROPE
Registration is optional but advisable for authors. On the other hand, publishers must register their work in order to protect their economic rights. As in Europe, works are protected from the date of creation and the author's rights are automatically protected. Note, however, that the lack of registration by publishers within 3 months after publication will lead to a fine and a suspension of their economic rights. Moreover, registration of copyright licences leads to a reduction of taxes on royalties. Works can be registered with the National Copyright Directorate (Dirección Nacional de Derecho de Autor), creating an evidence of authorship/ownership which may be useful to enforce your rights. More information on this here.	**Copyright does not need registration.** Works are protected from the date of creation. Only a few EU member states offer copyright registration services to provide proof of authorship. If this is not a possibility, you should still keep a record of authorship and any transfers of rights to facilitate their enforcement thereof in case of a dispute. For instance, this can be done by keeping laboratory logbooks or via private registration (notary registration, for example).

As a general rule, copyright lasts for the life of the author + 70 years, except for anonymous, cinematographic and photographic works. The copyright term is reduced for anonymous works (50 years from the date of publication) and cinematographic works (life of the author, producer, director or composer, whoever dies last, plus 50 years). In the case of photographic works, copyright lasts for 20 years as of the first publication of the work.	**Copyright lasts for the life of author + 70 years in all cases where the author is known.** Copyright protection expires after the period that lasts for the author's life plus 70 years after that. Anonymous works (70 years from the date of publication) and cinematographic works (life of the author, producer, director or composer, whichever dies last + 70 years) do not have a shortened copyright protection period.
As in other countries and Europe, software "as such" can only be protected by copyright. However, patents for computer-implemented inventions that involve software can also be obtained.	**The computer code underlying a software is also protected as a literary work in the European Union. Patents for computer-implemented inventions can also be obtained in Europe.**
There is no adequate legal protection against the circumvention of technological protection measures. This means that the law does not adequately protect copyright holders who have put in place technical measures to prevent copying by third parties. An example of such measures would be a software that deactivates the copy/paste function or prevents the reader from taking a screenshot.	**Under EU law, each Member State is under the obligation to provide adequate protection against the circumvention of technological measures.** A right holder will therefore be protected against the copying by a third party that has found a way to circumvent such protection measure. The manufacture and commercialisation of devices or solutions with the purpose of the circumvention of protection measures are prohibited.
Databases are protected through copyright only. Databases are protected under general copyright. There is no sui generis database protection.	**Databases are protected by copyright and a sui generis database right.** Databases in EU member states can be protected under general copyright and additionally under a special database right. To know how to protect the content and structure of your database in Europe, click here.

In Argentina and in Europe, and whether the work is registered or not, it is advisable to include a copyright notice such as "all rights reserved" along with the copyright sign "©" followed by the name of the author and the year of the first publication. This will allow third parties to know that your work is protected and that it should not be copied without authorisation.

B. Patents and Utility Models

A patent is an exclusive right granted for an invention, either a product or a process that provides a new way of doing something or offers a new technical solution to a problem. The patent holder enjoys the exclusive right to prevent others from exploiting the invention for a limited period of time. In return, the patent holder must disclose the invention to the public in the patent application.

In Argentina, the patent system includes invention patents and utility models. When discussing patents in the EU it is important to bear in mind that even if there exists a European registration system – the European Patent Convention (EPC) – for the filing of a single European Patent application in countries across Europe, there is no community patent in the EU yet and only some member states provide protection for utility models.

ARGENTINA	EUROPE
Grant takes between 5 and 7 years for patents, but can last over 10 years for pharmaceutical or biotechnological innovations, and a bit less for utility models. INPI faces a severe backlog problem. Recently, the INPI has established a new procedure to speed up the Substantive Examination for patent applications that have been first filed in Argentina, despite the applicant's nationality. This procedure has been named "Priority Exam Program for Patents" ("PEP") and it will be in force for 3 years with possible identical and consecutive extensions of time.	**Grant time depends on each country of the EU as regards national patent's applications.** Once granted by the European Patent Office, Each European Patent must be validated before some of the national authorities (EP validation is the process of providing to a single granted European patent application the same effects of a national patent). However, the handling of an EPC application typically takes between 3 and 5 years. Note that the EU Unitary Patent is expected to be available in the coming years.
Patents are granted for a 20-year term as of the date of application. This period may not be extended.	**Patents in EU Member States are granted for a 20-year term as of the date of application.** This period may be extended for products or processes which need to undergo an administrative authorisation before being commercialised (e.g. medicinal and veterinary products, and plant protection products). This extension will last for a maximum of 5 years.
Utility models are protected and are granted for a 10-year term as of the date of application. Utility models are granted when the requirements of novelty and industrial applicability are met. They do not need to satisfy any inventiveness requirement and can only protect objects, not methods. The term of protection lasts for 10 years from the date of application.	**Most countries do not protect utility models.** Utility models exist in some EU Member States (for example, in France, Germany or Spain), but not in all of them. It is best to check with the corresponding national IP office. Utility models are typically protected for 10 years. The only EU Member States offering utility model protection for less than 10 years are Greece (7 years maximum) and Portugal (6 years).
Argentina grants a 12-month grace period prior to the filing of the application during which the disclosure of the invention does not affect the novelty requirement for patentability, under certain conditions. The novelty of an invention is "sheltered" only when it is disclosed by the applicant or with the consent of the applicant by any means of communication or during an international exhibition, inside or outside the country within one year prior to the filing date of the application.	**Some European countries also grant an additional 6-month grace period, but these cases are limited.** Generally, the novelty of an invention is "sheltered" only when disclosed (1) by the applicant at an official international exhibition, or (2) by a third party in breach confidence owed to the patent applicant. For detailed information regarding the grace period for EU member states (and other countries worldwide), you can consult WIPO's report here.
"Swiss-type" claims (see Glossary) are not allowed.	**In the strict sense, "Swiss-type" claims are not allowed. However, under certain applicable EPC rules and subject to proper claim formulation, where a substance or composition is already known to have been used in a "first medical use", it may still be patentable for any second or further use in a method, provided that said use is novel and inventive.**

There is no need for notification: patent and utility model rights arise from registration alone and can be fully enforceable even when not communicated or stated on the relevant product/packaging.	**There is no need for notification: patent and utility model rights arise from registration alone and can be fully enforceable even when not communicated or stated on the relevant product/packaging.**
Argentina is not a contracting party to the Patent Cooperation Treaty (PCT), which allows for the filing of international patent applications (see Glossary). Therefore, EU applicants cannot benefit from the simplified procedures and reduced costs that the WIPO systems provide to foreign applicants.	**All EU Member States are also contracting parties to the PCT.**
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Exclusions from patentability: Plant Varieties

Plant varieties are not patentable in Argentina, yet, as in Europe (i.e., in line with the UPOV 1991 standards), there is an option of protecting them under a sui generis right, under the Plant Breeder's Rights Law. This regulation allows for registration of the protected plant at the National Institute of Seeds (INASE), which operates under the Ministry of Agriculture and Livestock.

C. Trade Marks

A trade mark is an exclusive right over the use of a sign in relation to the goods and services for which it is registered. Trade marks consist of signs capable of distinguishing the products (either goods or services) of a trader from those of others.

ARGENTINA	EUROPE
Multiclass applications (see Glossary) are not admitted.	**Multiclass applications are admitted for all goods and services.**
Sounds, as well as other non-traditional trade marks can be registered. Other non-traditional signs are registrable under Argentine law, namely ,three dimensional, holograms and olfactory signs. Slogans can also be registered as trade marks.	**Sounds, as well as other non-traditional trade marks can be registered both at EU and national level.** Visual, sound and three-dimensional marks are accepted in the European Union. Olfactory marks cannot be registered. Initially, slogans could be registered as trade marks in the EU, but the EUIPO, which applies identical grounds as for any other type of marks, has rejected several applications. Rules and applications at a national level may vary.
The use of a registered trade mark is mandatory within 5 years from registration. In Argentina, if a trade mark has not been used for 5 consecutive years, it could be subject to cancellation for lack of use.	**There is an obligation to use the trade mark within 5 years from registration both at EU and national level.** In the EU, if a trade mark is not put in genuine use for 5 consecutive years, an action to revoke it can be brought before the corresponding IPO based on lack of use.
Coexistence agreements are allowed and respected by INPI. INPI allows and will respect coexistence agreements, as long as they are not contrary to the Argentine trade mark law (i.e. do not mislead the consumer) and do not infringe third parties' rights prior to such agreement.	**Coexistence agreements are allowed but not binding in the EUIPO.** In the EU, coexistence agreements are allowed by the EUIPO and other IPOs of national member states, but they are not binding for the offices. Therefore, registration may be rejected for a trade mark, even if a coexistence agreement was signed with the owner of a similar trade mark. To become effective, such an agreement will require withdrawing the opposition or the cancelation request filed before EUIPO against the trademark.

Trade mark assignments and licences need to be registered with the INPI to be enforceable against third parties. This is also applicable for patents, utility models and design rights. Those which are not registered in the official trade mark registry will not be enforceable against third parties. These recordals are subject to a fee.	**Trade mark assignments and licences must also be registered to be enforced against third parties. This is also applicable for patents and design rights.** Additionally, at the EUIPO and many other IPOs of EU member states, assignments and licences can enter the register upon request, subject to a fee.
There is no need for notification: registered trade mark rights arise from registration alone.	**There is no need for notification: registered trade mark rights arise from registration alone.**
Argentina is not a contracting state to the Madrid system for international trade mark registration (see Glossary). In order to obtain trade mark registration in Argentina, an application must be filed directly with the INPI.	**The EU and all the Member States are contracting parties to the Madrid system.** Trade marks can be obtained through an international application or registration filed with the IP office of another contracting party as handled by WIPO.

Good practices:

- Before applying for a trade mark registration in Argentina, it is highly advisable to verify whether the trade mark you intend to register has been already registered by a third party. To check if a mark is identical to a previously existing one, you can conduct a search with no cost on INPI's free access website. However, in order to detect confusingly similar marks that could be an obstacle to obtain the registration of your mark, contacting an IP expert will be necessary, since they are able to conduct a more thorough phonetic and visual search.
- Argentina, as well as the EUIPO and trade mark offices in all EU member states resort to the 11th edition of the Nice Classification for the description of goods and services protected under a trade mark. They are also all members of TMClass, an EU tool which helps determine the taxonomy/classification of a trade mark application. You can therefore use the same taxonomy/classification to describe the goods and services related to your trade mark applications in these territories.

D. Industrial Designs

An industrial design is an exclusive right over the appearance of a product, completely or partially, which results from the features of the product itself or its decoration.

ARGENTINA	EUROPE
Industrial designs must be registered to be protected. Unregistered designs are not protected in Argentina.	**The EU community design regime provides for protection of unregistered designs.** Nevertheless, this protection only prevents unauthorised and intentional copying of the design throughout the European Union for 3 years.
Registered design rights are valid for 5 years from the date of the application. Design rights can be renewed for two more periods of 5 years. Thus, protection can be extended for a maximum of 15 years.	**The EU community registered designs last for 5 years from the date of the application and can be renewed for 5-year periods up to 25 years.**
Design rights and copyright may coexist but cannot be invoked simultaneously. A work may be protected both by a registered design right and copyright. However, at the time of enforcement the owner of the work will have to invoke one of the two types of rights and cannot simultaneously sue for the infringement of both.	**Design rights and copyright may coexist but may not always be invoked simultaneously depending on national law.** A work may be protected both by a registered design right and copyright. Whether the owner of a work can rely on both IP rights simultaneously at the time of enforcement will depend on national law.
Argentina is party to the Locarno Agreement. This agreement establishes an international classification for industrial designs, thereby making the search of registered design rights much easier.	**The EU and the Member States use the Locarno classification for industrial designs.**

Trade mark assignments and licences need to be registered with the INPI to be enforceable against third parties. This is also applicable for patents, utility models and design rights. Those which are not registered in the official trade mark registry will not be enforceable against third parties. These recordals are subject to a fee.	**Trade mark assignments and licences must also be registered to be enforced against third parties. This is also applicable for patents and design rights.** Additionally, at the EUIPO and many other IPOs of EU member states, assignments and licences can enter the register upon request, subject to a fee.
There is no need to indicate the existence of a registered design right on a product or packaging to obtain legal protection.	**There is no need to indicate the existence of a registered design right on a product or packaging to obtain legal protection.**
Argentina is not a party to the Hague Agreement on the international registration of industrial designs (see Glossary). Therefore, industrial design registration can only be obtained by filing an application directly with the INPI.	**The EU and the Member States are all contracting states to the Hague Agreement.**

E. Trade Secrets

Trade secrets concern any confidential commercial or industrial information that confers a competitive advantage to a company. The main disadvantage for SMEs is that a trade secret does not provide an exclusive right over the secret information. Hence, any person that discovers it through legally accepted means, such as reverse engineering or other similar procedures will be entitled to use it.

ARGENTINA	EUROPE
Trade secrets are protected by the courts if there is evidence that the holder of the information has taken sufficient steps to protect it. Argentine law, which is the same as EU law in this regard, states that the information must be secret, must have commercial value (due to its secrecy) and must have been subject to reasonable steps taken by the holder in order to keep it secret. For further detailed information on this type of protection, check out our factsheet on *Trade Secrets in Argentina*.	**Trade secrets are protected throughout the EU if there is evidence that the holder of the information has taken sufficient steps to protect it.** Trade secret protection has been harmonised under the 2016 Trade Secret Directive. The information must be secret, must have commercial value (due to its secrecy) and must have been subject to reasonable steps taken by the holder in order to keep it secret. For further information on trade secret protection in the EU check out this factsheet.
There is no effective system for the protection of confidential data conveyed to certification agencies for the approval of pharmaceutical and agrochemical products.	**The European Medicines Agency (EMA) applies strict rules for the protection of confidential information released in the certification process.** Information that cannot be found in the public domain or that is not publicly available, and the disclosure of which may undermine the economic interest of the holder, is considered as strictly confidential. It may only be available to the public by the EMA in exceptional circumstances.

Confidentiality contracts to protect your trade secrets

In Argentina and in Europe, it is strongly advised to protect trade secrets via contracts (NDAs, confidentiality clauses, etc.) when dealing with employees, clients or providers. Using physical and technological measures to restrict access to confidential information is also a great measure for protection.

F. Geographical Indications and Appellations of Origin

Geographical indications and appellations of origin relate to signs that represent the place of origin of the goods, including their specific quality, reputation or other features determined according to the natural or cultural factors of those regions. Largely, there is a general distinction between two different types of indications:

- Geographical Indications (GI) are signs that identify a product from a specific territory, the quality or characteristics of which are essentially attributable to this geographical origin.
- Appellations of Origin (AO) are a special kind of geographical indications that imply a stronger link with the place of origin by using the name of the location to designate the product originating therein, the quality or characteristics of which are essentially attributable to such geographical origin.

Protection of non-national GIs in Argentina is extremely difficult in practice. So far, no wine related EU GIs has been granted in Argentina under existing registration procedure before the Wine National Institute (INV – Instituto Nacional de Vinicultura). Bear in mind that currently there is no other system or agreement in Argentina that protects GIs that were registered in the EU. Fortunately, the EU- MERCOSUR Trade Agreement (which, despite being finalised, still needs to be signed after the approval of all EU member states) includes a list of EU geographical indications which will be granted similar protection in MERCOSUR. For further information on the registration of GIs in Latin America, check out our factsheet on IP in the Agri-Food Sector (i): Geographical Indications.

ARGENTINA	EUROPE
Both geographical indications and appellations of origin are protected.	**Both geographical indications and appellations of origin are protected.**
GIs and AOs only protect agricultural products, wines and spirit drinks based on wine.	**At an EU level, GIs and AOs only protect agricultural products, spirit drinks, aromatised wines or grapevine products.** There may be different schemes of protection at a national level, though.

3. Enforcing your IP

3.1 Litigation Strategies

As in the EU, the Argentine legal framework includes the possibility of filing civil actions in case of IPR infringement.

ARGENTINA	EUROPE
Exclusive licensees have a right to enforce the IP right if specified in the licence contract. Patent licensees always have the right to enforce the patent if the IPR owner (the licensor) does not take action against the infringer.	**In general, the licensee can take action to enforce an IP right against infringers when the IPR owner (the licensor) has been notified about the infringement but has failed to take action.**
IP licences and assignments must be registered with the INPI to be enforceable against third parties. Those which are not registered in the official registry will not be enforceable. These recordals are subject to a fee.	**Europe: assignments and licences must also be registered to be enforced against third parties.** At the EUIPO and many other IPOs of the EU member states IPOs, assignments and licences can enter the register upon request, but are subject to a fee.
Civil actions against infringers are possible. Right holders are entitled to file civil complaints requesting cease, compensation and the adoption of provisional measures to avoid continuation of the infringement and to preserve relevant evidence that can be used in a judicial proceeding for damages.	**Civil actions against infringers are possible.** Across Europe, right holders can file civil actions against infringers before national courts of all European countries to claim for damages and to order measures.
Precautionary measures. Argentine law contemplates different types of precautionary measures, depending on the nature of the IP involved. These legal measures generally can only be decided and implemented by the courts. The courts may demand that the claimant provide a deposit before the relevant precautionary measures are taken.	**Precautionary measures.** Available will generally include interlocutory injunctions. They are decided and implemented by the national courts.
Criminal actions. Criminal actions may be taken against infringers in case of fraud or intention to defraud the public, in addition to the infringement of IP rights.	**Criminal actions.** Criminal actions are available against infringers in all EU Member States. But criminal actions against IP infringers are not harmonised across the EU and may therefore vary among Member States.
Alternative Dispute Resolution (ADR) mechanisms are available for IP disputes in Argentina. It is possible to consider ADR solutions to solve disputes concerning IP rights in Argentina. Furthermore, judicial mediation and arbitration may also be offered by Argentine civil courts. Argentina recognises all extra-judicial mediation or arbitration decisions given in Europe (which means that these decisions can be enforced in Argentina, too).	**Alternative Dispute Resolution (ADR) mechanisms are also available for IP disputes across Europe.** Note, however, that legislation regarding ADR in IP-related disputes is not harmonised at EU level. All EU Member States recognise extra-judicial mediation or arbitration decisions given in other EU countries.

3.1 Custom Measures

Customs actions in the EU and Argentina are an effective way of blocking counterfeit or pirated products from entering a foreign market. No matter whether you are working with customs in Argentina or the EU, you should aim at maintaining close contact with these authorities and supply relevant information about the products in order to make the detection of infringements easier when inspecting goods.

ARGENTINA	EUROPE
The National Customs Service (NCS) inspects both imported and exported goods. At an administrative level, Argentina provides border measures to holders of registered trade marks and copyrights regardless of those that could be obtained through courts. The National Customs Service may act *ex officio* to prevent the entering and exit of infringing products. A special customs division has been constituted specifically for the seizure of IP infringing goods in markets, shops and warehouses in Argentina.	**At the EU border, controls are run in all customs situations – import, export and goods in transit.** **Customs authorities can take action with regards to each IP right.** EU customs authorities have the right to ex officio seize and detain goods in all customs situations that are suspicious of IPR infringement. National forces are in charge of the seizure of IP infringing products within national territory.
NCS agents can act both *ex officio* and on behalf of an IP holder.	**NCS agents can act both ex officio and on behalf of an IP holder.**
Registering IP with customs. In Argentina, border measures have an "alert system" organised by the Customs Agency to prevent the importation / exportation of counterfeited trade marks / copyright goods. The registration with the Argentine Customs Agency's Alert System is valid for 2 years and can be renewed indefinitely within 30 days prior to the expiration date. The date may be renewed subsequently at the trade mark owner's request, as long as the trade mark or the copyright are in force.	**It is possible to register IP rights with the EU customs, though it is not required.** Right holders can specifically register their IPRs with the EU customs, thereby facilitating the detection of infringing products. Customs officials across the EU have access to the Enforcement Database managed by the EUIPO. This database contains information on products protected at an EU level (i.e. registered with the EUIPO). EU customs will seize goods suspected of infringing IP rights.

If you need specific information regarding litigation and enforcement of IP rights in Argentina, contact the Latin America IP SME Helpdesk´s Helpline services. Our IP experts will provide you with professional and tailor-made assistance on your particular case within 3 working days.

4. Related Links and Additional Information

Factsheets on Argentina by the Latin America IP SME Helpdesk:

- Argentina IP Country Factsheet
- Guide to Trade Mark Registration in Argentina
- Technology Transfer in Argentina
- Trade Secrets in Argentina
- IPR Enforcement in Argentina

Further information about IPR in Argentina can be found on:

- The Latin American IP SME Helpdesk website: www.latinamerica-ipr-helpdesk.eu
- The Argentine Intellectual Property Office (INPI): www.argentina.gob.ar/inpi
- The Argentine National Copyright Directorate: https://www.argentina.gob.ar/justicia/derechodeautor

5. Glossary

Swiss type claims: correspond to the specific way in which a patent claim is written for the patenting of the second medical use of a known substance. The substance is known and can therefore not be patented for lack of novelty, but the new medical treatment can be patented in some countries by drafting the claim: "Use of substance X in the manufacture of a medicament for the treatment of condition Y".

Multiclass applications: trade marks are registered in relation to specific products or services which must be defined in the trade mark application. To make the examination easier, products and services are categorised into different classes (e.g. shoes in one class, drinks in another). A multiclass application is a trade mark application that categorises products in different classes. Not all countries allow this and they demand that a separate trade mark application be filed for different classes of products.

Unregistered trade marks: trade mark rights are generally only protected when registered. However, marks that are used in commerce but have not been registered will still get some protection in some countries.

Ex officio/ ex parte: Ex officio prosecution implies that the public prosecutor, without any previous private claims, decides to start proceedings against an offender, whereas in ex parte prosecutions, proceedings are started by the injured party.

Non-Disclosure Agreement (NDA): NDAs are contracts aimed at keeping the confidentiality of certain secret information shared between two parties. It is also possible to introduce non-disclosure clauses within your employees' contracts. In both cases, penalty clauses can be established for those cases in which failure to meet the confidentiality obligation takes place.

Patent Cooperation Treaty: is an international agreement that allows for international patent applications. This type of application consists of a single application filed in a patent office in one language, in which the payment of one set of fees is demanded, acting as a bundle of patent applications in the contracting states designated by the applicant. For further information about the PCT, please click here.

Madrid system: is an international agreement that allows for international trade mark applications. This type of application consists of a single application filed with a national trade mark office that designates the other contracting states in which protection is sought. For further information on the Madrid System please click here.

Hague system: is an international agreement that allows for international design applications. This type of application consists of a single application filed in an IP office in one language, in which the payment of one set of fees is demanded and other contracting states in which protection is sought are designated. For further information about the Hague System please click here.

LATIN AMERICA IPR SME HELPDESK

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Download Guide

The **Latin America IPR SME Helpdesk** offers **multilingual services** (English, French, German, Spanish and Portuguese[1]), with free information and first-line legal advice on IP related subjects, as well as training, webinars and publications, especially designed for EU SMEs.

HELPLINE First-line advisory service on IP protection and enforcement for EU SMEs working or planning to operate in Latin America.

TRAINING Targeted trainings and webinars on IPR protection and enforcement for EU SMEs (including sector- specific approaches).

IP CONTENT State-of-the-art publications (factsheets, learning modules, videos, IP glossary, info graphics, case studies and newsletters) on the protection and enforcement of IPR in Latin America – specifically addressing IP matters from the SME business needs point of view.

AWARENESS RAISING EVENTS Participation in events attended by EU SMEs to increase the awareness of IP and of the visibility of the services provided by the Helpdesk.

IP ANALYSIS Analysis of IP challenges faced by EU SMEs in the target markets.

IP DIAGNOSTIC TOOLKIT Toolkit for self-evaluation of the IP-status of the user in terms of IP knowledge and management.

IP COST TOOL Online tool that allows the user to pre evaluate the costs related to IP management in every Latin American country covered by the Helpdesk.

[1]The language offer will depend on the specific service and experts' availability.

If you have any queries on how to protect your Intellectual Property in Latinamerica contact our Helpdesk service:

helpline@latinamerica-ipr-helpdesk.eu
+34 96 590 9684
Working Hours: Monday - Friday 9:00 -16:30 (CEST)

If you want more information on additional free services offered by the Helpdesk contact the coordination team:

info@latinamerica-ipr-helpdesk.eu
University of Alicante, Campus San Vicente del Raspeig, Edificio Torre de Control, 03690 Alicante, Spain
+34 96 590 9684

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