

ANDEAN COMMUNITY

Decision 689

Adequacy of certain articles of Decision 486 - Common Regime on Industrial Property, to allow the development and deepen of Industrial Property Rights across the internal regulation of the Members States

August 13, 2008

ENTRY IN FORCE: August 15, 2008

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Article 1

The Member Countries, through their domestic legislation, will be entitled, under the terms expressly set forth in subparagraphs a) through j) to develop and deepen only the following provisions of Decision 486:

a) Article 9: To establish the conditions for recovery of the period for priority claim for a term not exceeding two months of the deadline originally established.

b) Item 28: To enter additional specifications concerning the conditions of disclosure of the invention, in the sense of requiring the applicant greater clearness in the description of the invention and greater sufficiency in such disclosure, so that it is as clear, detailed and complete not requiring for embodiment by the person skilled in the prior art concerned, undue experimentation and indicating that person that the applicant was in possession of the invention to the date of submission.

c) Article 34. - To indicate that it will not be considered as an extension of the application, the correction of omissions that are contained in the original application for which priority is claimed.

d) In Chapter V, Title II (Patents of Invention): With the exception of pharmaceutical patents, to establish the means to compensate the patent owner for unreasonable delays in the National Office in issuing it, recovering the term or patent rights. The Member Countries shall consider as unreasonable delays those of more than 5 years from the date of filing the patent application or 3 years from the order of examination, whichever is later, provided that periods attributable to actions of the applicant of patent is not included in the determination of such delays.

e) Article 53: To include the faculty of using the subject matter protected by a patent in order to generate information needed to support the request for commercialization approval of a product.

f) Article 138: To enable the establishment of a multiclass registration of trademarks.

g) Article 140: To establish deadlines for the correction of the form requirements specified in the article.

h) Article 162: To establish as optional the registration requirement of the license agreement for use of the trademark.

i) Article 202: To establish that protection of an appellation of origin shall not be declared, where it is likely to cause confusion with a previously mark applied for or registered in good faith or with a well-known mark.

j) In Chapter III, Title XV: To develop exclusively for marks, the enforcement regime of border measures to goods in transit.

Article 2

The Member Countries undertake to promote and protect the appellations of origin of the other Member Countries, according to the provisions of Decision 486, Common Regime on Industrial Property.

Article 3

To August 20, 2008 at the latest, where the Member Countries deem it appropriate, will inform the General Secretariat of the Andean Community on their willingness to use the faculty established in Article 1 of this decision, after this period, the Member Country that has not made such communication would not make use of that faculty.

Similarly, the Member Countries having so considered it shall inform the General Secretariat of the Andean Community the development internal regulations of Article 1 of present Decision.

In both cases, the General Secretariat shall provide the other Member Countries the information as appropriate.