

MEXICO
FEDERAL LAW FOR THE PROTECTION OF INDUSTRIAL PROPERTY
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PROVISIONAL ARTICLES (Omitted)

FIRST TITLE General Provisions

Chapter I Preliminary Provisions

Article 1.

The provisions of this Law are of public order and of general observance throughout the Republic, without prejudice to the provisions of the International Treaties to which Mexico is a party.

Its administrative application is vested in the Federal Executive through the Mexican Institute of Industrial Property.

Article 2.

The purpose of this Law is to:

I.- Protect industrial property through the regulation and granting of patents for invention; utility models, industrial designs, integrated circuit layout schemes, trademarks, and slogans; publication of trade names; declaration of protection of appellations of origin and geographical indications;

II.- Regulate industrial secrets;

III.- Prevent acts that violate industrial property or that constitute unfair competition related to the same and establish the sanctions and penalties arising therefrom;

IV.- Promote and encourage inventive activity of industrial application, technical improvements, creativity for the design and presentation of new and useful products, and

V.- Promote the dissemination of technological knowledge in the country.

Article 3.

In the cases not provided for in this Law, the Federal Law of Administrative Procedure shall apply, and subsequently the Federal Code of Civil Procedures.

Article 4.

For the purposes of this Law, the following terms are a short form of the whole term:

I.- Official Gazette, to the Official Gazette of the Federation;

II.- Gazette, to the Gazette of Industrial Property;

III.- Institute, to the Mexican Institute of Industrial Property;

IV.- Law, to this Law;

V.- Head of the General Directorate, to the Head of the General Directorate of the Mexican Institute of Industrial Property, and

VI.- International Treaties, to those concluded in accordance with the Law on the celebration of Treaties and the Law on the approval of International Treaties in Economic Matters, to which Mexico is a party.

Article 5.

The Mexican Institute of Industrial Property, an administrative authority on industrial property matters, is a decentralized body with legal capacity and its own assets, which shall have the following faculties:

I.- To process and, where appropriate, grant patents for invention, utility model registrations, industrial designs, layout schemes of integrated circuits, supplementary certificates, trademarks, collective marks or trademarks of certification; publish trade names; as well as to register their renewals, transfers or licenses of use and exploitation; estimate or declare the notoriety or fame of trademarks; issue protection declarations to appellations of origin and geographical indications and authorize the use of them, and the others granted by this Law and its Regulations for the recognition and conservation of industrial property rights;

II.- To conduct proceedings for nullity, expiration and cancellation procedures of the industrial property rights; as well as to cease the effects of the publications of the trade names; formulate resolutions and issue corresponding

administrative declarations, as provided in this Law and its Regulations and, in general, resolve the requests that arise due to the application of the same;

III.- To carry out investigations of alleged administrative infractions in the terms of the laws whose application corresponds to it; hear the alleged offenders in their defense; reconcile the interests of the parties involved when requested; formulate resolutions, issue declarations, and impose the corresponding administrative sanctions;

IV.- To order and practice inspection visits, and request information and data;

V.- To order and execute the provisional measures provided for in this Law, to prevent or stop the violation of a right, and, where appropriate, decree the destination of the seized assets, including their destruction;

VI.- To determine the amount of the fines imposed and, where appropriate, of the respective accessories; require its payment and collect the resulting tax credit;

VII.- To demand the payment of tax credits that have not been covered in a timely manner through the administrative procedure of execution, in terms of the Fiscal Code of the Federation;

VIII.- To condemn the payment of damages caused to the owner affected in the procedures of administrative declaration of infringement provided for in the laws whose application corresponds to it, and quantify the amount of the respective compensation;

IX.- To request the assistance of the Federal, State, or Local Public Force, as well as any civil or armed institution, to effectively and promptly comply with its determinations related to the observance of rights contained in the laws, whose application corresponds to it;

X.- To appoint experts or act as such, when requested in accordance with the applicable legislation;

XI.- To issue the technical reports that are required by individuals, by the Federal Prosecution Office or by any other judicial or administrative authority; carry out the proceedings and collect the evidence that is necessary for its issuance;

XII.- To act as depositary when designated in accordance with this Law and, where appropriate, make available to the competent authority the goods that have been seized;

XIII.- To conduct and resolve the administrative appeals that are filed against the resolutions issued, in accordance with the jurisdiction of the laws whose application corresponds to it;

XIV.- To act as arbitrator in the resolution of controversies related to the jurisdiction of the laws whose application corresponds to it, when those involved expressly designate it as such, in accordance with the provisions contained in the Commercial Code;

XV.- To publish in the Gazette the acts referred to in this Law;

XVI.- To disseminate the information derived from patents, records, publications, declarations, authorizations and any other related to the laws whose application corresponds to it;

XVII.- To establish the rules for the management of procedures through electronic means of communication;

XVIII.- To maintain the public registry of industrial property rights in the terms established by this Law and its Regulations, without prejudice to what is established in the International Treaties;

XIX.- To disseminate, advise, and provide service to the public, in accordance with the jurisdiction of the laws whose application corresponds;

XX.- To promote the creation of inventions of industrial application, support their development and exploitation in the

industry and commerce, and promote technology transfer by:

- a) The dissemination of documentary collections on inventions published in the country or abroad and the advice on your consultation and use;
- b) The preparation, updating and dissemination of directories of individuals and legal entities dedicated to the generation of inventions and technological research activities;
- c) The holding of contests, competition or exhibitions and the granting of prizes and recognitions that stimulate inventive activity and creativity in product design and presentation;
- d) The dissemination among individuals, groups, associations or institutions of research, higher education or of technical assistance, knowledge, and scope of the provisions of this Law, which facilitate their activities in the generation of inventions and their subsequent industrial and commercial development, and
- e) The celebration of cooperation, coordination, and agreement agreements with the governments of the institution of the federal entities, as well as with public or private institutions, national or foreign, to promote and encourage inventions and creations of industrial and commercial application.

XXI.- To participate in incentive and support programs for the protection of industrial property, aimed at the generation, development, and application of Mexican technology in economic activity, as well as to improve their levels of productivity and competitiveness;

XXII.- To form and keep updated the collections on inventions published in the country;

XXIII.- To process and, where appropriate, provide the answer to requests for technological information;

XXIV.- To carry out research on the state of the art in the different sectors of industry and technology;

XXV.- To coordinate its performance with the various public and private, national, foreign, and international institutions,

whose objective is the promotion and protection of industrial property rights, the technology transfer, the study and promotion of technological development, innovation, and differentiation of products;

XXVI.- To provide information and technical cooperation in matters of industrial property, which may be required by the Federal Public Administration or other authorities, in accordance with the established rules and policies for this purpose;

XXVII.- To promote the participation of the industrial sector in the development and application of technologies that increase its quality, competitiveness, and productivity, as well as conducting research on its progress and application of national and international industrial technology and its impact on the fulfillment of such objectives, and propose policies to promote their development;

XXVIII.- To promote international cooperation through the exchange of administrative experiences and with institutions in charge of the registration and legal protection of industrial property in other countries, including among others: training and professional training of personnel, transfer of methodologies works and organization, the exchange of publications and the updating of documentary collections and databases data;

XXIX.- To participate, in coordination with the competent units of the Ministry of Economy, in the negotiations that correspond to the scope of its powers;

XXX.- To carry out studies about industrial property in the international context and participate in the related international meetings or forums;

XXXI.- To act as a consultative body in accordance with the jurisdiction of the laws whose application corresponds to the different dependencies and entities of the Federal Public Administration, as well as advising social and private institutions;

XXXII.- To participate in the training of specialized human resources in the various disciplines of property through the formulation and execution of programs and courses for training, teaching and specialization of professional, technical, and auxiliary personnel;

XXXIII.- To formulate and execute its institutional operating program, and

XXXIV.- To provide the other services and carry out the activities necessary for the due fulfillment of the laws whose application corresponds to it.

Article 6.

The administrative bodies of the Institute shall be the Governing Board and the Head of the General Directorate, who shall have the powers provided in the Federal Law of Parastatal Entities and in its Creation decree, without prejudice to the provisions of articles 5 and 9 of this Law.

Article 7.

The Governing Board shall be made up of ten representatives:

I.- The Head of the Ministry of Economy, who presides over it;

II.- A representative appointed by the Ministry of Economy;

III.- Two representatives appointed by the Ministry of Finance and Public Credit, and

IV.- Representatives of the Secretaries of Foreign Affairs, Agriculture and Rural Development, Culture, Public Education and Health; as well as the National Council of Science and Technology and the National Center for Metrology.

For each proprietary representative, an alternate shall be appointed, who shall attend the sessions of the Board of Government in the absence of the former, with all the powers and rights that correspond to it.

Article 8.

The Head of the General Directorate is the legal representative

of the Institute and shall be designated by the Governing Board, at the indication of the Federal Executive, through the Head of the Ministry of Economy.

Article 9.

The Head of the General Directorate may delegate the powers referred to in article 5 of this Law, as well as the others that it considers convenient for the achievement of the institutional objectives and goals, in subordinate public officers, in the terms established in the Agreements approved by the Governing Board and published in the Official Gazette.

Article 10.

The Head of the General Directorate shall issue the rules and specifications for the filing of applications in physical or virtual media, as well as the procedures, criteria, guidelines, and specific requirements to facilitate the operation of the Institute and guarantee legal security for individuals, through Agreements published in the Official Gazette.

In the case of virtual media, it shall establish the rules for the management of procedures and the conservation of industrial property rights through electronic means of communication, including those related with its obligatory nature for certain procedures or services and the use of the advanced electronic signature or any another means of identifying individuals that the Institute recognizes.

Article 11.

The rates for the services provided by the Institute shall be set by its Governing Board, in coordination with the Ministry of Economy, with the approval of the Ministry of Finance and Public Credit, and they must be published by means of an Agreement of the Head of the General Directorate in the Official Gazette.

To determine the amounts of the fees, the following factors should be considered, among others:

I.- The costs incurred by the Institute for the provision of services, including its expenses for operation and the National Consumer Price Index. The amounts of the fees must allow the

recovery of costs, at least, and

II.- Its competitiveness compared to those applied by other industrial property offices at an international level.

Chapter II General Rules

Article 12.

No patent, registration or authorization shall be granted, or any of the legal figures or institutions that this Law regulates shall be publicized in the Gazette, when their contents or form are contrary to public order or contravene any legal provision.

Article 13.

Any request or proceeding addressed to the Institute, due to the provisions of this Law and other provisions derived from it, must be submitted in writing, and drawn up in Spanish. The documents filed in a different language must be translated. In the case of administrative declaration procedures, it shall be sufficient to display the translation of the conductive part that is intended to be credited with it.

Article 14.

Applications or proceedings must be signed by the interested party or their legal representative and, in where appropriate, be accompanied by proof of payment of the corresponding fee. Failure to sign the application or proceeding shall result in its outright rejection.

Article 15.

For the purposes of this Law, the documents filed through the media Electronic shall produce the same effects that the laws grant to documents signed autographically and they shall have the same probative value.

Article 16.

In the absence of payment of the corresponding fees, the Institute shall require the applicant, for the sole occasion, to show the respective voucher within a period of five days. In case of not complying with the requirement within the indicated period, the request or proceeding shall be rejected outright.

Article 17.

In every request, the petitioner must indicate an address to receive notifications within the national territory, as well as

an email. Any change in the address to receive notifications or in the email must be communicated to the Institute. If no notice is given, the notifications that are made shall be considered legally made at the address that appears in the file.

Article 18.

The Gazette is the official publication and notification body of the Institute. The acts that appear in it shall be effective on the date indicated in the Gazette itself or, where appropriate, on the business day after its issuance. The effective date shall be stated on each copy.

The final resolutions issued in the administrative declaration procedures provided for in this Law, as well as those resolutions that modify the conditions or scope of granted patents or registrations. They must be published in the Gazette one month after the date of issue.

Any information of general interest on industrial property may also be disclosed in it.

Article 19.

The Institute shall notify through the Gazette all resolutions, requirements and other acts issued, related to the processing of national patents, registries, and publications, as well as those related to the conservation of rights.

In the procedures filed through electronic communication means, notifications shall be made in accordance with the rules and specifications established in the Agreement issued by the Head of the General Directorate for this purpose.

The Institute shall take the necessary measures to avoid the disclosure of the application and its annexes in the files found in the assumption of article 24 of this law.

The notifications in the administrative declaration procedures provided for in Title Six of this Law shall be made in accordance with the provisions of Chapter III of said Title.

Article 20.

When a notification is made by Gazette, an informative notice shall be sent to the applicant, in the same date of its

publication.

Notifications shall be considered made with their sole publication in the Gazette, regardless of the sending and receipt of the notice referred to in this article.

The notice must contain, at least, the file number, the date and trade number, the description general issue and the electronic link to the document, if applicable. The notice may be related to one or more files.

The Institute shall announce by means of an Agreement published in the Official Gazette, the technological means through which the notice shall be sent.

Article 21.

Within the terms set by this Law in days, only business days shall be counted. When it comes to terms referring to months or years, the calculation shall be made from date to date, even considering non-business days.

The term shall start from the business day following the one that the respective notification is considered effective.

Article 22.

The registration of industrial property rights shall be public, except for applications that are confidential, and shall contain the files related to the rights protected by this Law. The publicity shall be made effective by direct consultation of the files or existing databases, which shall be facilitated by making it available in electronic communication media, free of charge.

Article 23.

The files of patents and registrations in force, as well as those related to trade names published, appellations of origin and geographical indications, shall be open for all kinds of queries and proceedings, unless they contain industrial secrets or confidential information.

Article 24.

The files of patent applications, utility model registration and registration of industrial design not published in the Gazette may only be consulted by the applicant or the legal

representative, or person authorized by the same, except when said files are requested to another applicant or when offered as evidence in an administrative declaration procedure, observing the measures necessary to preserve the confidentiality.

Information that is official or required by the judicial authority is excepted from the above.

The personnel of the Institute that intervenes in the various procedures that proceed in accordance with this Law and its regulations, shall be obliged to keep absolute confidentiality regarding the content of the files in process that do not have been published. Otherwise, the personnel shall be sanctioned in accordance with the applicable regulations regarding administrative responsibilities of public officers, regardless of the penalties. The personnel of public or private organizations that could know said content in support of the Institute in the exercise of its functions shall have the same obligation.

Article 25.

In the case of those requests that are filed physically, and solely for the interoperability purposes of the government of the Federal Public Administration, at the time of filing an application, the Unique Population Registry Code (CURP) of the applicant must be required in the case of an Individual, or the Federal Taxpayers Registry (RFC) in the case of an entity. The omission of this information shall not affect the processing of the application or proceeding filed.

Chapter III On the Representation and the General Registry of Powers of Attorney

Article 26.

When an application or proceeding is filed by several people, it must be explained in the writing who of them shall be the Common Representative. If this is not done, it shall be understood that the Common Representative is the first person named.

Article 27.

When applications or proceedings are submitted through a legal representative, the latter same must credit his/her capacity:

I.- By simplified power of attorney signed before two witnesses, in Mexico or abroad, if the principal is a national or foreign individual;

II.- By simplified power of attorney signed before two witnesses, in Mexico or abroad, in the case of national or foreign legal entities, in the case of patent applications, registrations, publications, oppositions, conservation of rights, declaration of use or registration of licenses or transmissions. In this case, the power of attorney must state that the person granting it has the powers to do so and be cited the instrument in which these powers are stated. The power of attorney referred to in sections I and II above must contain the name and signature of the witnesses;

III.- In the cases not included in section II, by means of a public instrument or power of attorney with ratification of signatures before a notary or commerce certification officer, in the case of a national entity, having to prove the legal existence of this and the powers of the principal;

IV.- In the cases not included in section II, by means of a power of attorney granted in accordance with the applicable legislation of the country where it is granted or according to International Treaties in case the principal is a foreign entity. The validity of the power of attorney shall be presumed, unless proven otherwise, and

V.- Through the representative's statement under oath that the representative has sufficient powers to act, if it is the same person from the beginning to the conclusion of the procedure and said manifestation is recorded in the respective application or proceeding, only in the procedures:

- a) Resulting from the Fourth Title of this Law, except in the case of a request for limitation of products or services or the voluntary cancellation of a registration or publication. In which case it shall be necessary to present a power of attorney, general or special, for acts of ownership and when an opposition is presented to a registration or publication, where a public instrument or power of attorney must be presented, or
- b) That are related to requests for technological information.

In these cases, the validity of said representation shall be presumed, unless proven otherwise. If later a new representative intervenes in the same procedure, he/she must prove his/her capacity in the terms of the Sections I to IV of this article.

Article 28.

The following documents shall be recognized to act before the Institute:

I.- The special powers conferred to perform the acts specified therein, including the powers for acts of ownership;

II.- The general powers for lawsuits and collections, to act in administrative declaration procedures, provided for in Title Six of this Law, and

III.- The general powers for acts of administration, in the cases not included in the previous section.

Article 29.

The Institute shall oversee the General Registry of Powers, in which the powers of attorney shall be registered originals or their certified copy. Registration in said Registry shall be optional.

Article 30.

In each file that is processed, the capacity of the legal representative must be accredited. However, it shall be enough to indicate the registration number, if the power of attorney is registered in the General Registry of Powers.

Article 31.

The application for registration must be filed, complying with the following requirements:

I.- The name of the principal;

II.- The name of the legal representative or representatives;

III.- The original or certified copy of the power of attorney to be registered;

IV.- The address to receive notifications in the national territory, as well as an email;

V.- The proof of payment of the corresponding fee, and

VI.- Other documents provided by this Law and its Regulations.

Article 32.

When the request fails to comply with the requirements indicated in sections I to IV and VI of the articles above, the Institute shall require the applicant to correct the omission or make the clarifications that may apply within a period of two months. In case of failure to comply with the requirement within the indicated period, the request shall be discarded. If the omission is related to section V of the previous article, the provisions of article 16 of this Law shall govern.

Article 33.

If the application is appropriate, the Institute shall issue a registration certificate that shall contain the following:

I.- The registration number;

II.- The name of the principal, and

III.- The name of the legal representative or representatives.

It shall be understood that the power of attorney has been registered as of the date the application was submitted.

Article 34.

Registration in the General Register of Powers may be canceled at any time, upon request of the principal, the legal representative or, when the validity of the registered power of attorney expires. On this last case, no notice shall be required by the Institute.

Article 35.

Applicants acting on their own or through a legal representative may authorize in their requests or proceedings to other individuals to receive notifications and documents.

SECOND TITLE Related to Inventions, Utility Models, Industrial Designs and Integrated Circuit Layout Schemes

Chapter I Preliminary Provisions

Article 36.

The individual who makes an invention, utility model, industrial design or integrated circuit layout scheme or its successor in title, shall have the exclusive and temporary right of exploitation for their profit, by themselves or by others with their consent, in accordance with the provisions contained in this Law and its Regulation.

The right referred to in the preceding paragraph shall be granted through:

I.- A patent in the case of an invention;

II.- A registration in the case of a utility model, an industrial design, or a layout scheme of integrated circuit, and

III.- A complementary certificate if a patent meets the requirements set forth in the Chapter VIII of this Title.

Article 37.

The holders of patents, registrations or complementary certificates may be individuals or entities.

Article 38.

The right to obtain a patent or a registration shall belong to the inventor, designer, or creator, as the case may be, without prejudice to the provisions of article 40 of this Law. If the invention, the utility model, the industrial design, or integrated circuit layout had been made by two or more people jointly, the right to obtain the patent or the registration shall belong to all of them.

If multiple people made the same invention, utility model, industrial design, or layout scheme of integrated circuit, independently of each other, the one that files the respective application first or that claims the earliest priority date

shall have a better right to obtain the patent or the registration, provided that the request is not withdrawn, abandoned, or denied.

The right to obtain a patent or a registration may be transferred in any way recognized by the common legislation.

Article 39.

An inventor, designer or creator is presumed to be the person or individuals who is designated as such in the patent or registration application, who shall have the right to be recognized as such.

The right referred to in the preceding paragraph is inalienable. Any resignation made to it shall be considered not done.

Article 40.

To inventions, utility models, industrial designs or integrated circuit layout schemes made by people who are subject to an employment relationship in Mexico, what is provided in the Federal Labor Law shall be applicable. In the event that said relationship originates in a different jurisdiction, the provisions of the agreement that is exhibited for this purpose shall be followed.

People who work in Educational Institutions, Public Research Centers or Public Entities who carry out scientific research, technological development, or innovation activities, shall also enjoy the benefits established in the applicable regulations.

Article 41.

Whoever has filed a first application for a patent or registration in Mexico or abroad, or the successor in title, shall enjoy a right of priority for filing one or more applications in Mexico related to the same invention, utility model or industrial design, provided that these are filed within a period of twelve months in the case of inventions and utility models, or six months in the case of industrial designs, counted from the filing date of the first application. The application that benefits from a right of priority may not be affected, with respect to the state of the art, for any circumstance after the filing date of the claimed priority. This right shall only protect the matter contained in the

request that is claimed as a priority. If additional rights were claimed, the recognition shall be only partial and referred to that application.

Article 42.

To claim the right of priority, the applicant must:

I.- State in the application in Mexico, the country of origin of the priority, its filing date and number of the application in that country, and

II.- Show a certified copy of the priority claimed and, where appropriate, the translation into Spanish, at the latest within a period of three months from the filing of the application in Mexico.

If the requirements set forth in this article are not met, the right of priority shall be considered unclaimed.

The applicant may withdraw a priority claim made in an international application, at any time before the expiration of the thirty-month period from the priority date, in terms of the provisions of the regulation of the Patent Cooperation Treaty. The foregoing shall not constitute an extension of a term that has expired, including the entry into the national phase of said application.

The Head of the General Directorate shall establish by Agreement the conditions or assumptions in which the exhibition of the certified copy of the claimed priority shall not be necessary.

Article 43.

Multiple priorities may be claimed in the same application. The right of priority shall only cover the elements that are contained in the request or requests whose priority is claimed. The claim of each priority and the respective study shall be subject to the payment of the corresponding fees.

Article 44.

The mention that there is an application in process, or a patent or registration granted, may only be performed if the invention, utility model, industrial design or integrated circuit layout scheme is within the scope of any of these assumptions.

Chapter II On Patents

Article 45.

For the purposes of this Chapter, the following shall be understood:

I.- New: everything that is not in the state of the art. No substance, compound or composition included in the state of the art shall be excluded from patentability, as long as its use is new;

II.- State of the art: the set of technical knowledge that has been made accessible to the public through an oral or written description, by exploitation or by any other means of dissemination or information in the country or abroad, before the filing date of the application or recognized priority;

III.- Inventive activity: the creative process whose results are not deduced from the state of the art in an obvious or evident way for a person skilled in the art;

IV.- Industrial application: the possibility that an invention can be produced or used in any branch of economic activity, for the purposes described in the application;

V.- Claim: the matter whose protection is claimed precisely and specifically in the request for patent or registration and is granted, where appropriate, in the corresponding title and

VI.- Essential technical characteristics: those necessary for the invention to solve the technical problem.

Article 46.

An invention is considered any human creation that allows the transformation of matter or energy that exists in nature, for use by humankind and to satisfy its specific needs.

Article 47.

The following shall not be considered as inventions:

I.- Discoveries, scientific theories, or their principles;

II.- Mathematical methods;

III.- Literary, artistic works or any other aesthetic creation;

IV.- The schemes, plans, rules, and methods for the exercise of intellectual activities, for games or for economic-commercial activities or to conduct business;

V.- Computer programs;

VI.- The ways of presenting information;

VII.- The biological and genetic material, as it is found in nature, and

VIII.- The juxtaposition of known inventions or a combination of known products, except in the case of their combination or fusion that cannot function separately or that the qualities or characteristic functions of the same are modified to obtain an industrial result or a use that is not obvious for an expert in the field.

The matter provided for in sections I to VIII above shall not be considered an invention, when in the application it is claimed exclusively as such by itself.

Article 48.

Inventions in all fields of technology that are new, resulting of an inventive activity, and susceptible of industrial application shall be patentable, in the terms of this Law.

Article 49.

The following shall not be patentable:

I.- Inventions whose commercial exploitation is contrary to public order or contravene any legal provision, including those whose exploitation must be prevented to protect the health or life of people or animals or plants, or to avoid serious damage to the environment. In particular:

- a) The procedures for cloning humans and their products;
- b) Procedures for modifying the germline genetic identity of the humans and its products when these imply the possibility of developing a human;
- c) The uses of human embryos for industrial or commercial

purposes, or

d) The procedures of modification of the genetic identity of the animals, that suppose for these suffering without substantial medical or veterinary utility for humans or the animal, and the resulting animals of said procedures;

II.- Plant varieties and animal breeds, except in the case of microorganisms;

III.- Essentially biological procedures for obtaining plants or animals and products resulting from these procedures. The foregoing shall not affect the patentability of inventions whose object is a microbiological procedure or any other technical procedure or a product obtained by such procedures;

IV.- The methods of surgical or therapeutic treatment of the human or animal body and the methods of diagnosis applied to these, and

V.- The human body in the different stages of its constitution and development, as well as the simple discovery of one of its elements, including the total or partial sequence of a gene.

Biological material isolated from its natural environment and obtained through a technical procedure may be subject to a patentable invention, even if it already exists previously in nature.

The industrial application of a total or partial sequence of a nucleic acid or protein should be disclosed expressly in the patent application.

Article 50.

The Institute during the substantive examination and in the granting of rights must ensure the public domain and prevent double patenting of the same invention.

Article 51.

To determine that an invention is new and the result of an inventive step, the state of the art on the date and time of filing the patent application or, where appropriate, the

priority recognized shall be considered.

In addition, to determine if the invention is new, all the patent or registration applications in process, filed in Mexico prior to that date and time, or that claim an older priority date shall be included in the state of the art, even if the publication referred to in article 107 of this Law is made after.

The content of said applications shall not be comprised as part of the state of the art when they have been discarded, withdrawn, abandoned, or denied, unless they have been published, under this Law or the International Treaties.

Article 52.

It shall not be considered as part of the state of the art for an application, the disclosure of the subject matter, carried out by the inventor or his/her successor in title directly or indirectly, or, where appropriate, a third party who has obtained such information from any of these, directly or indirectly, and within the twelve months prior to the filing date of the application or, where appropriate, of the recognized priority.

The publication in an application, patent or registration made by the Institute or another foreign industrial property office shall not be included within the cases referred to in the previous paragraph, unless it has been made by an error attributable to said authorities or that the application has been filed by an unauthorized third party, who obtained the information directly or indirectly from the inventor.

To recognize the right referred to in this article, the applicant must comply with the conditions that establish the Regulations to this Law.

Article 53.

The patent shall be valid for twenty years, non-extendable, counted from the date of recognized filing of the application and shall be subject to the payment of the fees corresponding to each annuity.

Article 54.

The right conferred by a patent shall be determined by the

claims granted. The description and, where appropriate, the drawings, the sequence listing, or the deposit of biological material to which the referred to in articles 94, 96 and 98 of this Law, shall serve to interpret them.

Article 55.

The exclusive right of temporary exploitation of the patented invention confers on its owner the prerogative to prevent others from making, using, selling, offering for sale, or importing the invention patented, without consent of the right holder. If the subject matter of the patent is a product, the patent confers the right to prevent other persons from making, using, selling, offering for sale, or importing the patented product, without consent of the right holder.

If the subject matter of the patent is a process, the patent confers the right to prevent other persons from using that process and using, selling, offering for sale, or importing the product obtained directly from that process, without consent of the right holder.

The scope of the rights conferred by a patent cannot be interpreted beyond the subject matter protected and of the provisions of this Law.

Article 56.

After being granted, the patent holder may claim the payment of damages from third parties who, before the grant, had exploited the patented invention without his/her consent, when said exploitation has been carried out after the date on which the publication of the application takes effect in terms of article 107 of this Law.

Article 57.

The right conferred by a patent shall not produce any effect against:

I.- A third party that carries out purely experimental scientific or technological research activities, of essay or teaching, in the private or academic field and for noncommercial purposes, and to do so manufacture, import, or use the patented invention;

II.- A third party that uses, manufactures, offers for sale, or

imports a product with a valid patent, exclusively to generate tests, information, and experimental production necessary to obtain sanitary records of drugs for human health;

III.- Any person who commercializes, acquires, or uses the patented invention, after the invention has been lawfully introduced into commerce in Mexico;

IV.- Any person who has initiated the use or manufacture of the invention, the necessary preparations to carry out its use or manufacture, or use or manufacture of the patented invention, prior to the filing date of the patent application or, where appropriate, of recognized priority;

V.- The use of the invention in transport vehicles of other countries that are part of them, when they are in transit in national territory;

VI.- A third party who, in the case of patents related to living matter, uses the patented invention as initial source of variation or propagation to obtain other products, unless such use is carried out in a repeated;

VII.- A third party who, in the case of patents related to products consisting of living matter, uses, put into circulation, or commercialize the patented invention, for purposes other than multiplication or propagation, after it has been lawfully introduced into commerce by the patent owner, or the person who has been granted a license;

VIII.- A third party who uses the patented invention or has made the necessary preparations for this purpose, during the rehabilitation period referred to in article 161 of this Law and Carrying out any activity contemplated in this article shall not constitute an administrative offense or crime under the terms of this Law.

Chapter III On Utility Models

Article 58.

Utility models that are new and capable of industrial application shall be registrable.

Article 59.

Utility models are considered to be objects, utensils, devices, or tools that, as result of a modification in their layout, configuration, structure, or shape, present a different function with respect to the parts that comprise it or advantages in terms of its usefulness.

Article 60.

For the processing of the registration of a utility model, the applicable rules, contained in Chapters II and VI of this Title, shall apply, except for articles 53, 98, 107 and 109 of this Law.

Article 61.

Publication of the utility model registration application in process shall take place as soon as possible after the approval of the formality exam, without being able to request its early publication.

Article 62.

The registration of utility models shall be valid for fifteen years, non-extendable, counted from the filing date of the application and shall be subject to the payment of the fees corresponding to each annuity.

Article 63.

The exclusive right to exploit the protected utility model confers on its owner the right to prevent other people from making, using, selling, offering for sale, or importing the same, without consent of the right holder.

Article 64.

The exploitation of the utility model and the limitations of the right that its registration confers on the owner shall be governed, as appropriate, by the provisions of articles 54, 55

last paragraph, 56 and 57 of this Law.

Chapter IV On Industrial Designs

Article 65.

Industrial designs that are new and capable of industrial application shall be registrable.

Article 66.

Industrial designs include:

I.- Industrial drawings, which are any combination of figures, lines or colors that are incorporated into an industrial or artisan product for ornamental purposes and to give it a peculiar and particular appearance, and

II.- Industrial models, made up of any three-dimensional shape that serves as a type or pattern for the manufacture of an industrial or artisan product, which gives it a special appearance if it does not imply technician effects.

Article 67.

For the purposes of this Chapter, the following shall be understood as:

I.- New, the design that is independently created and differs in a significant degree from known designs or from combinations of known design features;

II.- Independent creation, when no other identical industrial design has been made public before the filing date of the registration application, or before the date of the recognized priority. Industrial designs whose characteristics differ only in irrelevant details shall be considered identical, and

III.- Significant degree, the general impression that industrial design produces in a technician in the field and that differs from the general impression produced by any other industrial design, which was made public before the filing date of the application for registration or before the recognized priority date, considering the degree of freedom of the designer for the creation of industrial design.

Article 68.

The protection conferred on an industrial design shall not

include the elements or characteristics dictated solely by technical considerations or the performance of a technical function, and that they do not incorporate any arbitrary input from the designer; nor those elements or characteristics whose reproduction exact is necessary to allow the product that incorporates the design to be assembled mechanically or connected with another product of which it constitutes an integral part or piece.

An industrial design shall not be protected when its appearance comprises only the elements or characteristics referred to in the previous paragraph.

The industrial design contained in a part of a product or when the design lies in a form intended to allow multiple mounting or connection of products or their connection within a modular system, if it complies with the requirements indicated in article 65 of this Law.

Article 69.

Applications for registration of industrial designs must contain:

I.- The name, nationality, address, and email of the applicant;

II.- The name and address of the designer, when he/she is not the applicant;

III.- The designation of the design that must be brief, precise and contain the indication of the product for which it shall be used;

IV.- The graphic or photographic reproductions of the corresponding design, sufficiently clear for the understanding of the design and its publication, and

V.- The description for the understanding of the design.

Article 70.

The description of the application for registration of industrial design shall be formulated subject to the following requirements:

I.- It shall allow a clear and complete understanding of the design, listing the different graphic reproductions or photographic; indicating the perspective from which each reproduction is illustrated and, where appropriate, if it is a perspective or sectional, partial, enlarged, or assembly view. When the industrial design consists of an animated sequence or an animated graphical interface, it shall contain the enumeration of perspectives that allow a clear and complete understanding of the movement or progression, and

II.- It shall expressly, clearly, and concisely indicate the elements that are not part of the claimed design but that allow their understanding, referring to the means used to differentiate them from the characteristics that make it up, when this is not evident from the graphic or photographic reproductions or from the nature of the design.

Article 71.

The graphic or photographic reproductions of the industrial design registration application shall be formulated subject to the following requirements:

I.- The number of perspectives necessary to illustrate the industrial design clearly and completely shall be submitted and, where appropriate, sectional, partial, enlarged, or whole perspectives, as well as perspectives for exemplification purposes and that represent the design in use;

II.- The characteristics that make up the industrial design must be clearly illustrated by solid lines.

When elements that are not part of the claimed industrial design are illustrated, they shall be identified preferably with broken lines, being able to use other means such as blurring, shading or contours, if this makes clear the distinction between the claimed design and elements that do not form part of it.

When, due to the nature of the design, its characteristics must be illustrated with broken lines, this shall be specified in the description;

III.- When the industrial design consists of an animated sequence or an animated graphical interface, the reproductions

shall be presented visually related, showing the characteristics in common and listed in such a way that the perception of movement or progression is clear, and

IV.- They may consist of graphic or photographic representations or a combination of both.

The types of representations referred to in section IV of this article, recognized by the Institute, shall be established in the Agreement issued by the Head of the General Directorate for this purpose.

Article 72.

The application for registration of industrial design must refer to a single design or to a group of designs related to each other, in such a way that they form a single design concept. When several designs are filed in one application, they shall be understood to make up a single design concept if:

I.- They can be identified with the same name in the application;

II.- They present the same new characteristics in common, and

III.- They produce the same general impression, even when the industrial designs differ from each other in irrelevant details.

Article 73.

The Institute shall recognize as the filing date of an application for registration of industrial design the date and time it is received, if it complies with the requirements set forth in the sections II and IV of article 69 of this Law. The filing date shall determine the priority among the applications.

If on the date the application was received, it does not meet the requirements indicated in the previous paragraph, the filing date shall be the one on which the corresponding compliance occurs.

Article 74.

To recognize the priority referred to in article 41 of this

Law, in an application for registration of industrial design, the applicant must satisfy the following requirements:

I.- Indicate the number of the application submitted in the country of origin, when known or available, whose filing date is claimed as the priority date, and

II.- Exhibit a certified copy of the priority claimed and, where appropriate, the translation into Spanish, at the latest within a period of three months from the filing of the application in Mexico or the publication of the corresponding international registration and proof of payment of the fee.

If the requirements set forth in this article are not met, the requested priority shall be considered unclaimed.

The Head of the General Directorate shall establish by Agreement the conditions or assumptions in which the exhibition of the certified copy of the claimed priority shall not be necessary.

Article 75.

For the recognition of the right of priority in applications for registration of industrial designs, there must be an identity between the characteristics that constitute the object of the application of industrial design filed in Mexico with those that are the object of the application filed in the country of origin, considered as a whole.

When the general impression caused by the characteristics that are the object of the application filed in the country of origin differs from that caused by the design filed in Mexico, it shall be considered that they are different designs, therefore, the claimed priority right shall not be recognized.

Article 76.

For the processing of the registration of an industrial design, the provisions contained in Chapters II and VI of this Title shall be applied, except for Articles 46, 53, 54, 98, 107 and 109 of this Law.

Article 77.

The publication of the industrial design registration application in process shall take place as soon as possible

after it has passed the formality exam, without possibility of requesting early publication.

Article 78.

The registration of industrial designs shall be valid for five years, from the filing date of the application, renewable for successive periods of the same duration up to a maximum of twenty-five years, subject to payment of the corresponding fees.

Registrations of industrial designs and their renewals must be published in the Gazette.

Article 79.

The renewal of the registration of an industrial design must be requested by the owner within six months prior to the expiration of its validity. However, the Institute shall process those requests that are filed within the grace period referred to in section II of article 160 of this Law.

Article 80.

The right conferred by an industrial design registration shall be determined by the description and graphic or photographic reproductions granted.

Article 81.

The exclusive right to exploit the protected industrial design confers on its owner the right to prevent others from making, using, selling, offering for sale, or importing the product to which the industrial design protected by a registration is incorporated or a substantial copy thereof, without his/her consent.

Article 82.

The exploitation of industrial designs and the limitation of the rights that their registration confers on the holder shall be governed, as appropriate, by the provisions of article 55 last paragraph, 56 and 57 of this Law.

Chapter V On Integrated circuit layout schemes

Article 83.

An original layout scheme, whether incorporated into an integrated circuit or not, that has not been commercially exploited anywhere in the world, shall be registrable. It shall also be registrable even when it has been commercially exploited, in an ordinary way, in Mexico or abroad, provided that the application for registration has been filed before the Institute, within two years from the date on which it was commercially exploited, ordinarily and for the first time, by the applicant.

Only the layout scheme consisting of a combination of elements or interconnections that are customary or common, among layout scheme creators or integrated circuit manufacturers shall be registrable, if the combination is considered original in the terms of section IV of article 84 of this Law and satisfies the conditions indicated in the previous paragraph, regarding its commercialization.

Article 84.

For the purposes of this Chapter, the following shall be understood as:

I.- Integrated circuit: the product, in its final or intermediate form, in which one of the elements that make it up, at least, is active and some or all the interconnections are an integral part of the body or surface of a piece of semiconductor material, and that is intended to perform an electronic function;

II.- Layout or topography scheme: the three-dimensional arrangement expressed in any way, of the elements, of which at least one is an active element, and of some or all the interconnections of an integrated circuit or said three-dimensional layout prepared for an integrated circuit intended to be manufactured;

III.- Protected layout scheme: the integrated circuit layout scheme that has complied with the protection conditions provided for in this Chapter, and

IV.- Original layout scheme: the integrated circuit layout scheme that is the result of the intellectual effort of its creator and is not usual or common among the creators of layout-designs or manufacturers of integrated circuits, at the time of its creation.

Article 85.

In addition to the requirements indicated in article 94 of this Law, the application for registration must contain:

I.- The statement under oath of the date and place of the first ordinary commercial exploitation of the layout design in some part of the world, or that it has not been exploited;

II.- A description for understanding the layout scheme;

III.- The indication of the electronic function performed by the integrated circuit to which the layout design is incorporated;

IV.- The claim of the designation of the layout scheme followed by the words "As has been referred and illustrated", and

V.- A graphic or photographic reproduction of the layout scheme.

The applicant may exclude the parts of the graphic or photographic reproduction related to the manner of manufacture of the integrated circuit, provided that the parts shown are sufficient to allow the identification of the layout scheme.

Article 86.

The registration of a layout scheme shall be carried out, as appropriate, in accordance with the provisions in articles 91, 92, 94, 104, 105, 106, 110, 116, 117, 119 and 120 of this Law.

Article 87.

The registration of a layout design shall be valid for ten non-extendable years from the filing date of the registration application and shall be subject to the payment of the fees corresponding to each annuity.

Article 88.

The exclusive right to exploit the protected layout scheme confers to its owner the right to prevent other people who, without consent of the right holder:

I.- Reproduce in its entirety the protected layout scheme or any of its parts that are considered original by itself, in the terms of section IV of article 84 of this Law, by incorporation in an integrated circuit or in any other way, and

II.- Import, sell or distribute, in any way, for commercial purposes:

- a) The protected layout scheme;
- b) An integrated circuit incorporating a protected layout scheme, or
- c) A good that incorporates an integrated circuit that, in turn, incorporates a protected layout scheme illicitly reproduced.

Article 89.

The owner of the registration of a layout scheme may claim the payment of damages from a third party who, before its granting, has exploited said layout scheme without their consent, provided that when the exploitation has been carried out after the filing date of the application for registration and the protected layout scheme or the integrated circuit to which it is incorporated, bears the initials "M" or "T", accompanied by the name of the owner, in full or short form, or as he/she is generally known.

Article 90.

The registration of a layout scheme shall not produce any effect against any third party that:

I.- Without authorization of the owner, for private purposes or for the sole purpose of evaluation, analysis, research, or teaching, reproduces a protected layout scheme;

II.- Creates a layout scheme that meets the requirement of originality, based on the evaluation or the analysis of a protected layout scheme, in the terms of section I of this article.

The creator of the second layout scheme may carry out any of

the acts referred to in article 88 of this Law, regarding the layout scheme created by him, without the authorization of the owner of the first protected layout scheme;

III.- Independently and prior to the publication of the registration in the Gazette, has created an original layout scheme identical to the protected layout scheme. Whoever tries to take advantage of this exception in an administrative declaration of infringement procedure shall have the burden of proof;

IV.- Performs any of the acts referred to in section II of article 88 of this Law, without authorization of the holder, after they have been lawfully introduced into the trade, in Mexico or in any part of the world, by the owner or with his/her consent, regarding:

- a) A protected layout scheme;
 - b) An integrated circuit incorporating a protected layout scheme, or
 - c) A good that incorporates an integrated circuit that, in turn, incorporates a protected layout scheme,
- and

V.- Without authorization of the owner, sells or distributes, in any way, an integrated circuit that incorporates a protected layout scheme illegally reproduced, if the person who makes or orders such acts does not know and has no reasonable reason to know, when acquiring said circuit, that it incorporates an illicitly reproduced protected layout scheme.

The third party in good faith shall be bound to pay a reasonable royalty, similar to that which would correspond under a freely negotiated license, from the moment they receive sufficient notice that the protected layout design was illegally reproduced, to deplete existing inventory or orders placed prior to notification of the notice.

Carrying out any activity contemplated in this article shall not constitute an administrative offense or crime under the terms of this Law.

Chapter VI On Patent Processing

Article 91.

To obtain a patent, an application must be filed before the Institute, meeting the requirements set forth in this Law, its Regulations, and other applicable provisions on the matter. The patent application file shall be confidential until the moment of its publication, in accordance with article 107 of this Law.

Article 92.

The patent may be requested directly by the inventor or his/her successor in title, or through his/her legal representatives.

Article 94.

The patent application must contain:

I.- The name, nationality, address, and email of the applicant;

II.- The name and address of the inventor, when he/she is not the applicant;

III.- The name or title of the invention, which must be brief, precise and denote by itself the nature of the invention;

IV.- The description, which must disclose the invention in a sufficiently clear and complete manner so that it can be carried out by a technician in the field, and the best method known to the applicant to carry it out, as well as the information that supports the industrial application of the invention;

V.- One or more claims that must be clear, concise, define the matter for which the request for the protection is made, based on its essential technical characteristics, and have support in the description, so they may not exceed the content of the same;

VI.- The abstract of the invention that shall serve only for its publication and as a technical information element;

VII.- One or more drawings, when necessary, to understand the

invention, which shall be considered an integral part of the description;

VIII.- The proof of deposit of the biological material in an institution recognized by the Institute, in accordance with what is established in International Treaties, when the invention refers to biological material not accessible to the public or its use;

IX.- The list of nucleotide or amino acid sequences, when necessary to disclose the invention, which shall be considered an integral part of the description and must comply with the provisions of the Agreement issued by the Head of the General Directorate for that purpose, and

X.- The others that the Regulations of this Law provides.

Article 95.

In the name or title of the invention, the terminology recognized in the corresponding technical field shall be used, without including any distinctive sign, fantasy expression or name, trade name or commercial indication.

Article 96.

The description shall be written in the most concise and clear way possible, and in accordance with the claims submitted. The description shall:

I.- Start with the name or title of the invention;

II.- Specify the technical field to which the invention refers;

III.- Indicate the state of the art known by the applicant, on the filing date of the application or the claimed priority, and that is useful for understanding the invention;

IV.- Disclose the invention as claimed, in terms that allow the understanding of the technical problem and the solution to it, and expose the advantageous effects of the invention, if any, with respect to the prior art, noting the differences of the invention that is disclosed with similar inventions already known;

V.- Describe the figures contained in the drawings, if any, making reference to them and their parts;

VI.- Indicate the best way foreseen by the applicant to carry out the claimed invention, the indication should be done by means of examples where appropriate, and with references to the drawings, if any, and

VII.- The indication of the industrial application of the invention, when it is not evident from the description or the nature of the invention.

Article 97.

The claims may be independent or dependent.

The independent claim shall include the essential technical characteristics of the invention whose protection is claimed.

The dependent claim shall comprise the essential technical characteristics of the independent claim to which it refers and shall specify the additional technical characteristics that are related congruently thereto and which they derive therefrom, it being understood that the independent claim is deemed entirely reproduced. The dependent claim shall include all the limitations contained in the claim on which it depends.

Article 98.

If the invention refers to biological material not accessible to the public or its use and it cannot be described in the patent application, the description shall be considered sufficiently clear and complete when the following requirements are met:

I.- That the biological material has been deposited in a recognized institution no later than the filing date of the request for patent, in accordance with the provisions of the International Treaties.

The international depository authorities that have acquired said character in terms of the International Treaties shall be recognized as such.

II.- That the application, as it has been filed, contains the relevant information available to the applicant on the

characteristics of the deposited biological material, and

III.- That the name of the depository institution and its number is indicated.

Article 99.

The abstract should be clear, concise, and comprise a synthesis of the disclosure contained in the description, the claims, and the most illustrative drawing of the invention. In addition, it must indicate the technical field to which the invention belongs and allow the understanding of the technical problem, the solution to it and the industrial application of the invention.

Article 100.

In the case of divisional applications filed voluntarily or at the request of the Institute, the applicant must meet the following requirements:

I.- Submit the descriptions, claims and drawings necessary for each application, except the documents relating to the priority claimed and its translation that are already in the initial application and, where appropriate, the transfer of rights and power of attorney.

The drawings and descriptions that are displayed shall not suffer alterations that modify the invention contemplated in the initial application;

II.- Claim an invention different from that claimed in the initial application and, where appropriate, in other divisional ones, without containing additional matter or that gives further scope to the matter originally filed.

When, as a result of the division, an invention or a group of inventions has ceased to be claimed, these may not be claimed again in the initial application or in the one that gave rise to the division, as the case may be, and

III.- File the divisional application within the term referred to in article 111 of this Law or, when the division is voluntary, in the terms of its article 102.

The divisional application may not consist of the division of

other divisional applications, unless it is deemed valid by the Institute or it is required to the applicant, in terms of article 113 of this Law.

If the divisional application does not comply with the requirements established in this article, it shall not benefit from the filing date of the initial application from which it is intended to be derived, being considered filed on the date it was received, as long as it complies with the article 105 of this Law.

Article 101.

A patent shall not be granted with respect to matter that is already protected by another or whose essential technical characteristics are a non-substantial variation of the matter covered by it, even when the applicant is the holder of the first right.

Article 102.

The applicant may voluntarily divide an initial application that is still in process, complying with the provisions of Article 100 of this Law, keeping as the filing date of each divisional application the same date of the initial one and, where appropriate, the date of the priority claimed.

For the purposes of the foregoing, it shall be considered that the initial application is in process until before the issuance of the resolution that denies, rejects, considers said application abandoned or withdrawn, or before an international application is considered withdrawn, according to the Patent Cooperation Treaty.

When the applicant is informed that the granting of the patent or registration proceeds, he/she may still voluntarily divide the initial application within the period of two months referred to in Article 110 of this Law.

Article 103.

The applicant may transform the patent application into a utility model or industrial design registration and vice versa, when it is inferred from the content of the application that it does not match with the application.

The applicant may only carry out the transformation of the application within the two months following the date of receipt

or within the two months following the date on which the Institute requires him/her to transform it, as long as the application has not been abandoned. In the event that the applicant does not transform the application within the period granted by the Institute, it shall be considered abandoned.

Article 104.

Upon receiving the application, the Institute shall state the date and time of receipt; the corresponding progressive number; the file number; the accompanying documents; the number of sheets, and, where appropriate, the means of reception.

Article 105.

The Institute shall recognize as the filing date of a patent application the date and time it is received, provided that it complies with the requirements set forth in Article 94, sections I, IV, VII, VIII and IX of this Law.

The filing date shall determine the priority among the applications.

In the event that the application does not meet the requirements indicated in the first paragraph of this article on the date it was received, the date on which it was received shall be the date on which the corresponding compliance is achieved.

Article 106.

During the formal examination of the application, the Institute shall verify that:

I. - The official form of the application was duly completed;

II. - The application contains the name or title of the invention;

III. - It is accompanied by the document with which the transfer is accredited, when the inventor is not the applicant;

IV. - The requirements relating to representation are met;

V. - The claim of the right of priority, where appropriate, is made within the corresponding period, by the person who has the right to claim it and the requirements of article 42 of this

Law are met, and

VI. - The application contains a section that, in accordance with the material requirements provided for in the Regulations to this Law, could be considered as:

- a) A description of the invention;
- b) One or more claims;
- c) An abstract of the invention;
- d) The drawings to which the description refers, where appropriate, and
- e) The documents that the applicant indicates are attached, including the proof of biological material or the sequence listing.

If the Institute notices the omission or deficiency of any of the elements indicated in the article, it may require the applicant to specify or clarify what is considered necessary or the omissions, within a period of two months. If this requirement is not fulfilled within the term granted, the application shall be considered abandoned.

The favorable result of the formal examination shall not prejudice the fulfillment of the necessary requirements for the granting of the patent or recognition of the rights claimed and which must be subject to the substantive examination of the application, provided for in this Law.

Article 107.

Once the formal examination has been approved and after the expiration of the 18-month period, counted from the filing date or, where appropriate, the priority claimed, the application shall be published.

The publication of a divisional application shall be carried out once the formal examination has been approved and after the expiration of the 18-month period, counted from the filing date of the initial application or, where appropriate, the priority claimed.

At the request of the applicant, the application may be published before the expiration of the indicated period, as long as the formal examination has been approved and proof of payment of the corresponding fee is exhibited.

Applications that have not been admitted for processing, abandoned, withdrawn, withdrawn, or rejected shall not be published.

Article 108.

The publication of the application in process shall contain the bibliographic data necessary to identify the application; the name of the inventors, applicants, and legal representatives; the nationality of the applicant, and the address of the representative, where appropriate. Once the application is published, the file shall be open for consultation.

Article 109.

Within a period of two months counted from the business day after the publication of the application referred to in article 107 of this Law takes effect, the Institute may receive information from any person, regarding whether said request complies with the provisions of articles 47 to 49 of this Law. When it deems it appropriate, the Institute may consider said information as a technical support document for the substantive examination made on the application, without being obliged to decide on its scope. The Institute shall give the applicant a view of the data and documents provided so that, where appropriate, they can present what is appropriate by their right.

The presentation of information shall not suspend the process, nor shall it attribute to the person who presented it the character of interested party, third party or party; therefore, the exercise of the actions provided for in article 154 of this Law is preserved.

Article 110.

Once the patent application has been published, the Institute shall conduct a substantive examination of it to determine if the requirements set forth in this Law are met and that they are necessary for the granting of the requested patent, or if the subject matter of the request is found in any of the cases provided for in articles 47 and 49 of this Law. For the purpose of the foregoing, the Institute shall only consider what is

contained in the description, claims and, where appropriate, the drawings, the sequence listing, and the proof of deposit of biological material.

If there is no impediment to the granting of the patent, the Institute shall notify the applicant. The granting shall be conditional on the filing of proof of payment of the fee corresponding to the issuance of the title and the annuity for the preservation of the validity of the rights relative to that calendar year, within a period of two months. If after this period the applicant does not comply with the requirements, the application shall be considered abandoned.

Article 111.

When, as a result of the substantive examination, an impediment to the granting of the requested patent is noticed, the Institute may require the applicant to, within a period of two months, reply according to its rights, present information or documentation and, where applicable, modify what it deems necessary, noting the modifications made.

If, within the period referred to in the preceding paragraph, the applicant does not comply with the formulated requirement, the application shall be considered abandoned.

The Institute must decide definitively on the granting or refusal of the requested patent, once the period to comply with the formulated requirement has elapsed, as long as the application has not been abandoned or the applicant has not withdrawn it.

Article 112.

The Institute shall not be bound to evaluate the fulfillment of any other requirement established in this Law, including the study of the state of the art, when the impediment referred to in its article 111 is about:

- I. - Defects that do not allow the subject of the application to be fully or partially understood;
- II. - Matter that is not considered an invention;
- III. - Matter that cannot be the subject of a patent, or
- IV. - The absence of industrial application.

Article 113.

When the impediment referred to in article 111 of this Law is that the application does not meet the requirement of unity of invention, the Institute shall consider as the main invention only that which is mentioned first in the claims and, from the same, shall evaluate the fulfillment of the rest of the requirements established in this Law.

In this case, the Institute shall require the applicant to limit the claims by claiming the main invention and, where appropriate, file the corresponding divisional application(s), within the term referred to in article 111 of this Law. The divisional application shall keep as the filing date the date of the initial application and, where appropriate, the recognition of the right of priority, provided that it complies with the requirements set forth in this Law.

Article 114.

When, in the judgment of the Institute, it is necessary for carrying out the substantive examination, the applicant may be required to display additional or complementary information or documentation, including that relating to the search or examination carried out by foreign offices, within the term to referred to in article 111 of this Law.

The Institute may consider or require the result of the substantive examination, or its equivalent carried out by foreign patent offices, which shall be considered as a technical support document for the purpose of determining if the invention, whose patent is requested, meets the requirements established in this Law.

The applicant may submit a copy of the respective patent granted by the corresponding foreign industrial property office, with its translation into Spanish, for the purposes of the preceding paragraph.

Article 115.

The substantive examination shall be carried out considering the elements or documents of the state of the art that the Institute has at its disposal, without prejudice of the provisions of the previous article.

To determine whether a claimed invention involves an inventive

step, the relationship between it and the state of the art document(s), individually or in combination, shall be considered.

Article 116.

The documents that are filed in compliance with any of the requirements referred to in this Chapter or, in the case of voluntary amendments, may not contain additional material or claims that give greater scope to that contained in the application, as it was initially filed before the Institute, considering it as a whole.

Voluntary amendments shall only be accepted until before the issuance of the resolution on the granting or refusal of the patent, referred to in article 111 of this Law.

Article 117.

The interested party shall have an additional period of two months to comply with the requirements referred to in articles 103, 106, 110 and 111 of this Law, without express request and presenting proof of the payment of the fee corresponding to the month in which they are fulfilled.

The application shall be considered abandoned if the applicant does not comply with the requirements formulated, within the initial term or in the additional term provided for in this article.

Article 118.

The Institute may enter into inter-institutional agreements on the matter of patents, to facilitate the exchange and use of work, related to the search, substantive examination or its equivalent, including technical assistance, as well as making results of search and examination available.

Article 119.

The Institute shall issue a title for each patent to the holder, as proof and official recognition, which shall include a copy of the description, claims and, if any, drawings, and the sequence listing.

In the same title it shall be stated:

I. - The number and classification of the patent;

II. - The name and address of the person or persons to whom it is issued;

III. - The name of the inventor or inventors;

IV. - The filing dates of the application and of recognized priority, where appropriate, and of issuance;

V. - The name or title of the invention, and

VI. - Its validity, specifying that it shall be subject to the payment of fees to keep the rights in force, in the terms indicated by this Law.

Article 120.

Once the patent is granted, the Institute shall proceed to its publication in the Gazette. Said publication shall contain the information referred to in articles 94 section VI and 119 of this Law.

Chapter VII On the Waiver, Rectification and Limitation of Rights

Article 121.

The holder of a patent or registration, while it is in force, may waive this right, or apply for its rectification or limitation, by means of an application addressed to the Institute and the proof of payment of the corresponding fee, in the terms established by the Regulations to this Law.

If the application is accepted, the Institute shall notify the applicant and shall proceed to publish the corresponding waiver or rectification or limitation, in the Gazette.

In the event that the Institute notices any impediment in the application, it may require the holder to specify or clarify what it deems necessary, or correct omissions. If the applicant does not comply with said requirement within a period of two months, the application shall be rejected outright.

Article 122.

The rectification of formal errors in the title of a patent or registration, provided for in Article 119 of this Law, shall be approved.

If the rectification concerns the claims or the elements that serve to interpret them, the errors must be evident to a person skilled in the art.

The title may not be rectified in such a way as to extend the protection it confers.

Article 123.

The limitation of the right conferred by a patent or utility model registration shall be approved, if it consists of:

- I. -The elimination of one or more claims, or
- II. - The inclusion of one or more dependent claims in the independent claim, on which they depend.

Modification shall not be admitted when the proposed changes extend the protection conferred by the patent or registration. The limitation shall be made without prejudice to the enforceable resolutions previously issued on infringements of the patent or the utility model registration, as they were granted.

Article 124.

The limitation of the right conferred by an industrial design registration, referred to in article 121 of this Law, shall be appropriate when the proposed changes do not eliminate the characteristics that confer novelty to the design or do not extend the protection conferred by register.

The limitation shall be made without prejudice to the enforceable resolutions previously issued on infractions to the industrial design registration, as it was granted.

Article 125.

Any application filed in terms of this Chapter shall be rejected outright, when:

I. - The resolution of a procedure regarding the validity of the patent or registration is pending. If after the filing of an application referred to in this Chapter, an administrative declaration procedure is initiated, it shall be suspended until a resolution is issued on the admissibility of the respective application, or

II. - There is a lawsuit claiming ownership of the patent or registration, or the recognition of other rights over them, except in the case of an application for rectification of the title of the patent or registration.

Chapter VIII On the Complementary Certificate

Article 126.

When there are unreasonable delays in the processing of a patent, directly attributable to the Institute, which result in a period of more than five years, between the filing date of the application in Mexico and the granting of the patent, at request of the interested party, a complementary certificate may be granted to adjust the validity of the same.

Article 127.

The validity of the complementary certificate referred to in the previous article may not exceed five years.

Article 128.

For the purposes of this Chapter, it shall be understood as:

I. - Filing date: the date on which the Institute receives the patent application or that of its entry into the national phase;

II. - Processing of a patent: the period that elapses between the filing date of the application in Mexico and its granting;

III. - Date of granting: the one on which it is communicated that the granting of the patent proceeds, and

IV. - Date of the favorable resolution of the formal examination: the one on which the Institute communicates that the application has the material elements to continue with its processing, publication and, where appropriate, a substantive examination.

Article 129.

The holder may request a complementary certificate only once, by means of a written document that must comply with the requirements set forth in this Law, its Regulations, and other applicable provisions on the matter.

The application must be filed independently, when complying with the communication provided for in the second paragraph of article 110 of this Law. Any application submitted after that moment shall be considered untimely and shall be discarded

outright.

Article 130.

The application must contain:

I. - The file number, filing date and date of the communication referred to in the second paragraph of article 110 of this Law;

II. - The applicant's arguments for the complementary certificate, and

III. - The payment of the corresponding fee.

If the Institute notices the absence or deficiency of any of the requirements indicated in this article, it shall require for the interested party once, within a period of five days, to specify or clarify what is considered necessary, or to correct omissions. If the requirement formulated is not fulfilled within the indicated period, the application shall be rejected outright.

Article 131.

When deciding on the admissibility of the requested certificate, the Institute must:

I. - Verify if the processing of the patent exceeded five years, otherwise, it shall resolve the inadmissibility of the petition raised, and

II. - If the processing of the patent exceeded this period, it shall determine the period of time that corresponds to reasonable delays and shall subtract it from the processing period. In the event that the resulting period is less than five years, the Institute shall resolve the inadmissibility of the petition submitted. In the event that the resulting period is greater than five years, the Institute shall determine the period of days that corresponds to an unreasonable delay, which shall result in a complementary certificate valid for one day for every two days of unreasonable delay.

Article 132.

For the purposes of the previous article, the following shall be considered reasonable delays:

I. - The period that elapses between the date of receipt and the date of the favorable resolution of the formal examination;

II. - The periods attributable to actions or omissions of the applicant, tending to delay the procedure for granting the patent and the additional terms used, in accordance with article 117 of this Law;

III. - The periods not attributable to actions or omissions of the Institute or that are beyond its control, such as those that elapse in the conduct of any means of administrative or jurisdictional challenge or that derive from them, and

IV. - The periods attributable to force majeure or acts of God.

Article 133.

When the granting of the complementary certificate is admitted, the Institute shall notify the applicant so that within a period of one month, they present proof of payment of the fee corresponding to the issuance of the certificate title, as well as the one related to the payment of the respective adjustment period.

If the previous term has expired and the applicant does not comply with the requirements, the application shall be considered abandoned.

Article 134.

The Institute shall issue a title for each complementary certificate as proof and official recognition to the holder and shall proceed to its publication in the Gazette. The complementary certificate shall take effect on the day after the expiration of the twenty-year validity of the patent from which it derives, as long as it is in force.

Article 135.

The complementary certificate shall confer the same rights as the patent from which it derives and shall be subject to the same limitations and obligations.

In the case of the terms referred to in subparagraphs a) and b) of section II of article 57 of this Law, these shall be computed considering the expiration of the validity of the complementary certificate.

Article 136.

The complementary certificate shall expire at the expiration of its validity and the rights it protects shall be incorporated into the public domain. The expiration of the complementary certificate shall not require an administrative declaration by the Institute.

Chapter IX On Licenses and Transfer of Rights

Article 137.

The rights conferred by a patent or registration, or those that derive from an application in process, may be encumbered and transferred in whole or in part under the terms and with the formalities established by common legislation. In order for the transfer of rights or encumbrance to produce effects in prejudice of third parties, it must be registered before the Institute.

The registration of transfers of ownership of two or more pending applications or of two or more patents or registrations may be requested through a single proceeding, when the transferor and the acquirer are the same persons in all of them. The applicant must identify each of the applications, patents, or registrations in which the record shall be made. The corresponding fees shall be paid based on the number of applications, patents or registrations involved.

Article 138.

The rights conferred by a patent or registration, or those that derive from an application in process, may be subject to a license for their exploitation, in terms of common legislation. The holder or, where appropriate, the licensee may register the license before the Institute.

The registration of licenses of rights related to two or more pending applications or to two or more patents or registrations may be requested through a single proceeding, when the licensor and the licensee are the same in all of them. The applicant must identify each of the applications, patents, or records in which the registration shall be made. The corresponding fees shall be paid based on the number of applications, patents or registrations involved.

Article 139.

To register a transfer, license or encumbrance of a pending application, patent, or registration before the Institute, it shall be enough to formulate the corresponding application in the terms established by the Regulations to this Law.

Article 140.

When there is an encumbrance registered before the Institute, the beneficiary may present the payment of the annuities corresponding to the conservation of the rights of a patent or registration of a utility model or integrated circuit scheme, or, where appropriate, the renewal of the registration of an industrial design, in accordance with the rules and specifications established in the Agreement issued by the Head of the General Directorate for this purpose.

Article 141.

The cancellation of the registration of a license shall proceed in any of the following cases:

I. - When jointly requested by the holder of the patent or registration and the person to whom the license has been granted, under the terms of common legislation;

II. - Due to the nullity or expiration of the patent or registration;

III. - For the term of its validity ending, and

IV. - By court order.

Article 142.

The license shall not be registered when the patent or registration has expired, or its duration is greater than its validity.

Article 143.

Unless otherwise stipulated, the granting of a license shall not exclude the possibility, on the part of the holder of the patent or registration, of granting other licenses or carrying out their simultaneous exploitation by himself/herself.

Article 144.

The person who has been granted a license, unless otherwise stipulated, shall have the power to exercise legal actions for the protection of patent or registration rights as if he/she were the holder himself/herself.

Article 145.

The exploitation of the patent or registration carried out by the person who has been granted a license, shall be considered as carried out by its holder, except in the case of compulsory licenses.

Article 146.

In the case of inventions, after three years from the date the patent was granted, or four years from the filing of the application, depending on what happens later, any person may request the Institute to grant a compulsory license to exploit it, when the exploitation has not been carried out, unless there are duly justified causes.

The granting of a compulsory license shall not proceed when the patent holder or whoever has a contractual license has carried out the import of the patented invention or obtained by the patented process.

Article 147.

Whoever applies for a compulsory license must have the technical and economic capacity to carry out an efficient exploitation of the patented invention.

Article 148.

Before granting the first compulsory license, the Institute shall give the patent holder the opportunity to proceed with its exploitation within a period of one year, counted from the personal notification made to him/her.

After hearing the parties, the Institute shall decide on the granting of the compulsory license and, if it decides to grant it, shall set its duration, conditions, field of application and amount of royalties that correspond to the patent holder. In the event that a compulsory license is requested while another exists, the person who has the prior license must be notified and heard.

Article 149.

After two years from the date of granting of the first compulsory license, the Institute may administratively declare the expiration of the patent, if the granting of the compulsory license had not corrected the lack of exploitation thereof, or

if the holder of the patent does not verify its exploitation or the existence of a justified cause according the judgment of the Institute.

The payment of royalties derived from a compulsory license shall end when the patent expires or is annulled, or for any other cause provided for in this Law.

Article 150.

At the request of the holder of the patent or of the person who benefits from the compulsory license, the conditions of the latter may be modified by the Institute when justified by supervening causes and, in particular, when the holder of the patent has granted contractual licenses more favorable than the compulsory license. The Institute shall decide on the modification of the conditions of the compulsory license, after hearing the parties.

Article 151.

Whoever has a compulsory license must start the exploitation of the patent within a period of two years, counted from the date it was granted. If this is not complied with, unless there are justified causes in the opinion of the Institute, the revocation of the license shall proceed ex officio or at the request of the patent holder.

Article 152.

The compulsory license shall not be exclusive. The person to whom it is granted may only assign it with the authorization of the Institute and provided that it is transferred together with the part of the production unit where the patent object of the license is exploited.

Article 153.

The Institute shall determine that the exploitation of certain patents through be done through the granting of licenses of public utility for reasons of emergency or national security and while these last, including serious diseases declared of priority attention by the General Health Council, when failure to do so shall prevent, hinder, or make more expensive the production, provision or distribution of basic satisfactions or medicines for the population.

In cases of serious diseases, the General Health Council shall declare priority attention, ex officio or at the request of national institutions specialized in said disease that are accredited before it, in which the causes of emergency or national security are justified. Once the declaration issued by the Council has been published in the Official Gazette, pharmaceutical companies may request the granting of a public utility license before the Institute, who shall grant it, after hearing the parties and the opinion of the Council, within a period not exceeding ninety days from the filing date of the respective application.

For the purposes of the previous paragraph, the Secretariat of Health shall establish the conditions of production and quality, duration, scope of the license and the qualification of the technical capacity of the applicant; as well as the amount of royalties that correspond to the patent holder, which must be fair and reasonable according to the circumstances of each case.

The granting of a public utility license other than that provided for in the second and third paragraphs of this article shall be processed by the Institute in accordance with the provisions of article 148, second paragraph, of this Law.

Public utility licenses shall not be exclusive nor transferable and may cover one or all of the prerogatives referred to in article 55 of this Law.

Chapter X On the Nullity and Expiration of Patents and Registrations

Article 154.

A patent may only be declared null in the following cases:

I. - When the protected matter is not considered an invention, the invention is not patentable, lacks novelty, inventive activity, or industrial application, in terms of this Law;

II. - When the invention is not disclosed in a sufficiently clear and complete manner, so that it can be carried out by a technician in the field;

III. - When the claims exceed the disclosure contained in the application, as it was initially filed before the Institute;

IV. - When it is the result of a divisional application and includes claims that correspond to matter that has been processed in contravention of the provisions of article 100 of this Law;

V. - When, as a result of a rectification or limitation procedure, provided for in articles 122 and 123 of this Law, the matter protected by the patent has been expanded;

VI. - When by mistake or inadvertence, a right of priority has been recognized and with it the novelty or inventive activity of the matter protected by the patent was unduly determined;

VII. - When it has been granted in contravention of article 50 of this Law, and

VIII. - When it has been granted to someone who did not have the right to obtain it, in accordance with the provisions of article 38 of this Law.

The nullity actions provided for in this article may be exercised at any time, from the date on which the publication of the patent in the Gazette takes effect.

If the grounds for nullity partially affect the patent, it shall be declared partially invalid. In the resolution that

declares partial nullity, the Institute shall order a marginal annotation to be entered in the respective Title, in which the modifications to it shall be recorded, as well as the causes that originated it.

Article 155.

A utility model registration may only be declared null in the following cases:

I. - When the protected matter cannot be the object of a utility model registration, lacks novelty or industrial application, in terms of this Law;

II. - When the utility model is not disclosed in a sufficiently clear and complete manner so that it can be carried out by a technician in the field;

III. - When the claim or claims exceed the disclosure contained in the application as it was initially filed before the Institute;

IV. - When it is the result of a divisional application that has been processed in contravention of the provisions of article 100 of this Law;

V. - When, due to the rectification or limitation procedure provided for in articles 122 and 123 of this Law, the matter protected by the utility model registration has been expanded;

VI. - When by mistake or inadvertence, a right of priority has been recognized and with it the novelty of the protected matter was unduly determined;

VII. - When it has been granted in contravention of article 50 of this Law, and

VIII. - When it has been granted to someone who did not have the right to obtain it in accordance with the provisions of article 38 of this Law.

The nullity actions provided for in this article may be exercised at any time, from the date on which the publication

of the record in the Gazette takes effect.

If the grounds for nullity partially affect the utility model registration, it shall be declared partially null. In the resolution that declares partial nullity, the Institute shall order a marginal annotation to be entered in the respective Title, in which the modifications to it shall be recorded, as well as the causes that originated it.

Article 156.

An industrial design registration may only be declared null in the following cases:

I. - When the protected matter cannot be the object of an industrial design registration, lacks novelty or industrial application, in terms of articles 65, 66 and 67 of this Law;

II. - When the description and graphic or photographic representations do not allow a clear and complete understanding of the design;

III. - When it is the result of a divisional application that has been processed in contravention of the provisions of article 100 of this Law;

IV. - When, as a result of the rectification or limitation procedure referred to in articles 122 and 124 of this Law, the protected matter has been expanded or the characteristics that give novelty to the industrial design have been eliminated;

V. - When by mistake or inadvertence, a right of priority has been recognized and with it the novelty of the protected matter was unduly determined, and

VI. - When it has been granted to someone who did not have the right to obtain it, in accordance with the provisions of article 38 of this Law.

The nullity actions provided for in this article may be exercised at any time, from the date on which the publication of the record in the Gazette takes effect.

If the grounds for nullity partially affect the industrial design registration, it shall be declared partially null. In

the resolution that declares partial nullity, the Institute shall order a marginal annotation to be entered in the respective Title, in which the modifications to it shall be recorded, as well as the causes that originated it.

Article 157.

A registration of a protected layout scheme may only be declared null in the following cases:

- I. - When the layout scheme cannot be registered, in terms of article 83 of this Law, and
- II. - When it has been granted to someone who did not have the right to obtain it, in accordance with the provisions of article 38 of this Law.

The nullity actions provided for in this article may be exercised at any time, from the date on which the publication of the record in the Gazette takes effect.

Article 158.

The complementary certificate shall be null in the following cases:

- I. - When it has been granted in contravention of the applicable provisions for its granting, and
- II. - When the patent from which it derives is declared null or has been waived.

The nullity actions provided for in this article may be exercised at any time, from the date on which the publication of the certificate in the Gazette takes effect.

Article 159.

The declaration of nullity shall be made administratively by the Institute ex officio, at the request of a party or the Federal Prosecution Office when the Federation has an interest, in the terms of this Law.

The declaration of nullity shall retroactively destroy the effects of the patent or registration, up to the filing date of the respective application.

The nullity of the patent shall determine that of its complementary certificate.

Article 160.

Patents or registrations expire and the rights they protect fall into the public domain in the following cases:

I. - At the expiration of its validity;

II. - For not covering the payment of the fee foreseen to keep their rights in force, or within the grace period of six months following this;

III. - In the case of article 149 of this Law, and

IV. - When the registration of an industrial design is not renewed, in the terms of this Law.

The expiration referred to in sections I, II and IV of this article shall not require an administrative declaration by the Institute.

Article 161.

The rehabilitation of the expired patent or registration due to lack of timely payment of the fee may be requested, provided that the corresponding application is filed within six months following the grace period referred to in section II of the previous article and the omitted fee, plus its surcharges, is covered.

Article 162.

The Institute shall periodically publish in the Gazette those applications, patents or utility model registrations, industrial designs, or integrated circuit layout schemes, regarding which the requested exclusive right was not constituted or its granting was expired; as well as the technological information that is in the state of the art or that has been incorporated into the public domain.

Exceptions from the above are those applications that fall in the case provided for in article 24 of this Law.

The Institute shall publish at least every six months in the Gazette, a list of patents related to inventions that can be used in allopathic drugs, in the terms provided in article 167

bis of the Health Supplies Regulation, and shall coordinate with the competent health authority, to provide the information that is required within the process of authorization of marketing allopathic medicines.

TITLE THIRD Industrial Secrets

Sole Chapter

Article 163.

For the purposes of this Title, the following shall be understood as:

I.- Industrial secret: all information of industrial or commercial application that the person who exercises legal control keeps confidential, which means obtaining or maintaining a competitive or economic advantage over third parties in the performance of economic activities and with respect to which he/she has adopted the means or systems sufficient to preserve its confidentiality and restricted access to it.

The information of an industrial secret may appear in documents, electronic or magnetic media, optical discs, microfilms, films or in any other known or to be known medium.

Information that is in the public domain shall not be considered an industrial secret; that which is generally known or easily accessible to people within the circles in which such information is normally used, or that which must be disclosed by legal provision or by court order.

That information that is provided to any authority by a person who exercises legal control over the industrial secret, shall not be considered as entering the public domain or that it is disclosed by legal provision, when it is provided for the purpose of obtaining licenses, permits, authorizations, registrations, or any other acts of authority, and

II.- Improper appropriation: the acquisition, use or disclosure of an industrial secret in a manner contrary to good practices and customs in the industry, commerce and services, that imply unfair competition, including the acquisition, use, or disclosure of an industrial secret by a third party who knew, or had reasonable grounds to know, that the industrial secret was acquired in a manner contrary to said uses and customs.

Article 164.

The following shall not be considered improper appropriation:

I. - The independent discovery or creation of information that is claimed as an industrial secret;

II. - The observation, study, disassembly or testing of a product or object that has been made available to the public or that is lawfully in the possession of the person who obtains the information, as long as it is not subject to any obligation of confidentiality regarding the industrial secret, or

III. - The acquisition of the information of another person in a legitimate way without obligation of confidentiality or without knowledge that the information was an industrial secret.

Article 165.

The person exercising legal control of the industrial secret may transmit it or authorize its use to a third party. The authorized user shall have the obligation not to disclose the industrial secret by any means.

In the agreements that transmit technical knowledge, technical assistance, provision of basic or detailed engineering, confidentiality clauses may be established to protect the industrial secrets they include, which must specify the aspects that are understood as confidential.

Article 166.

Any person who, due to their work, employment, position, performance of their profession or business relationship, has access to an industrial secret of which he/she has been warned about its confidentiality, must refrain from disclosing it, without the consent of the person exercising its legal control, or its authorized user.

Article 167.

The individual or entity who hires a worker who is working or has worked or a professional, advisor or consultant who provides or has provided his/her services for another person, in order to obtain industrial secrets from that person, shall be considered liable in the terms of this Law.

The individual or entity who by any illegal means obtains information that contains an industrial secret shall also be liable.

Article 168.

The information required to determine the safety and efficacy of pharmaceutical or agrochemical products that use new components shall be protected under the terms of the applicable legislation or, where appropriate, of the International Treaties.

Article 169.

In any judicial or administrative procedure related to an industrial secret or where one of the interested parties is required to disclose an industrial secret, the authority that knows it must adopt the necessary measures, at the request of a party or ex officio, to prevent its unauthorized disclosure to third parties outside the dispute and guarantee its confidentiality.

No interested party may disclose or use the industrial secret. In the previous assumption the following shall be included: in addition to the parties, their representatives or the authorized persons to hear or receive notifications; judicial or administrative officials; witnesses, experts or any other person who intervenes in a judicial or administrative process related to an industrial secret, or that have access to documents that are part of said process.

TITLE FOURTH Trademarks, Slogans and Trade Names

Chapter I Trademarks

Article 170.

Any person, individual or moral, may make use of trademarks in the industry, in commerce or in the services they provide. However, the right to its exclusive use is obtained through its registration before the Institute.

Article 171.

A trademark is understood to be any sign perceptible by the senses and capable of being represented in a way that makes it possible to determine the clear and precise object of protection, which distinguishes products or services from others of the same kind or class in the market.

Article 172.

The following signs may constitute a trademark:

I. - Denominations, letters, numbers, figurative elements, and color combinations, as well as holograms;

II. - Three-dimensional forms;

III. - Trade names and names or company names, provided that they are not included in the following article;

IV. - The proper name of an individual, as long as it is not confused with a registered trademark or a published trade name;

V. - Sounds;

VI. - Smells;

VII. - The plurality of operational or image elements, including, among others, the size, design, color, arrangement of the shape, label, packaging, decoration or any other that, when combined, distinguish products or services in the market, and

VIII. - The combination of the signs set forth in sections I to

VI of this article.

Article 173.

The following shall not be registrable as a trademark:

I. - The technical or commonly used names of the products or services that are intended to be distinguished with the trademark, as well as those words, names, phrases, or figurative elements that, in ordinary language or in commercial practices, have become usual or generic elements thereof; as well as those that lack distinctiveness;

II. - The three-dimensional forms or industrial designs that are in the public domain or that have been made in common use or those that lack distinctiveness; as well as the usual and current shape of the products, or that imposed by their nature or functionality;

III. - Holograms that are in the public domain and those that lack distinctiveness;

IV. - The signs that considering their set of characteristics are descriptive of the products or services that they intend to distinguish. Included in this scenario are the signs that in commerce serve to designate the species, quality, quantity, composition, destination, value, place of origin or the time of production of the products or services;

V. - Letters, digits, or their name, as well as isolated colors, unless they are combined or accompanied by other signs that give them a distinctive character;

VI. - Translation, transliteration, capricious spelling variation or artificial construction of unregistered words;

VII. - Signs that without authorization reproduce or imitate coats of arms, flags or emblems of any country, state, municipality, or equivalent political divisions; the denominations, acronyms, symbols, emblems, names of programs or projects or any other sign of international instruments, organizations, governmental, non-governmental, whether national, foreign, or international, or any other officially recognized organization; as well as the verbal designation of

the same;

VIII. - Signs that reproduce or imitate official control and guarantee signs, or seals adopted by a State, without authorization from the competent authority, or coins, bank notes or bills, commemorative coins or any official national or foreign means of payment;

IX. - Signs that reproduce or imitate the names, signs or graphic representation of decorations, medals or other awards obtained at officially recognized exhibitions, fairs, congresses, cultural or sporting events;

X. - Signs identical or similar in degree of confusion to geographical areas, proper or common; maps, settlement names, or demonyms, names or adjectives, when these indicate the origin of the products or services and may cause confusion or error as to their origin. Included in this scenario are those signs that are accompanied by expressions such as "genre", "type", "manner", "imitation", "produced in", "manufactured in" or other similar ones that create confusion in the consumer or involve unfair competition;

XI. - Signs that are identical or similar to a degree of confusion to appellations of origin, geographical indications, or to the denominations or signs of places that are characterized by the manufacture, production or marketing of certain products or services, when the products or services applied for are identical or similar to these or those protected by appellations of origin or geographical indications. Included in this scenario are those signs that are accompanied by expressions such as: "genre", "type", "manner", "imitation", "produced in", "manufactured in" or other similar ones that create confusion in the consumer or involve unfair competition;

XII. - The names of places of private property, when they are special and unmistakable and characterized by the production of certain products or the offering of certain services, without the consent of the owner;

XIII. - The names, surnames, nicknames, or pseudonyms of people who have acquired such prestige, recognition, or fame that when used may create a risk of association, misleading, confusion, or deception for the consuming public, unless it is said person or there exists express consent of the same or of whoever has the corresponding right. Neither shall the image, identifiable voice, portrait, or signature of a person be registrable without their express consent, or whoever has the corresponding right;

XIV. - Names or denominations that are identical or similar to a degree of confusion to the title of a literary or artistic work, as well as the reproduction or imitation of elements contained in it, when said work has such relevance or recognition that the requested sign may be capable of deceiving or misleading the public by making them believe unfoundedly that there is any relationship or association between it and the work, unless the holder of the corresponding right expressly authorizes it. The total or partial reproduction of a literary or artistic work shall not be registrable as a trademark, without the corresponding authorization of the copyright holder. In force reserves of rights shall also not be registrable as a trademark, except when the registration is requested by the holder of the corresponding right or by a third party with the consent of the latter;

XV. - Signs, phrases, image elements, sentences, slogans, or trade names, likely to mislead or induce error in the public. The ones that shall be understood as such are those that constitute false or misleading indications about the nature, composition, qualities or business or governmental origin of the products or services that they intend to distinguish;

XVI. - The signs equal or similar to a degree of confusion to a trademark that the Institute considers or has declared well known in Mexico, in terms of Chapter III of this Title, to be applied to any product or service, when the trademark whose registration is applied for could:

- a) Create confusion or risk of association with the holder of the well-known trademark;
- b) Constitute a use not authorized by the holder of the well-

known trademark;

- c) Cause the disrepute of the well-known trademark, or
- d) Dilute the distinctive character of the well-known trademark. This impediment shall not be applicable when the applicant for registration is the holder of the well-known trademark;

XVII. - Signs identical or similar to a degree of confusion to a trademark that the Institute considers or has declared famous in terms of Chapter III of this Title, to be applied to any product or service. This impediment shall not be applicable when the applicant is the holder of the famous trademark;

XVIII.- Identical or similar signs to a degree of confusion, to a trademark in the process of registration previously filed, or to one already registered and in force, applied to the same or similar products or services. Those that are identical to a registered or pending trademark of the same holder, which distinguish identical products or services, are included in this scenario;

XIX. - Signs that are identical or similar to a degree of confusion, to a trade name applied to a company or an industrial, commercial, or service establishment, whose predominant activity is the production or sale of the products or the provision of the services that are intended to be protected by the trademark, and provided that the trade name has been used prior to the filing date of the trademark registration application or the application of declared use of the same. The foregoing shall not apply, when the trademark application is submitted by the holder of the trade name, if there is no other identical trade name that has been published;

XX. - The proper name, surname, nickname, or appellation of an individual that is identical or similar to a degree of confusion to a trademark in the process of registration filed previously or to a registered and current one, or a published trade name, applied to the same or similar products or services;

XXI. - Signs that reproduce or imitate denominations or

elements that refer to protected plant varieties, as well as animal breeds, that may cause confusion in the consuming public regarding the products or services to be distinguished, and

XXII. - Signs requested in bad faith. Bad faith shall be understood, among other cases, to have requested the registration of a sign with the purpose of obtaining an undue benefit or advantage in prejudice of its legitimate holder.

The provisions of sections I, II, III, IV, V and VI of this article shall not be applicable when derived from the use that had been made in the trade in the products or services for which the trademark is requested, it has acquired a distinctive character in national territory, in accordance with the provisions of the Regulations to this Law.

It shall not be recognized that a three-dimensional shape has acquired distinctiveness when it is requested to protect only the shape inherent to its nature or functionality.

The provisions of sections XVIII, XIX and XX of this article shall not be applicable with respect to similar trademarks to a degree of confusion or identical, to similar products or services, when express and written consent is exhibited, in terms of the Regulations to this Law.

For the purposes of sections XVIII and XX of this article, the records or publications referred to in article 237 of this Law are included.

Article 174.

A registered trademark or a similar one to degree of confusion to another previously registered trademark may not be used or be part of the commercial name, denomination or company name of any establishment or entity:

I. - for establishments or legal entities whose activity is the production, importation or commercialization of goods or services equal or similar to those to which the registered trademark is applied, and

II. - when there is no consent expressed in writing from the holder of the trademark registration or whoever has the

authority to do so.

The violation of this precept shall give rise to the application of the sanctions referred to in this Law, regardless of whether the deletion of the registered trademark or that similar in degree of confusion to the corresponding previously registered one, trade name, name or company name and the payment of damages and losses can be legally claimed. The provisions of this precept shall not be applicable when the trade name, denomination or company name had included the trademark prior to the filing date or first declared use of the registered trademark.

Article 175.

The registration of a trademark shall not produce any effect against:

I. - A third party who in good faith exploited the same or a trademark similar in a degree of confusion in the national territory, for the same or similar products or services, as long as the third party had begun to use the trademark, uninterruptedly, before the filing date of the application for registration or of the first use declared in it. The third party shall have the right to request the registration of the trademark, within five years from the day the registration was published, in which case they must previously process and obtain the declaration of nullity thereof;

II. - Any person who markets, distributes, acquires, or uses the product to which the registered trademark is applied, after said product has been lawfully introduced to trade by the holder of the registered trademark or by the person to whom it has been licensed.

This scenario includes the importation of legitimate products to which the trademark applies, made by any person for their use, distribution, or commercialization in Mexico, under the terms and conditions indicated in the Regulations to this Law, and

III. - An individual or entity who applies his/her/its trade name, denomination or company name to the products that he/she produces or distributes, to the services he/she provides, or to

his/her/its establishments, or uses it as part of his/her/its commercial name, provided that it is applied in the way he/she are used to using it and that it has characters that clearly distinguish it from a homonym already registered as a trademark or published as a trade name.

The performance of any activity contemplated in this article shall not constitute an administrative offense or crime under the terms of this Law.

Article 176.

Trademarks shall be registered in relation to specific products or services determined in accordance with the classification and rules established by the Regulations to this Law.

Any doubt regarding the class to which a product or service corresponds, shall be definitively resolved by the Institute.

Article 177.

Once a trademark has been registered, the number of differentiated products or services may not be increased, even when they belong to the same class, but it may be limited to certain products or services as many times as requested.

In order to subsequently distinguish a diverse product or service with an already registered trademark, it shall be necessary to obtain a new registration.

Article 178.

The trademark registration shall be valid for ten years from the date of its granting and may be renewed for periods of the same duration.

At the time of requesting the registration of a trademark, as well as at the time of its renewal, the interested party shall declare under oath of telling the truth that the products or services to be offered are free of deception or bad faith.

In the event that the competent authorities determine that said product or service violates the applicable legal provisions in force, the Institute may initiate the procedure for the administrative declaration of nullity of the respective registration.

Chapter II On Collective and Certification Trademarks

Article 179.

Associations or societies of producers, manufacturers or merchants of products, or service providers, legally constituted, may request the registration of a collective trademark, to distinguish, in the market, the products or services of their members, provided that they have a quality or characteristics that are common to each other and differ from those of third-party products or services.

Article 180.

The members of the association or society that is holder of the collective trademark, may use the term "Registered Collective Trademark" along with it.

Article 181.

With the collective trademark application, the rules for its use must be filed, which shall contain the following:

- I. - The name of the association or society that shall be the holder of the trademark;
- II. - The graphic representation or image of the trademark;
- III. - The products or services to which the trademark shall be applied;
- IV. - The common characteristics or qualities of the products or services;
- V. - The processes of elaboration, production, packaging or packing;
- VI. - The indication that the trademark may not be transferred to third parties and that its use shall be reserved for the members of the association or society;
- VII. - The mechanisms for controlling the use of the trademark and compliance with the rules of use;
- VIII. - The sanctions in case of non-compliance with the rules

of use;

IX. - The indication on the exercise of legal protection actions, and

X. - The others that the applicant deems pertinent.

In the case of section IX of this article, any modification must be registered before the Institute to take effect against third parties.

Article 182.

The collective trademark shall not be licensed, nor may it be transferred to third parties, its use being reserved for the members of the association or society.

Collective trademarks shall be governed, in which there is no special provision, by what is established in this Law for trademarks.

Article 183.

A certification mark is understood to be a sign that distinguishes products or services whose qualities or other characteristics are verified by their holder, such as:

I. - The components of the products and services;

II. - The conditions under which the products have been produced and the services provided;

III. - The quality, processes or other characteristics of the products and services; or

IV. - The geographical origin of the products and services, among others.

The holder of the certification mark shall verify compliance with one or more of the qualities or characteristics established in sections I to IV of this article, in accordance with the provisions of the rules of use.

Article 184.

The certification mark may be made up of the name of a

geographical area or contain said name, or another indication known to refer to the aforementioned area, which identifies a product or service as originating from it, when a certain quality, reputation, or other characteristic of the product or service is fundamentally attributable to its geographical origin.

Article 185.

Any legally constituted entity that validates the certification activity in accordance with its corporate purpose may apply for registration, as long as it does not carry out a business activity that involves the supply of products or the provision of the service of the same nature or kind that it certifies. When the certification mark is made up of the name of a geographical area or contains said name or another indication known to refer to that area that identifies a product or service, only the following may request registration:

- I. - Chambers or associations of manufacturers or producers linked to the product that is intended to be protected with the indication;
- II. - The agencies or entities of the Federal Government, and
- III. - The governments in whose geographical area the product to be protected is extracted, produced, or elaborated.

Article 186.

The application for registration of a certification mark must be accompanied by its rules of use, indicating:

- I. - The specific products or services to be certified with the trademark;

- II. - The graphic representation and image of the trademark;

- III. - The technical specifications that define the particular qualities or characteristics of the product or service, such as the origin of the raw materials, the production conditions, its transformation procedure, its physical, chemical, toxic, bacteriological or use characteristics, its composition or labeling, among others;

- IV. - The procedure for checking the specific qualities or

characteristics indicated in the previous section;

V. - The modalities and periodicity of the quality controls;

VI. - The sanctions regime for the case of non-compliance with the rules of use;

VII. - The indication that the trademark may not be licensed;

VIII. - The indication on the exercise of legal protection actions;

IX. - Where appropriate, the Official Mexican Standards, Mexican Standards or any other applicable international standard or guideline, and

X. - The others that the applicant deems pertinent.

In the case of section VIII of this article, any modification must be registered before the Institute to take effect against third parties.

Article 187.

The certification mark shall not be licensed; its use being reserved for persons who comply with the conditions determined in the rules for its use.

Certification marks shall be governed, in which there is no special provision, by what is established in this Law for marks.

Article 188.

The holder of a certification mark shall authorize its use to any person whose product or service complies with the conditions determined in the rules of use.

Only authorized users may use the term "Registered Certification Mark" in conjunction with the certification mark.

Article 189.

The registration of a certification mark shall be canceled when its holder:

I. - Does not control or cannot legitimately exercise control

over the use of the mark;

II. - Gets involved in the production or marketing of any product or service to which the mark is applied;

III. - Allow the use of the mark for purposes other than certification, or

IV. - Refuses in a discriminatory manner to certify or continue to certify the products or services of any person who maintains the standards or conditions that such mark certifies.

Chapter III On Well-Known and Famous trademarks

Article 190.

For the purposes of this Law, it shall be understood that a trademark is well known in Mexico when a certain sector of the public or commercial circles in the country knows the trademark as a consequence of commercial activities carried out in Mexico or abroad by a person who uses that trademark in relation to the products or services or, as a result of its promotion or advertising.

It shall be understood that a trademark is famous in Mexico when it is known by the majority of the consumer public, or when it has a diffusion or recognition in global commerce. In order to demonstrate the notoriety or fame of the trademark, all the evidence allowed by this Law may be used.

Article 191.

The declaration or any of its updates constitute an administrative act by means of which the Institute declares, based on the evidence provided, that the conditions by virtue of which a trademark is well-known or famous, subsist to the time in which the act is issued.

The impediments provided for in article 173, sections XVI and XVII, for the protection of well-known or famous trademarks, shall apply regardless of whether they are registered or declared.

Article 192.

For the purposes of obtaining the declaration of notoriety or fame, the applicant shall provide the following information:

I. - The public sector made up of actual or potential consumers who identify the trademark with the products or services it protects, based on a survey or market study or any other means permitted by law;

II. - Other sectors of the public, different from actual or potential consumers, who identify the trademark with the products or services it protects, based on a survey or market study or any other means permitted by law;

III. - The commercial circles made up of merchants, industrialists or service providers related to the genre of products or services, who identify the trademark with the products or services that it protects, based on a survey or market study or any other means allowed by the law;

IV. - The date of first use, the time of continuous use and the effective advertising time of the trademark in Mexico and, where appropriate, abroad;

V. - Marketing channels in Mexico and, where appropriate, abroad;

VI. - The means of diffusion of the trademark in Mexico and, where appropriate, abroad;

VII. - The licenses or franchises that have been granted in relation to the trademark, and

VIII. - The percentage of the trademark's participation in the corresponding sector or segment of the market.

Article 193.

The Institute shall presume, unless proven otherwise, that the conditions that originated the declaration or its updates, subsist for a period of five years from the date of issue; consequently, during said period, the impediment provided for in article 173, section XVI or the one provided for in section XVII must be applied, as appropriate, expeditiously.

The declaration may be updated at any time, at the request of whoever has a legal interest, provided that he/she proves that the conditions that gave rise to it subsist on the date of the respective application.

Article 194.

The application for a declaration of notoriety or fame shall be made with the formalities that are indicated in this Law and its Regulations for applications and proceedings, which shall be accompanied by the probatory elements that support the application and in which at least the following shall be expressed:

I. - Name, nationality, address, telephone, and email address of the applicant and, where appropriate, their representative, and

II. - The documents and evidence that are attached to the application.

Article 195.

Once the application has been received by the Institute and once the corresponding fees have been paid, the elements, data and documents provided shall be examined.

If, in the opinion of the Institute, these do not satisfy the legal requirements or are insufficient for the understanding and analysis of any of the elements of the application, the applicant shall be informed so that he/she can make the necessary clarifications or additions, granting him/her a period of four months for this purpose.

If the applicant does not comply with the requirement within the term granted, the application shall be rejected.

Article 196.

Once the application process has concluded and the legal and regulatory requirements have been satisfied, the corresponding declaration shall be issued.

In the event that the Institute denies the granting of the declaration, it shall notify the applicant in writing, stating the reasons and legal grounds for its resolution and assessing all the evidence received.

Article 197.

Resolutions on declarations of notoriety or fame shall be published in the Gazette.

Article 198.

The nullity of the declaration shall proceed when:

I. - It has been granted in contravention of the provisions of this Law, and

II. - It has been granted to whoever did not have the right to obtain it.

Administrative declarations of nullity shall be made by the Institute, at the request of whoever has a legal interest and

proves the assumptions on which the application is based.

Article 199.

For the purposes of its transmission, the declaration shall be considered linked to the trademark registration(s) that gave rise to it.

Chapter IV On Slogans

Article 200.

The exclusive right to use a slogan shall be obtained by registering it before the Institute.

Article 201.

A slogan is considered to be phrases or sentences that are intended to announce to the public commercial, industrial or service establishments or negotiations, products, or services, to distinguish them from others of the same kind or class in the market.

Article 202.

If the slogan is intended to advertise products or services, these must be specified in the registration application.

Article 203.

If the slogan is intended to announce any establishment or negotiation, whatever their nature, it shall be considered included in a special class, supplementary to the classification established by the Regulations to this Law. In these cases, the registration shall not cover products or services, even when they are related to the establishment or negotiation.

Article 204.

The registration of a slogan shall be valid for ten years from its granting and may be renewed for periods of the same duration.

Article 205.

Slogans shall be governed, where there is no special provision, by what is established in this Law for trademarks.

Chapter V On Commercial Names

Article 206.

The commercial name of a company or industrial, commercial, or service establishment and the right to its exclusive use shall be protected, without the need for registration. The protection shall cover the geographic area of the effective clientele of the company or establishment to which the commercial name is applied and shall extend to the entire Republic if there is massive and constant dissemination of it at the national level.

Article 207.

Whoever is using a commercial name may request the Institute to publish it in the Gazette. Said publication shall have the effect of establishing the presumption of good faith in the adoption and use of the trade name.

Article 208.

The application for the publication of a commercial name shall be filed before the Institute accompanied by the documents that prove the effective use of the commercial name applied to a specific business.

Article 209.

Once the application has been received and the legal requirements have been satisfied, the substantive examination shall be carried out in order to determine if there is an identical or similar trade name in a degree of confusion applied to the same business, pending or previously published, or to a trademark in the process of registration or to an identical or similar one already registered in a degree of confusion that covers the same or similar products or services related to the predominant line of business of the company or establishment in question. If no earlier is found, the publication shall proceed.

Article 210.

Trade names that lack elements that distinguish the company or establishment in question from others of its kind, or those that contravene, in what is applicable, the provisions contained in article 173 of this Law shall not be published.

Article 211.

The effects of the publication of a commercial name shall last ten years, from its granting and may be renewed for periods of the same duration. If it is not renewed, its effects shall cease.

Article 212.

In the transmission of a company or establishment, the right of exclusive use of the commercial name shall be comprised, unless otherwise stipulated.

Article 213.

The commercial name shall be governed in what is applicable and when there is no special provision, as established in this Law for trademarks.

Chapter VI On Trademark Registration

Article 214.

To obtain the registration of a trademark, an application must be filed before the Institute with the following information:

- I. - The name, address, and email of the applicant;

- II. - The representation of the sign that constitutes the trademark.

- III. - The date of first use of the trademark, which may not be subsequently modified, or, where appropriate, the mention that it has not been used. In the absence of an indication, it shall be understood that the mark has not been used;

- IV. - The specific products or services to which the trademark shall be applied;

- V. - The elements on which protection is not requested and that are reproduced in the trademark, in terms of article 216 of this Law;

- VI. - The description of the trademark, when applicable;

- VII. - The location of one or more establishments or negotiations related to the trademark, as long as the date of first use has been indicated;

- VIII. - In the case of trademarks consisting only of words, letters or numbers provided for by the international Latin alphabet, the express statement that standard characters have been used in the representation of the sign must be included. In this case, it shall be understood that the applicant reserves the use in any type or size of letter;

- IX. - When the certification mark contains a geographical indication, its express manifestation must be included, and

- X. - The others that the Regulations to this Law provides.

Article 215.

The trademark registration application must be accompanied by proof of payment of the corresponding fee.

Article 216.

Non-reservable elements are those that lack distinctive power when referring to general aspects, such as descriptive or indicative elements of the species, quality, quantity, composition, destination, value, place of origin of the products, period or date of elaboration or common characteristics of the products or services covered by the trademark.

Graphic elements that are not part of the trademark must be indicated by dashed or dotted lines in their representation.

Article 217.

In the event that the trademark is requested in the name of two or more people, the rules agreed and signed by the applicants must be submitted with the application, which must establish:

- I. - The use, license, and transfer of trademark rights or, where appropriate, for the defense of it;
- II. - Cancellation of registration, and
- III. - The limitation of products and services.

Any of the joint holders may initiate the corresponding actions to defend their rights, unless otherwise stipulated in the respective agreement.

Article 218.

When a trademark registration is applied for in Mexico, within the terms determined by the International Treaties or, failing that, within the six months following having done so in other countries, the priority date may be recognized as that of filing of the application in which it was first done.

Article 219.

In order to recognize the priority referred to in the previous article, the following requirements must be met:

- I. - That when requesting registration, priority is claimed and the country of origin and the filing date of the application in

that country is stated, and

II. - That the application filed in Mexico does not intend to apply to additional products or services than those contemplated in the one filed abroad, in which case priority shall be recognized only to those applied for in the country of origin.

Article 220.

If at the time the application is filed, it satisfies the requirements of articles 13, 14, 214 sections I, II and IV and 215, of this Law, that shall be its filing date.

Otherwise, the day in which it complies with said requirements shall be taken as such, within the respective legal term.

The filing date shall determine the priority among the applications.

Article 221.

Once the application is received, the Institute shall proceed to its publication in the Gazette, no later than ten days after its receipt and shall grant a nonextendable period of one month, counted from the date on which said publication takes effect, so that any third party that has an interest, opposes the application for registration or publication, considering that it incurs in the assumptions provided for in articles 12 and 173 of this Law.

If the opposition is filed after the established period, it shall be rejected outright.

Article 222.

The opposition must be filed in writing, accompanied by the respective evidence, as well as proof of payment of the corresponding fee.

For the opposition process, all kinds of evidence shall be admitted with the exception of confessional and testimonial, unless the testimony or confession is contained in documents, as well as those that are contrary to public order or law.

Article 223.

If the opposition filed or the proceedings derived from it, do not comply with the proof of personality or the corresponding

payment, the Institute shall require the opponent for a single occasion to, within a period of five days, counted from the day following the notification, correct the omission incurred or make the corresponding clarifications.

In the event that the opponent does not comply with the requirement, or he/she does it outside the period established in the previous paragraph, the opposition shall be rejected outright.

Oppositions that have been filed without complying with the established requirements shall be notified once the respective requirements have been corrected.

Article 224.

Opposition to the requested registration or publication shall not prejudice the result of the substantive examination carried out by the Institute on the application.

Article 225.

Once the period of one month referred to in article 221 of this Law has concluded, the application shall be examined.

If the application or the documentation exhibited does not comply with the legal or regulatory requirements or if there is any impediment to the registration of the trademark, the Institute shall notify the applicant in writing.

In the event of opposition to the application, the applicant shall also be notified so that he/she can state and present the evidence he/she deems appropriate.

The Institute shall grant a period of two months to the applicant to express what is appropriate to their right in relation to the requirements, oppositions, or impediments. If the interested party does not reply within the period granted, their application shall be considered abandoned.

Article 226.

The interested party shall have an additional period of two months to comply with the requirements referred to in the previous article, without application and proving payment of the fee corresponding to the month in which compliance is fulfilled.

The additional period shall be counted from the business day following the expiration of the two-month period provided for in article 225 above.

The application shall be considered abandoned if the applicant does not comply with the requirements formulated within the initial term or in the additional term referred to in this article or does not file proof of payment of the corresponding fees.

Article 227.

If the applicant, in order to remedy the requirements, impediments or priorities, modifies the trademark; the number of products or services for which registration is requested increases; or replaces or changes the product or service indicated in the initial application, it shall be subject to a new procedure.

The new procedure must:

I. - Make the payment of the fee corresponding to a new application;

II. - Satisfy the requirements of articles 214 and 215 of this Law and the applicable ones of its Regulations, and

III. - Be the subject of the publication referred to in article 221 of this Law.

In this case, the filing date shall be the one on which the new procedure is requested.

Article 228.

The Institute shall suspend the processing of an application for registration or publication, in the following cases:

I.- When the application is found in any of the impediments related to the existence of one or more registrations or publications of one or more commercial names, identical or similar in degree of confusion and an application is filed for an administrative declaration of nullity, expiration or cancellation of the trademark or registered slogan or cessation of the effects of a published commercial name.

The suspension shall be ordered ex officio or requested at the request of any of the parties in the administrative declaration procedure, within the period of two months provided for in article 225 of this Law, and

II.- By order of jurisdictional or administrative authority.

Article 229.

After the period of two months referred to in article 225 of this Law, once the evidence has been processed, the proceedings shall be made available to the applicant and to the persons who have filed oppositions so that, where appropriate, submit claims within a period of five days, which shall be considered by the Institute. Once this period has elapsed, the corresponding resolution shall be issued without further formality.

Article 230.

Once the application process has concluded and the legal and regulatory requirements have been satisfied, the title shall be issued.

In the event that the Institute denies the registration of the trademark, it shall notify the applicant in writing, stating the reasons and legal grounds for its resolution.

The Institute shall issue the resolution that corresponds to the oppositions received, stating the reasons and legal grounds for its resolution.

Article 231.

The Institute shall issue a title for each trademark, as proof of its registration, in which the following shall be stated:

I. - The registration number of the trademark;

II. - The sign that constitutes the trademark;

III. - The products or services to which the trademark shall be applied, indicating the class to which they correspond;

IV. - The name and address of the holder;

V. - The location of the establishment, where appropriate;

VI. - The filing dates of the application; of recognized priority, and of first use, in its case, as well as that of issuing;

VII. - Its validity, and

VIII. - The circumstance that the trademark was granted for acquired distinctiveness, where appropriate.

Changes to the title of a trademark may only be allowed to correct obvious or formal errors. The authorized changes must be published in the Gazette.

Article 232.

Resolutions on trademark registrations and their renewals must be published in the Gazette.

Article 233.

The trademark must be used in national territory, as it was registered or with modifications that do not alter its distinctive character.

The holder of a trademark must declare its real and effective use, indicating the specific products or services to which it applies, accompanying the payment of the corresponding fee.

The declaration shall be filed before the Institute during the three subsequent months, counted from the third year after the registration has been granted.

The scope of the protection of the registration shall continue only in those products or services on which the use has been declared.

If the holder does not declare the use, the registration shall expire by law, without requiring a declaration by the Institute.

Article 234.

The Institute may declare the registration and mandatory use of trademarks in any product or service or prohibit or regulate the use of trademarks, registered or not, ex officio or at the request of representative bodies, when:

I. - The use of the trademark is an element associated with

unfair competition, which causes serious distortions in the production, distribution or marketing of certain products or services;

II. - The use of the trademark prevents the efficient distribution, production or commercialization of goods and services, and

III. - The use of trademarks prevents, hinders, or makes it more expensive in cases of national emergency and while it lasts, the production, provision or distribution of basic goods or services for the population.

The corresponding declaration shall be published in the Official Gazette.

Article 235.

If a trademark is not used for three consecutive years in the products or services for which it was registered, the expiration of the registration shall proceed, or where appropriate, the partial expiration relative to the products or services that are not in use, unless its holder or the user who has been granted a license, had used it during the three consecutive years immediately prior to the filing of the application for an administrative declaration of expiration, or that there are circumstances arising independently of the will of the holder of the trademark that constitute an obstacle to the use of the same, such as import restrictions or other governmental requirements applicable to the goods or services to which the mark is applied.

Article 236.

The legends "Registered Trademark (Marca Registrada)", "Registered Collective Trademark (Marca Colectiva Registrada)" or "Registered Certification Trademark (Marca de Certificación Registrada)", the initials "MR" or the symbol ®, may only be used for the products or services for which said trademark is registered.

Article 237.

The renewal of the registration of a trademark must be requested by the holder, within the six months prior to the expiration of its validity. However, the Institute will process

those applications that are filed within a period of six months after the expiration of the validity of the registration. When submitting the renewal application, the holder must declare the actual and effective use of the trademark, indicating the specific products or services to which it applies, accompanying the payment of the corresponding fee. The scope of the protection of the registry shall continue only in those products or services on which the use has been declared.

When the use of the trademark is not declared, the Institute shall require the applicant to correct the omission within two months. In case of not complying with the requirement within the indicated period, the registration shall expire by law, without requiring a declaration by the Institute.

When the renewal is filed by the beneficiary of an encumbrance before the Institute, it shall not be necessary to declare the real and effective use of the trademark.

Article 238.

Once the period referred to in article 237 of this Law has expired, without the renewal application being submitted, the registration shall expire by law, without requiring a declaration from the Institute.

Chapter VII On Licenses and Transfer of Rights

Article 239.

The holder of a registered or pending trademark may grant, by means of an agreement, a license to use one or more persons, in relation to all or some of the products or services to which said trademark is applied, in terms of common legislation.

Article 240.

To register a license before the Institute, it shall be enough to formulate the corresponding application in the terms established by the Regulations to this Law.

The registration of licenses of rights relating to two or more pending applications or to two or more registered trademarks may be requested through a single proceeding when the licensor and the licensee are the same in all of them. The applicant must identify each of the applications, or registrations in which the record shall be made. The corresponding fees shall be paid based on the number of applications or registrations involved.

Article 241.

The cancellation of the registration of a license shall proceed in the following cases:

I. - When jointly requested by the trademark holder and the user to whom the license has been granted, under the terms of common legislation;

II. - Due to nullity, expiration or cancellation of the trademark registration, or in the case of trademarks in process whose registration is not obtained;

III. - By end of its validity, and

IV. - By court order.

Article 242.

The products that are sold or the services that are provided by the user must be of the same quality as those manufactured or provided by the holder of the trademark. In addition, those products, or the establishment where the services are provided or contracted, must indicate the name of the user and other

data that the Regulations to this Law provide.

Article 243.

The person who has been granted a license, unless otherwise stipulated, may exercise legal actions to protect the rights over the trademark, as if he/she were the holder himself/herself.

Article 244.

The use of the trademark by the user who has been granted a license shall be considered as carried out by the holder of the trademark.

Article 245.

Franchising shall exist, when, with the license to use a trademark, granted in writing, technical knowledge is transmitted or technical assistance is provided, so that the person to whom it is granted can produce or sell goods or provide services in a uniform manner and with the operational, commercial, and administrative methods established by the holder of the trademark, aimed at maintaining the quality, prestige and image of the products or services that it distinguishes.

Whoever grants a franchise must provide the person who he/she intends to grant it to, at least thirty days prior to the conclusion of the respective contract, the relative information on the status of their company, in the terms established by the Regulations to this Law.

The lack of veracity in the information referred to in the previous paragraph shall entitle the franchisee, in addition to demanding the nullity of the contract, to demand the payment of the damages that have been caused by the breach. This right may be exercised by the franchisee for one year from the conclusion of the contract. After this period has elapsed, there shall only be the right to demand the nullity of the contract. For the registration of the franchise, the provisions of this Chapter shall be applicable.

Article 246.

The franchise contract must be in writing and must contain, at

least, the following requirements:

I. - The geographical area in which the franchisee shall carry out the activities that are the object of the contract;

II. - The location, minimum size, and characteristics of the investments in infrastructure, with respect to the establishment in which the franchisee shall carry out the activities derived from the subject of the contract;

III. - The inventory, marketing, and advertising policies, as well as the provisions relating to the supply of merchandise and contracting with suppliers, where appropriate;

IV. - The policies, procedures and deadlines related to reimbursements, financing, and other considerations in charge of the parties in the terms agreed in the contract;

V. - The criteria and methods applicable to the determination of the profit margins or commissions of the franchisees;

VI. - The characteristics of the technical and operational training of the franchisee's staff, as well as the method or manner in which the franchisor shall provide technical assistance;

VII. - The criteria, methods and procedures of supervision, information, evaluation, and qualification of the performance, as well as the quality of the services in charge of the franchisor and the franchisee;

VIII. - The terms and conditions to sub-franchise, in case the parties so agree;

IX. - The causes for the termination of the franchise contract, and

X. - The assumptions under which the terms or conditions relating to the franchise contract may be reviewed and, where appropriate, modified by mutual agreement.

There shall be no obligation for the franchisee to transfer

their assets to the franchisor or to whom he/she designates at the end of the contract, unless otherwise agreed.

There shall not be an obligation for the franchisee to alienate or transfer to the franchisor at any time, the assets of his/her company or to make him/her a partner of it, unless otherwise agreed.

This article shall be subject, where applicable, to the provisions of the Regulations to this Law.

Article 247.

The franchisor may have interference in the organization and operation of the franchisee, solely to guarantee the observance of the management and image standards of the franchise in accordance with the provisions of the contract.

The franchisor shall not be considered to have interference in cases of merger, spin-off, transformation, modification of statutes, transfer or encumbrance of social shares or shares of the franchisee, when this modifies the personal characteristics of the franchisee that have been provided for in the respective contract as a determining factor of the shall of the franchisor to enter into the contract with said franchisee.

Article 248.

The franchisee must keep during the term of the contract and, once it is terminated, the confidentiality of the information that is confidential or that has become known to him/her and that is the property of the franchisor, as well as the operations and activities concluded under the contract.

Article 249.

The franchisor and the franchisee may not unilaterally terminate or rescind the contract, unless it has been agreed for an indefinite period of time, or there is justified cause for it. In order for the franchisee or franchisor to be able to terminate the contract in advance, whether this happens by mutual agreement or by termination, they must comply with the causes and procedures agreed in the contract.

In case of violations of the provisions of the preceding paragraph, the early termination made by the franchisor or franchisee shall give rise to the payment of the conventional

penalties that had been agreed in the contract, or instead to compensation for damages caused.

Article 250.

The rights derived from a trademark registration application or those conferred by a registered trademark, may be encumbered, or transferred under the terms and with the formalities established by common legislation. Said encumbrance or transfer of rights must be registered before the Institute, in accordance with the provisions of the Regulations to this Law, so that it can produce effects to the prejudice of third parties.

The registration of transfers of ownership of two or more applications in process or of two or more registered trademarks may be requested through a single proceeding, when whoever transfers and whoever acquires are the same people in all of them.

The applicant must identify each of the applications or registrations in which the record shall be made. The corresponding fees shall be paid based on the number of applications, or registrations involved.

Article 251.

When there is an encumbrance registered before the Institute, the beneficiary may file the renewal of the registration of a trademark, notice or trade name, in accordance with the provisions of article 237 of this Law.

Article 252.

When legal entities merge, it shall be understood that there is a transfer of rights over registered trademarks, unless otherwise stipulated.

Article 253.

For the purposes of their transmission, the registrations, or applications in process of the trademarks of the same holder shall be considered linked, when they are identical and cover similar products or services or are similar to a degree of confusion and apply to the same or similar products or services.

Article 254.

When the holder of registrations or pending applications of two or more linked trademarks considers that there is no confusion, he/she may file express consent in writing and apply for the imposed link be dissolved.

The foregoing shall not apply to identical trademarks applied to identical products or services.

The Institute shall ultimately resolve what is appropriate, considering that the consuming public is not misled regarding the origin of the products or services.

Article 255.

The transmission of some of the linked trademarks shall only be registered, when all of them are transferred and the registration of them is requested from the same person.

Article 256.

When the registration of any transmission of a registered or pending trademark on which there have been previous unregistered transmissions is requested, these must also be proven and registered before the Institute.

Article 257.

When the registration of the trademark is not in force, the Institute shall deny the registration or annotation that is requested for a license or transfer of rights.

Chapter VIII On the Nullity, Expiration and Cancellation of Registrations

Article 258.

The nullity of the registration of a trademark shall be declared when:

I. - It has been granted in contravention of the provisions of this Law or the one in force at the time of its registration. Notwithstanding the provisions of this section, the action for nullity may not be based on the legal representation of the applicant for the registration of the trademark, or on granting or validity procedures;

II. - The trademark is identical or similar to a degree of confusion, to another that has been used in the country or abroad prior to the filing date of the registered trademark application and is applied to the same or similar products or services, provided that whoever asserts the best right for prior use proves that they have used a trademark uninterruptedly in the country or abroad, before the filing date or, where appropriate, the date of first declared use by which he/she registered it. The partial nullity of the registration may be declared, only with respect to the products or services that it protects;

III. - The holder of the registry does not prove the veracity of the date of first use declared in the application;

IV. - It has been granted by error, inadvertence, or difference of appreciation, there being an application in process submitted previously or a current registration that is considered invaded, because it is a trademark that is the same or similar to a degree of confusion and that applies to the same or similar services or products. The partial nullity of the registration may be declared, only with respect to the products or services that it protects;

V. - The agent, legal representative, user or distributor of the holder or any other person who has had a relationship, directly or indirectly, with the holder of a trademark registered abroad, applies for and obtains the registration of

this or another similar in a degree of confusion, registered to his/her/its name without the express consent of the holder of the foreign trademark, and

VI. - It was obtained in bad faith.

The nullity actions provided for in sections II, III and IV of this article may be exercised within a period of five years, counted from the date on which the publication of the record in the Gazette takes effect. Those relating to sections I, V and VI may be exercised at any time.

In the resolution that declares partial nullity, the Institute shall order a marginal annotation to be entered in the respective Title, in which the modifications to it shall be recorded, as well as the causes that originated it.

Article 259.

The application for an administrative declaration of nullity shall not be admitted, when the opposition provided for in article 221 of this Law has been filed, provided that the arguments made in the nullity, as well as the probative material, are the same as those filed in the opposition and the Institute has already ruled on them.

Article 260.

The registration shall expire in the following cases:

I. - When it is not renewed in the terms of this Law;

II. - When the trademark has ceased to be used during the three consecutive years immediately prior to the application for an administrative declaration of expiration, unless there is justified cause in the opinion of the Institute. The registration may also partially expire with respect to the products or services in which the use is not proven, unless there is a justified cause in the judgment of the Institute, and

III. - When the declaration of actual and effective use is not made, in the terms provided in article 233 of this Law.

Article 261.

Cancellation of the registration of a trademark shall proceed if its holder has caused or tolerated it to become a generic name that corresponds to one or more of the products or services for which it was registered, in such a way that, in commercial media and in general use by the public, the trademark has lost its distinctive character, as a means of distinguishing the product or service to which it is applied.

Article 262.

The holder of a registered trademark may request, at any time, the voluntary cancellation of its registration. The Institute may require the ratification of the signature.

Article 263.

The declaration of nullity, expiration or cancellation of the registration of a trademark shall be made administratively by the Institute ex officio, at the request of a party or the Federal Prosecution Office, when the Federation has an interest. The declaration of nullity shall retroactively destroy the effects of the registration, to the date of its granting.

The declaration of expiration shall destroy the effects of the registration, once the respective resolution is enforceable. The expiration referred to in sections I and III of article 260 of this Law shall not require an administrative declaration by the Institute.

TITLE FIFTH On Appellations of Origin and Geographical Indications

Chapter I Common Provisions

Article 264.

Appellation of origin is understood to be the product linked to a geographical area from which it originates, as long as its quality, characteristics or reputation are exclusively or essentially due to the geographical origin of the raw materials, the processes of production, as well as the natural and cultural factors that affect it.

Once the declaration of protection of an appellation of origin has been issued, it must have a specific Official Mexican Standard.

Article 265.

A geographical indication is understood to be the recognition of:

I. - A geographical area that serves to designate a product as originating from it;

II. - A reference that indicates a product as originating from it, or

III. - A combination of the name of a product and a geographical area.

As long as certain quality, characteristics or reputation of the product are attributed to the geographical origin of any of the following aspects: raw materials, production processes or natural and cultural factors.

Article 266.

A geographical area is understood to be a region, locality or place delimited by political division, geomorphology, or geographical coordinates.

Article 267.

The protection that this Law grants to the appellation of origin and geographical indication begins with the declaration

issued by the Institute for this purpose.

Article 268.

Appellations of origin and protected geographical indications are national assets and may only be used through authorization issued by the Institute.

It shall correspond to the Institute to exercise the actions of protection and defense of the appellations of origin and protected geographical indications. Said powers may be delegated to a third party, in accordance with the provisions of the Regulations to this Law.

Article 269.

The validity of the declaration of protection of an appellation of origin or geographical indication shall be determined by the subsistence of the conditions that motivated it.

Article 270.

The common or generic name of a product may be included as an element of the appellation of origin or geographical indication.

Notwithstanding the provisions of the preceding paragraph, the common or generic name shall be considered free to use in all cases.

Article 271.

The following may not be protected as an appellation of origin or geographical indication:

I. - The name that is identical or similar in degree of confusion to a protected appellation of origin or geographical indication or to the one indicated in a previously filed request for a declaration in process, applied to the same or similar products, unless a resolution issued by the Institute allows the coexistence of these names;

II. - The technical, generic, or commonly used name of the products that are intended to be protected, as well as that name that, in ordinary language or in commercial practices, has become a usual or generic element thereof;

III. - The denomination that, considering all its

characteristics, is descriptive of the products that are intended to be protected. The descriptive words that in the trade serve to designate the quality, quantity, volume, destination, or value are included in the previous assumption;

IV. - The one that is identical or similar in degree of confusion to a trademark registration application or slogan in process, previously filed or to a registered and current trademark or slogan, applied to the same or similar products or services;

V. - The one that is identical or similar in degree of confusion to an application for publication of a trade name in process, previously filed or to a published and current trade name, applied to the same or similar business line;

VI. - The translation or transliteration of a non-protectable appellation of origin or geographical indication, and

VII. - That which constitutes or contains the designation of a protected plant variety or an animal race.

For the purposes of sections IV and V of this article, the registrations or publications referred to in article 237 of this Law are included.

Article 272.

In addition to the publications provided for in this Title, the declarations and authorizations granted by the Institute shall be published in the Gazette, as well as any act that terminates the effects of the rights granted in terms of designations of origin or geographical indications.

Chapter II On the Processing of the Declaration of Protection

Article 273.

The declaration of protection of an appellation of origin or geographical indication shall be made ex officio or at the request of:

I. - The individual or entities who are directly engaged in the extraction, production or elaboration of the product that is intended to be protected;

II. - Chambers or associations of manufacturers or producers linked to the product to be protected;

III. - Dependencies or entities of the Federal Government;

IV. - The governments of the states in whose territory or geographical area the product that is intended to be protected is extracted, produced, or elaborated, or

V. - The Chambers of the Congress of the Union, as long as the proposal has been approved by two-thirds of the members present.

Article 274.

The application for a declaration of protection of an appellation of origin must be filed before the Institute with the following information and documents:

I. - The name, address, and email of the applicant;

II. - The character of the applicant, its legal nature, and the activities to which it is dedicated, in terms of article 273;

III. - The name of the appellation of origin;

IV. - A technical study issued by an authority or institution, public or private, containing the following:

a) The detailed description of the product or products to be protected, including their characteristics, components, form of extraction, production or processing processes, container, packaging, and marketing;

b) The place or places of extraction, production, or

elaboration of the product to be protected and the delimitation of the geographical area;

c) Detailed identification of the links between the name of the appellation of origin, product, geographical area and natural or human factors;

d) The criteria that establish the characteristics and specifications that the product must meet for its extraction, production or elaboration, container, packing or packaging and commercialization, and

e) The Official Mexican Standards to which the product must be subject for its extraction, production or elaboration, container, packing or packaging;

V. - Proof of payment of the corresponding fee, and

VI. - Others that the applicant considers necessary or pertinent.

Article 275.

The application for a declaration of protection of a geographical indication must be filed before the Institute with the following data and documents:

I. - The name, address, and email of the applicant;

II. - The character of the applicant, its legal nature, and the activities to which it is dedicated, in terms of article 273;

III. - The name of the geographical indication;

IV. - A technical study issued by an authority or institution, public or private, containing the following:

a) The detailed description of the product or products to be protected, including their characteristics, components, form of extraction, production or processing processes, container, packaging, and marketing;

b) The place or places of extraction, production, or elaboration of the product to be protected and the delimitation of the geographical area, and

c) Detailed identification of the links between the geographical indication, product, geographical area and natural or human factors;

V. - The rules that establish the characteristics and specifications that the product must meet for its extraction, production or elaboration, container, packing or packaging and commercialization;

VI. - The proposal of the responsible entity to certify compliance with the rules of use;

VII. - Proof of payment of the corresponding fee, and

VIII- Others that the applicant considers necessary or pertinent.

Article 276.

The rules referred to in section V of article 275 must contain the following:

I. - The technical specifications that define the particular qualities or characteristics of the product such as the origin of the raw materials, the production conditions, its transformation procedure, its physical, chemical, toxic, bacteriological or use characteristics, its composition or labeling, among others;

II. - The procedure for checking the specific qualities or characteristics indicated in the previous section;

III. - The modalities and periodicity of the controls related to their compliance;

IV. - The sanctions regime for non-compliance by the certified producer;

V. - The technical guidelines, national or international, that are applicable to the product, and

VI. - The others that the person responsible for the certification deems pertinent.

Any modification to the rules must be registered before the Institute to take effect before third parties.

Article 277.

The legal entity interested in assuming the responsibility of certifying compliance with the rules of use must have its own legal capacity and assets, in addition to verifying technical autonomy and impartiality, in relation to the certification activities to be carried out.

For this purpose, an application must be filed before the Institute, attaching:

I. - Its articles of incorporation;

II. - The declaration under oath of telling the truth that it has no conflicts of interest with the producers linked to the geographical indication;

III. - Evidence that there is sufficient experience and financial, material, and human resources to carry out the certification;

IV. - Proof of payment of the corresponding fees, and

V. - The other requirements indicated in the Regulations to this Law.

Article 278.

Once the application has been received, the Institute shall carry out an examination of the data and documents provided within a maximum period of six months.

If the documents filed do not meet the legal requirements, are insufficient for the understanding and analysis of any of the elements of the application, or the designated appellation of origin or geographical indication falls into one of the impediments referred to in article 271, the applicant shall be required to make the necessary clarifications or additions, granting a period of two months for this purpose.

Article 279.

The applicant shall have an additional period of two months to fulfill the requirements referred to in the previous article, without need for an application and verifying the payment of the fee corresponding to the month in which it is fulfilled.

The additional period shall be counted from the day following the expiration of the two-month period provided for in the previous article.

The application shall be considered abandoned if the applicant does not comply with the requirements formulated within the initial term or in the additional term referred to in this article or does not file proof of payment of the corresponding fees.

If it considers it pertinent, the Institute may continue ex officio the processing of the declaration in the terms of this Chapter.

Article 280.

The applicant may transform the application for an appellation of origin into a geographical indication and vice versa, when it is inferred from the content of the application that it does not agree with what was originally requested.

The applicant may only carry out the transformation of the application within the non-extendable period of two months following the date of its filing or of the two months following the date on which the Institute requires it to transform it. In this case, the filing date shall be the one on which the transformation of the application is requested.

In the event that the applicant does not transform the application within the period granted by the Institute, it shall be considered abandoned.

Article 281.

When the documents filed satisfy the legal requirements, the Institute shall publish in the Official Gazette:

I. - The name of the applicant;

II. - The name of the appellation of origin or geographical indication;

III. - The description of the product or products that it shall cover;

IV. - The place or places of extraction, production, or elaboration of the product to be protected, the delimitation of

the geographical area, and

V. - The address where the file of the declaration application shall be open for public consultation and where the documents related to it shall be received.

Article 282.

The Institute shall grant a non-extendable period of two months, counted from the date of publication in the Official Gazette, for a third party to manifest its interest and file its opposition to the application for a declaration of protection and to make observations or objections regarding compliance with the provisions of articles 271, 274 and 275 of this Law.

The opposition must be submitted in writing, accompanied by the respective evidence, as well as proof of payment of the corresponding fee.

Article 283.

The Institute shall notify the applicant about the oppositions received, granting him/her a non-extendable period of two months, counted from the date on which the respective notification takes effect, to express what is appropriate to his/her right in relation to the opposition, observations or objections filed and, where appropriate, file evidence.

Article 284.

For the purposes of this Chapter, all kinds of evidence shall be admitted with the exception of confessional and testimonial, unless the testimony or confession is contained in documents, as well as those that are contrary to morality and law.

The Institute may carry out at any time, before the declaration, the investigations it deems pertinent and obtain the elements it deems necessary.

Article 285.

The Institute shall suspend the processing of an application for a declaration of protection of an appellation of origin or geographical indication, in the following cases:

I. - When the application is found in any of the impediments referred to in sections IV and V of article 271 and an

application for an administrative declaration of nullity, expiration or cancellation of the registered trademark or of cessation of the effects of a published trade name is filed. The suspension shall proceed ex officio or at the request of any of the parties in the administrative declaration procedure, and

II. - By order of a jurisdictional or administrative authority.

Article 286.

Once the period referred to in article 283 of this Law has elapsed, with prior analysis of the antecedents, studies carried out, evidence cleared and, before issuing a resolution, the proceedings shall be made available to the applicant and the persons that have filed oppositions so that, in their case, they formulate arguments within a period of ten days, which shall be considered by the Institute. Once said period has concluded, the corresponding resolution shall be issued, which shall be notified to the parties involved.

Article 287.

In the event that the Institute denies protection to the requested appellation of origin or geographical indication, it shall notify the applicant in writing and, where appropriate, the opponents, stating the reasons and legal grounds for its resolution.

Article 288.

If the resolution referred to in article 286 grants the protection of the appellation of origin or geographical indication requested, the Institute shall order the publication of the declaration of protection in the Official Gazette.

The declaration shall definitively determine the elements of the protected appellation of origin or geographical indication, detailing:

I. - The description of the protected product or products, including their characteristics, components, form of extraction, production or elaboration processes, container, packaging or packaging and commercialization;

II. - The criteria to which the product must be subject for its extraction, production or elaboration, container, packaging, or packaging, and where appropriate, the corresponding Official Mexican Standards, and

III. - The delimitation of the protected geographical area.

Article 289.

In the case of a geographical indication, once the protection declaration is published in the Official Gazette, the Institute shall accredit the entity responsible for certifying compliance with the rules referred to in section V of the Article 275 of this Law.

Article 290.

The accreditation application must comply with the requirements referred to in article 277; the Institute shall require the interested party, for a single occasion, to file the missing documents within a period of two months. If the requirement is not fulfilled within the indicated period, the application shall be rejected outright.

If it meets the requirements, the Institute shall issue the certificate of accreditation to the entity responsible for certifying compliance with the rules of use and shall publish the respective accreditation in the Gazette.

The Institute shall have a registry of the accredited managers, which shall be public.

Article 291.

The person responsible for the certification shall issue a certificate to any person whose product meets the conditions determined in the rules referred to in section V of article 275 of this Law.

Article 292.

The accredited person responsible for certifying compliance with the rules of use shall have the following obligations:

I. - Grant the certificates to the producers who comply with these;

II. - Refrain from participating in the production or commercialization of any product linked to the protected geographical indication, and

III. - Act impartially in the granting of certificates.

Article 293.

The accreditation of the person responsible for certifying compliance with the rules of use shall be canceled when:

I. - Does not control or cannot legitimately exercise control over compliance with the rules of use to which the product linked to the protected geographical indication must be subject;

II. - Get involved in the production or marketing of any product linked to the protected geographical indication;

III. - Grant certificates in contravention of the rules of use;

IV. - Refuses to certify compliance with the rules of use by any person who proves to be complying with them, or

V. - The geographical indication is rendered without effect in terms of article 269 of this Law.

Article 294.

The Institute shall sanction the accredited responsible party who fails to comply with the obligations referred to in article 292, with:

I. - A warning in writing, for a single occasion, under the warning that, if they repeat the breach of their obligations, the accreditation shall be canceled, and

II. - Cancellation of accreditation.

Article 295.

In the event that the accreditation is canceled, the Institute shall suspend the effects of the declaration of the protected geographical indication until a new person is accredited.

Article 296.

To obtain abroad the recognition of the appellations of origin or national geographical indications, protected in terms of this Law, the Institute directly or through the competent authority, shall carry out the necessary steps in accordance with the International Treaties, trade agreements or legislation of the corresponding country.

Article 297.

The terms of the declaration of protection of an appellation of origin or geographical indication may be modified at any time, ex officio or at the request of an interested party, following the procedure established in this Chapter.

If the application is filed at the request of an interested party, it must contain the provisions of article 274 or, where appropriate, 275 of this Law, as well as a detailed indication of the modifications that are requested and the causes that motivate them. The Institute shall resolve what is conducive in accordance with the provisions of this Chapter.

Chapter III On Authorization of Use

Article 298.

The authorization to use an appellation of origin or geographical indication must be requested before the Institute and shall be granted to any individual or entity who:

I. - Declares, under oath of telling the truth, that it is directly engaged in the extraction, production or elaboration of the products protected by the declaration;

II. - Declares, under oath of telling the truth, that it extracts, produces, or elaborates the protected product within the geographical area determined in the declaration;

III. - Files the document that certifies compliance with the corresponding Official Mexican Standards, in the case of a protected appellation of origin;

IV. - Files the document that certifies compliance with the rules of use established in the case of a protected geographical indication, and

V. - Complies with the other requirements that, where appropriate, indicate the statement.

Article 299.

The application to obtain an authorization for the use of an appellation of origin or geographical indication must contain the data and be accompanied by the documents indicated in the Regulations to this Law.

Article 300.

Once the application has been received by the Institute and once the corresponding fees have been paid, the data and documents provided shall be examined. In the event that the legal requirements are satisfied, their granting shall proceed. If the documents filed do not satisfy the requirements or are insufficient, the applicant shall be required to make the necessary clarifications or additions, granting a non-extendable period of two months.

If the applicant does not comply with the requirement within

the term granted, the application shall be considered abandoned.

Article 301.

The effects of the authorization to use an appellation of origin or geographical indication shall last ten years, counted from the filing date of the application at the Institute and may be renewed for periods of the same duration.

The renewal must be requested by the holder within the six months prior to the expiration of its validity. However, the Institute will process those applications that are submitted within a period of six months after the expiration of the validity of the authorization. Once this period has expired without the renewal application being submitted, the authorization shall expire.

Article 302.

The authorized user shall be obliged to use the appellation of origin or protected geographical indication, as it appears in the corresponding declaration, as well as to apply the legend "Protected appellation of origin (Denominación de Origen Protegida)" or "Protected Geographical Indication (Indicación Geográfica Protegida)" or the initials "DOP" or "IGP" (acronyms in Spanish), as appropriate, to the products covered by these.

Article 303.

The appellation of origin or geographical indication may be used in advertising, commercial documentation, packaging, packaging, or on the products themselves in which it is applied or in any other way for commercial purposes.

Article 304.

The illegal use of the appellation of origin or protected geographical indication shall be sanctioned, including cases in which it is accompanied by expressions such as "genre", "type", "manner", "imitation", "produced in", "manufactured in" or similar ones that create confusion in the consumer or imply unfair competition.

Article 305.

It shall be understood that a protected appellation of origin

or geographical indication is in use, when the products that it distinguishes have incorporated, applied, reproduced or recorded by any means, the protected name or indication; when the products are destined for export, or when the products have been put on the market or are available on the market in the country in the amount and in the manner that corresponds to the uses and customs in the trade.

Article 306.

In the event that the protected appellation of origin or geographical indication is not used in the manner established by the declaration or this Law, the Institute shall proceed to cancel the authorization for use.

Article 307.

The right to use a protected appellation of origin or geographical indication may be transmitted by the authorized user under the terms of common legislation. Said transmission must be registered before the Institute so that it can produce effects to the prejudice of third parties, after verifying that the new user complies with the conditions and requirements established in this Law to obtain the right to use them. The transmission shall take effect from its registration.

Article 308.

The authorized user of a protected appellation of origin or geographical indication may in turn, through an agreement, allow the use of it, only to those who distribute or sell the products of their trademarks. The agreement must be registered before the Institute for it to produce effects to the prejudice of third parties, from said registration.

The agreement must contain a clause that establishes the obligation of the distributor or marketer to comply with the requirements established in sections III, IV and V of article 298 and those provided for in the Regulations to this Law. In the event that the distributor or marketer does not comply with this obligation, the registration shall be canceled.

Article 309.

The user authorized by the Institute must register before it, the changes of name, denomination or company name or

transformation of the legal regime, as well as the corresponding changes of address, in the terms provided in the Regulations to this Law.

Chapter IV On the Cessation of the Effects of the Declarations and Authorizations of Use

Article 310.

In the case provided for in article 269, the declaration of protection of an appellation of origin or geographical indication shall cease to take effect due to another declaration of the Institute, published in the Official Gazette, applying in what is appropriate, the procedure foreseen in Chapter II of this Title.

Article 311.

The authorization to use a protected appellation of origin or geographical indication shall be null when it is granted:

- I. - In contravention of the provisions of this Law, or
- II. - Based on false data or documents.

Article 312.

The authorization to use a protected appellation of origin or geographical indication shall be canceled when the authorized user:

- I. - Uses it in a different way than that established in the protection declaration, or the provisions of this Law;
- II. - Omits to apply the legends or acronyms referred to in article 302 of this Law;
- III. - Does not prove compliance with the applicable Mexican Official Standard, in the case of a protected appellation of origin, or
- IV. - Does not prove compliance with the rules of use, in the case of a protected geographical indication.

Article 313.

The authorization of use shall expire:

- I. - When it ceases to be used during the three years immediately prior to the application for an administrative declaration of expiration, unless there is justified cause in the opinion of the Institute, or

II. - Due to the expiration of its validity.

Article 314.

Administrative declarations of nullity, cancellation and expiration shall be made by the Institute ex officio, at the request of a party or of the Federal Prosecution Office. The expiration referred to in section II of the previous article shall not require an administrative declaration by the Institute.

Chapter V On the Recognition of Appellations of Origin and Geographical Indications Protected Abroad

Article 315.

The Institute shall recognize the appellations of origin or geographical indications protected abroad, in terms of the International Treaties and in accordance with the provisions of this Chapter.

Article 316.

The Institute shall register the appellations of origin or geographical indications protected abroad, in the registry created for that purpose.

The application for registration must be submitted by the holder thereof and meet the following requirements:

I. - Indicate the name, nationality, address, and email of the applicant;

II. - File the document by which protection has been granted to the appellation of origin or geographical indication, in accordance with the applicable legislation of the country of origin or in accordance with International Treaties;

III. - Indicate the protected product or products and the territory or geographical area of their extraction, production, or elaboration;

IV. - Indicate the translation into the Spanish language or the transliteration into the modern international Latin alphabet of the appellation of origin or protected geographical indication, where appropriate;

V. - Accompany the proof of payment of the corresponding fee, and

VI. - Others established by the Regulations to this Law.

Article 317.

The denomination or indication found in any of the impediments referred to in article 271 of this Law shall not be registered

in the register of appellations of origin or geographical indications protected abroad.

Article 318.

Once the application has been received, the Institute shall proceed to carry out an examination in order to verify whether it meets the requirements referred to in article 316 of this Law.

If the application or the documentation exhibited does not comply with the legal or regulatory requirements or if there is any impediment, the Institute shall notify the applicant in writing, granting him/her a period of two months to correct the errors or omissions in which he/she has incurred and express what that is appropriate to their right, the additional term established in article 279 of this Law being applicable.

If the interested party does not answer within the initial or additional term, their application shall be considered abandoned.

Article 319.

When the documents filed satisfy the legal requirements, the Institute shall publish in the Official Gazette:

I. - The name and nationality of the applicant;

II. - The indication of the appellation of origin or geographical indication, the protected product or products and the territory or geographical area of their extraction, production, or elaboration, in accordance with the document by which the protection was accredited in the country of origin;

III. - The translation into the Spanish language or the transliteration into the modern international Latin alphabet of the appellation of origin or protected geographical indication, where appropriate, and

IV. - The address where the file of the declaration application shall be open for public consultation and where the documents related to it shall be received.

Article 320.

The Institute shall grant a non-extendable period of two months, counted from the date of publication in the Official Gazette, for any third party who justifies their interest to file their opposition to the application for recognition and formulate observations or objections regarding the compliance with the provisions of articles 271 and 316 of this Law. The opposition must be submitted in writing, accompanied by the respective evidence, as well as proof of payment of the corresponding fee.

Article 321.

The Institute shall notify the applicant about the oppositions received, granting him/her a non-extendable period of two months, counted from the date on which the respective notification takes effect, to express what is appropriate to his/her right in relation to the opposition, observations or objections filed and, where appropriate, file evidence.

Article 322.

The provisions established in articles 284, 285 and 286 of this Law are applicable to the registration process of the recognition provided for in this Chapter.

Article 323.

In the event that the Institute denies the registration, it shall communicate it in writing to the applicant and, where appropriate, to the opponents, stating the reasons and legal grounds for its resolution.

Article 324.

In the event that the resolution is favorable, the Institute shall proceed to register the recognition of the appellation of origin or protected geographical indication abroad and shall order the publication in the Official Gazette of the following:

- I. - The name, nationality, and address of the holder of the registry;

- II. - The appellation of origin or geographical indication, the protected product or products, the territory or geographical area of its extraction, production, or elaboration and, where

appropriate, the validity of the protection, in accordance with the document by which the protection was accredited in the country of origin, and

III. - The translation into the Spanish language or the transliteration into the modern international Latin alphabet of the appellation of origin or protected geographical indication, where appropriate.

Article 325.

The holder of the registration of recognition of a protected appellation of origin or geographical indication abroad shall have the power to exercise legal actions to protect the rights thereon.

Article 326.

The recognition of a protected appellation of origin or geographical indication abroad shall not take effect against any person who markets, distributes, acquires, or uses the product to which said designation or indication is applied, after the product has been lawfully introduced into commerce by its holder or by the person to whom it has been licensed. Included in this case is the importation of legitimate products to which the appellation of origin or protected geographical indication is applied abroad, carried out by any person for their use, distribution, or commercialization in Mexico. The performance of any activity contemplated in this article shall not constitute an administrative offense or crime under the terms of this Law.

Article 327.

The registration of the recognition of a protected appellation of origin or geographical indication abroad shall cease to take effect due to:

I. - Nullity, in any of the following cases:

- a) When granted in contravention of the provisions of this Law, or
- b) When it is granted based on false data and documents.

II. - Cancellation, when the document referred to in section II of article 316, ceases to take effect in the country of origin.

The declaration of nullity or cancellation of the registration shall be made administratively by the Institute ex officio, at the request of a party or the Federal Prosecution Office, when the Federation has an interest.

TITLE SIXTH On the Administrative Declaration Procedures

Chapter I General Dispositions

Article 328.

Applications for an administrative declaration of nullity, expiration, cancellation, and infringement established by this Law shall be conducted and resolved in accordance with the procedure indicated in this Chapter and the formalities that this Law provides.

Article 329.

The Institute may initiate the administrative declaration procedure ex officio or at the request of anyone with a legal interest.

Any person may submit information that allows the Institute to determine the start of an administrative declaration procedure ex officio if deemed appropriate.

Article 330.

The application for an administrative declaration that is filed must contain the following requirements:

I. - The name of the applicant and, where appropriate, their representative;

II. - The address to receive notifications, and an email address;

III. - The name and address of the counterpart or its legal representative;

IV. - The object of the application, detailing it in clear and precise terms;

V. - The description of the facts;

VI. - The evidence offered, where appropriate, and

VII. - The legal grounds related to the object of the application.

Article 331.

With the application for an administrative declaration, the documents, and proofs on which the action is based must be filed, in original or certified copy, and the corresponding evidence offered.

The tests that are filed later shall not be admitted unless they are supervening.

The applicant must show the number of simple copies of the application and the attached documents, necessary to transfer it to the counterpart.

When any document in the archives of the Institute is offered as evidence, the applicant may request that a certified copy of it be issued, at his/her expense, or the respective collation be carried out; as well as the issuance of the simple copies of said document necessary for the transfer, indicating the file in which it is found.

Article 332.

If the applicant does not comply with the requirements referred to in articles 330 and 331 of this Law or omits the document with which the personality is accredited, the Institute shall require him/her, only once, to correct the omission incurred or make the corresponding clarifications, within a period of eight days. If the requirement is not fulfilled within the term granted, the Institute shall reject the application.

Article 333.

In administrative declaration procedures, all kinds of evidence shall be admitted, except testimonial and confessional, unless the testimony or confession is contained in documentary, as well as those that are contrary to morality and law.

Without prejudice to the provisions of the preceding paragraph, for the purposes of this Law, probatory value shall be granted to the invoices issued and to the inventories prepared by the holder or his/her licensee, which are related to the facts under evidence.

Article 334.

For the verification of facts that may constitute a violation

of one or some of the rights that this Law protects, or in the administrative declaration procedures, the Institute may use the means of proof that it deems necessary.

When the affected holder or the alleged offender have filed sufficient evidence to which they reasonably have access as the basis of their claims and have indicated any relevant evidence to support said claims that is under the control of the other party, the Institute may order the latter to present said evidence, with adherence, where appropriate, to the conditions that guarantee the protection of confidential information.

When the affected holder or the alleged offender denies access to evidence or does not provide relevant evidence under their control within a reasonable period of time, or significantly impede the procedure, the Institute may issue preliminary and definitive resolutions, of a positive or negative nature, with based on the evidence filed, including the arguments filed by whoever is adversely affected by the denial of access to the evidence, provided that the interested parties are granted the opportunity to be heard regarding the arguments and evidence filed.

Article 335.

When the subject matter of the patent is a process to obtain a product, in the administrative declaration of infringement procedure, the alleged offender must prove that said product was manufactured under a process other than the one patented when:

I. - The product obtained by the patented process is new, or

II. - There is a significant probability that the product has been manufactured using the patented process and the patent holder has failed, despite trying, to establish the process actually used.

Article 336.

Once the application for an administrative declaration is admitted, the Institute shall send a simple copy of it, as well as the accompanying documents, to the affected holder or the alleged offender so that they can manifest what is appropriate according to their right and file the corresponding evidence,

within the following terms:

I. - One month, if it is an application for an administrative declaration of nullity, expiration or cancellation, or

II. - Ten business days, if it is an application for an administrative declaration of infringement that does not merit an inspection visit or, where appropriate, in accordance with the provisions of article 360 section IX.

The notification shall be made at the address indicated by the applicant for the administrative declaration. When it has not been possible to practice it at said address, it shall be carried out in terms of the provisions of article 369 of this Law.

Article 337.

In the administrative declaration procedure, incidents of previous and special pronouncement shall not be conducted but shall be resolved when the appropriate resolution is issued.

Article 338.

When the Institute initiates the administrative declaration procedure ex officio, the notification to the affected holder or, where appropriate, to the alleged offender shall be made in accordance with Chapter III of this Title.

Article 339.

The document in which the affected holder or, where appropriate, the alleged offender makes his/her statements must contain:

I. - The name of the affected holder or the alleged offender and, where appropriate, their legal representative;

II. - The address to receive notifications, and an email address;

III. - The exceptions and defenses, where appropriate;

IV. - The manifestations or objections to each of the points of the application for an administrative declaration;

V. - The evidence offered, where appropriate, and

VI. - The fundamentals of law.

For the filing of the writing and the offering of evidence, the provisions of article 331 of this Law shall be applicable.

Article 340.

When the affected holder or, where appropriate, the presumed offender cannot exhibit all or part of the evidence within the period granted because they are abroad, an additional period of fifteen days may be granted for the filing, as long as it offers them in its writing and makes the respective indication.

Article 341.

Prior to the issuance of the resolution, the Institute shall make available to the parties the actions that are in the file, so that within a period of ten days they can formulate arguments. If filed, they shall be considered in the resolution issued.

Article 342.

Once the affected holder or the alleged offender files his/her statements or, where appropriate, the allegations are exhibited, the appropriate administrative resolution shall be issued, after a study of the relative antecedents and the evidence that requires it.

In the case of procedures of administrative declaration of infringement, in the same resolution the sanction shall be imposed, when it is appropriate.

The final resolution shall be notified to the interested parties at the address indicated in the file or, where appropriate, by publication in the terms of article 369 of this Law.

Article 343.

In the incident referred to in article 397 of this Law, considering the elements provided by the parties, the Institute may order the offender to pay the damages caused to the affected holder.

For this purpose, the resolution must expressly state:

I. - The existence of a causal relationship between the offending conduct and the injury caused to the affected holder, and

II. - The determination of the damage or injury caused.

Article 344.

In the procedures related to the alleged violation of any of the rights protected by this Law, the Institute may adopt the following measures:

I. - Order the withdrawal of circulation or prevent it, with respect to the goods that infringe the rights of those protected by this Law;

II. - Order to withdraw from circulation:

- a) The objects manufactured or used illegally;
- b) The objects, packaging, containers, packing, stationery, advertising material and the like that infringe any of the rights protected by this Law;
- c) Advertisements, signs, labels, stationery and the like that infringe any of the rights protected by this Law, and
- d) The utensils or instrument intended or used in the manufacture, elaboration or obtaining of any of those indicated in paragraphs a), b) and c), above;

III. - Immediately prohibit the commercialization or use of products with which a right of those protected by this Law is violated;

IV. - Order the seizure of assets, which shall be carried out in accordance with the provisions of articles 362 to 365;

V. - Order the alleged offender or third parties to suspend or cease the acts that constitute a violation of the provisions of this Law;

VI. - Order the suspension of the free movement of goods for import, export, transit or, where appropriate, any customs regime, which constitute a violation of the provisions of this Law, in accordance with the applicable legal regulations in

customs matters;

VII. - Order the alleged offender or third parties to suspend, block, remove content or cease the acts that constitute a violation of this Law through any virtual, digital, or electronic means, known or to be known, and

VIII. - Order the provision of the service to be suspended or the establishment closed when the measures provided for in the previous sections are not sufficient to prevent or avoid the violation of the rights protected by this Law.

If the product or service is in commerce, the merchants or providers shall have the obligation to refrain from its sale or provision from the date on which the resolution is notified. Producers, manufacturers, importers, and their distributors shall have the same obligation, who shall be responsible for immediately recovering the products that are already in the trade.

In the event that the individual or entity to whom the measures were imposed, does not comply with what is ordered in them, they shall be entitled to the sanctions provided for in sections I or III of article 388 of this Law.

The Institute may adopt ex officio the provisional measures provided for in this article, if deemed appropriate.

Article 345.

To determine the practice of the measures referred to in the previous article, the Institute must carry out a weighted analysis of the appearance of good law and the non-violation of public order provisions and that the general interest is not affected; It shall also consider the seriousness of the infraction and the nature of the requested measure, for which it shall require the applicant to:

I. - Prove to be the holder of the right and any of the following assumptions:

- a) The existence of a violation of the right;
- b) That the violation of the right is imminent;
- c) The existence of the possibility of suffering an irreparable damage, or

d) The existence of a well-founded fear that the evidence shall be destroyed, concealed, lost, or altered.
Proof of ownership of the right shall not be required in the case of administrative infractions that do not imply the violation of an industrial property right;

II. - Grant a sufficient bond or deposit ticket to respond for the affectation that could be caused to the person against whom the measure has been requested.

To determine the amount of the bond or deposit ticket, the Institute shall consider the elements provided by the applicant, as well as those that emerge from the proceedings in the file.

The Institute may require the applicant to extend the bond, when from the practice of the measures it appears that the one initially granted is insufficient to respond to the damage that could be caused to the person against whom the measure has been requested.

This requirement shall not be enforceable when the imposition of provisional measures is adopted ex officio by the Institute, and

III. - Provide the information necessary to identify the goods, services or physical establishments or digital platforms with which or where the violation of the rights protected by this Law is committed.

Article 346.

The person against whom the measures referred to in article 344 of this Law have been adopted, may exhibit a counter-trust to respond for the affectation caused to the applicant for this in order to obtain its removal.

In order to decide if the measures should be lifted, the Institute, considering the appearance of good law and with the elements provided by the parties, must analyze and consider whether the effect that the person on whom the measures were imposed could suffer is greater than that which may be caused to the person who requests them and that they do not affect public order or general interest.

Article 347.

The bond or counter-bond referred to in articles 345 and 346 of this Law must remain in force during the time that the procedure lasts, which must be accredited by the interested party, otherwise, the lifting or imposition of measures.

Article 348.

The person against whom any of the measures referred to in Article 344 of this Law has been ordered shall have a period of ten days to file any observations he/she may have regarding said measure before the Institute.

The Institute may modify the terms of the measure that has been adopted considering the observations filed before it.

Article 349.

The applicant for the provisional measures referred to in article 344 shall be responsible for paying for the damage caused to the person against whom they have been executed when:
I. - The final resolution on the merits of the controversy declares that there was no violation or threat of violation of the rights of the applicant for the measure, and

II. - A provisional measure has been requested and the claim or application for an administrative declaration of infringement has not been submitted before the competent authority or before the Institute regarding the merits of the controversy, within a period of twenty days from the following business day to the execution of the measure.

Article 350.

When the procedure of administrative declaration of infringement is resolved, the Institute shall make available to the affected party the bond or counter-bond that, where appropriate, had been exhibited.

The foregoing, regardless of the compensation for damages that correspond to the affected holder on the merits of the controversy.

Article 351.

The Institute shall decide in the definitive resolution of the procedure of administrative declaration of infringement, on the

lifting or definitiveness of the adopted measures.

Article 352.

In any provisional measure that is practiced, care must be taken that it does not serve as a means to violate industrial secrets or to carry out acts that constitute unfair competition.

Article 353.

The applicant may only use the documentation related to the practice of a provisional measure to initiate the corresponding trial or to display it in the files of the processes in process, with the prohibition of using it, disclosing it, or communicating it to third parties.

Chapter II On Inspection

Article 354.

To verify compliance with the provisions of this Law and other provisions derived from it, the Institute shall carry out the inspection and surveillance, in accordance with the following procedures:

- I. - Requirement of reports and data, and
- II. - Inspection visits.

Article 355.

Every person shall have the obligation to provide the Institute, within a period of fifteen days, with the reports and data required in writing, related to compliance with the provisions of this Law and other provisions derived from it. Failure to comply with the obligation indicated in the previous paragraph, without justified cause, shall be sanctioned in terms of section I of article 388 of this Law.

Article 356.

Inspection visits shall be carried out on business days and hours and only by personnel authorized by the Institute, after identification and display of the respective commission document.

The Institute may authorize them to also be practiced on non-working days and hours in order to avoid the commission of infractions, in which case such authorization shall be expressed in the commission document.

During the development of the proceedings, the personnel commissioned to the inspection visits may take photographs, videotape, or collect evidence with any other instrument considered admissible, in terms of the applicable legal provisions. The photographs that are taken, the videos that are filmed and the other evidence collected with the instruments recognized by this article, may be used by the Institute as elements with full probative value. The applicant for the inspection visit may provide the necessary means for this purpose.

Article 357.

The owners or managers of establishments in which products are manufactured, stored, distributed, sold, or offered for sale or services are provided, shall have the obligation to allow access to commissioned personnel to carry out inspection visits, provided that the requirements established in the previous article are met.

If the access of the commissioned personnel to the establishments referred to in the previous paragraph is denied or if in any way there is opposition to the carrying out of the inspection visit, said circumstance shall be recorded in the respective minutes, the facts attributed to it in the corresponding administrative declaration procedures shall be presumed to be true, and the sanctions provided for in sections I or III of article 388 of this Law shall be imposed.

Article 358.

Inspection visits are understood to be those carried out in the places where products are manufactured, stored, transported, sold, or marketed or where services are provided, in order to examine the products, the conditions of provision of the services and documents related to the activity in question, whether in physical establishments or digital platforms.

Article 359.

Of every inspection visit, a detailed record shall be drawn up in the presence of two witnesses proposed by the person with whom the procedure was carried out or by the inspector who carried it out, if the former had refused to propose them. If the person with whom the procedure was carried out or the witnesses do not sign the record, or refuse to accept a copy of it, or no witnesses are provided to sign it, said circumstances shall be established in the record itself without affecting its validity and probative value.

Article 360.

The minutes shall state:

I. - The hour, day, month, and year in which the procedure is carried out;

II. - The street, number, town, and state in which the place where the visit is made is located;

III. - The number and date of the commission letter that motivated it, including the identification of the inspector;

IV. - The name and character of the person with whom the procedure was carried out;

V. - The name and address of the persons who acted as witnesses, whether they were designated by the person visited or, failing that, by the inspector;

VI. - Mention of the opportunity given to the visitor to exercise their right to make observations to the inspector during the conduct of the procedure;

VII. - The data related to the performance, including the report of any circumstance or fact that has been observed during the practice of the procedure, even when said circumstance or fact is not contained in the points of the inspection report, and the mention of whether there have been taken photographs, made video footage, or collected other evidence during the course of the proceedings. Where appropriate, these elements must be attached to the corresponding record;

VIII. - The declaration of the visited if he/she wants to do it;

IX. - Mention of the opportunity given to the visitor to exercise his/her right to confirm in writing the observations he/she had made at the time of the visit and to make new ones to the record drawn up, within a period of ten days, and

X. - The name and signature of those who participated in the procedure, including the inspector, and where appropriate, the indication that the person visited refused to sign the minutes.

Article 361.

By making observations during the procedure or in writing, the visitors may offer evidence in relation to the facts contained in the minutes.

Article 362.

If during the procedure the commission of any of the acts or events provided for in articles 386 or 402 of this Law is reliably verified, the inspector shall ensure, in a precautionary manner, the products with which said infractions or crimes are presumably committed, taking an inventory of the seized assets, which shall be recorded in the inspection report. If it is about events that may constitute crimes, the Institute shall state this in the resolution issued to that effect.

Article 363.

A copy of the record shall be left to the person with whom the procedure was carried out, even if they had refused to sign it, which shall not affect its validity.

Article 364.

The seizure referred to in article 362 of this Law may fall on:
I.- Equipment, instruments, machinery, devices, designs, specifications, plans, manuals, molds, cliches, plates, and in general any other means used in carrying out the acts or events considered in this Law as infractions or crimes;

II. - Books, records, documents, models, samples, labels, stationery, advertising material, invoices and in general any other from which evidence can be inferred, and

III. - Merchandise, products, and any other goods in which the infringement of the rights protected by this Law is materialized.

Article 365.

In the seizure of goods referred to in the previous article, the person in charge or owner of the establishment in which they are located may be designated as depositary, if this is fixed. If it is not, the person or institution indicated by the

applicant for the measure shall be designated, under their responsibility or, where appropriate, the products shall be concentrated before the Institute.

The seized merchandise must be at the disposal of the Institute at all times and any change in its situation must be communicated to it.

When the Institute requires the merchandise and it is not provided, the depositary shall be entitled to the sanction provided for in section I of article 388 of this Law, without prejudice to the corresponding civil or criminal actions, except for justified cause.

Article 366.

In the event that the definitive resolution on the merits of the controversy declares that an administrative offense has been committed, the Institute shall grant a period of fifteen days from when they are given a hearing, in order that the parties express their agreement on the destination of the seized goods and, in the event that no proposal is received, they may order:

I. - The donation of assets to agencies and entities of the Federal Public Administration, states, municipalities, public institutions, charities, or social security, when the public interest is not affected, or

II. - The destruction of these, without any compensation. The foregoing, without prejudice to the agreement that the parties may reach on the destination of the seized assets during the processing of the procedure.

Chapter III On Notifications

Article 367.

In the administrative declaration procedures, notifications, locations, requirements, application for reports or documents, final administrative resolutions and other acts issued by the Institute, may be carried out:

I. - Personally, with whom the procedure should be carried out, at the Institute's offices or at the address indicated for that purpose in the file;

II. - By certified mail with acknowledgment of receipt or courier services;

III. - Through electronic means of communication or any other means, when the sponsor has expressly accepted it and provided that the receipt of these can be reliably verified;

IV. - By edict, when the address of the person to be notified is unknown, has disappeared, his/her address is ignored or is abroad without having left a legal representative.

In the case of administrative declaration of nullity, cancellation, and expiration procedures, prior to notification by edict, the applicant must exhaust the addresses indicated by the affected holder in the respective patent, registration, publication, or authorization file, and

V. - Through the Gazette.

Article 368.

Notifications shall be personal:

I. - To summon the affected holder or alleged offender, and

II. - When the Institute considers that it is an urgent case or that, for any reason, they must be personal, and so expressly orders it.

In the procedures of administrative declaration of infringement, where an inspection visit has been carried out, the notification with the person with whom the procedure was carried out, in terms of article 360 section IX of this Law,

shall be considered legally made.

Article 369.

When the location referred to in the previous article has not been possible due to a change of address, both in the one indicated by the applicant and in those that work in the corresponding file, and the new one is unknown, the notification is it shall be done by edict, at the expense of whoever attempts the action by means of publication in the Official Gazette and in one of the most widely circulated newspapers in the Republic, only once. In the publication, an abstract of the application for an administrative declaration shall be made known and the period available to the affected holder or alleged offender shall be indicated to express what is appropriate to their right.

Article 370.

In notifications by edicts, the date of the last publication in the Official Gazette and in one of the daily newspapers with the greatest circulation in the national territory shall be the notification date.

Article 371.

In the case of notifications that should not be carried out personally, priority shall be given to the notification by the Gazette.

Chapter IV On Conciliation

Article 372.

In the procedures for the administrative declaration of infringement, the Institute shall seek at all times to reconcile the interests of those involved, in accordance with the rules established in this Chapter.

Article 373.

Conciliation may be requested by any of the parties, at any procedural stage, as long as the resolution on the merits of the controversy has not been issued.

In conciliation, the Institute shall not pronounce on substantive issues, the agreements adopted being the responsibility of the parties.

Article 374.

At the time of requesting conciliation, the applicant must file the terms of the conciliatory proposal. In addition, it must file simple copies of said writing and its annexes, in order to transfer it to its counterpart.

Article 375.

Once the conciliation application has been accepted, the Institute shall notify the counterpart so that within five working days, it can express its acceptance or refusal to negotiate an agreement, warning that if it does not respond within the indicated period, it shall be considered answered in a negative sense.

In the event that the counterpart agrees to initiate the negotiation of the agreement, it may accept the initial proposal of the applicant or, where appropriate, file a counterproposal, and must file simple copies of said writing and its annexes, in order to transfer it to the opposite party. The answer from the counterpart shall be given to the applicant for the conciliation.

Article 376.

In the event that the initial proposal of the conciliation applicant is accepted, the Institute shall require the parties

to file the respective agreement, duly formalized, within a period of five business days.

Article 377.

In the event that a counterproposal is filed, the Institute shall summon the parties to a first negotiation meeting, at its facilities.

Detailed minutes of the meeting shall be drawn up, signed by those who participated in it and shall be integrated into the respective file. The lack of signature of any of the parties shall not affect the validity of the respective minute.

Article 378.

The negotiation meeting shall be held in accordance with the following:

I. - The Institute shall file a summary of the controversy and shall order the parties to reach a possible solution;

II. - The parties shall state the terms of their proposals, and

III. - The Institute shall facilitate the negotiation between the parties.

If an agreement is not reached and one of the parties requests it, the negotiation shall be concluded.

In case of reaching an agreement, this shall be recorded in the minutes and the parties shall be required to file the respective agreement, duly formalized, within five business days.

Article 379.

When they have not managed to reconcile their interests in the first meeting and the parties by common agreement application to continue with the negotiation, the Institute shall call a second and last meeting, which shall be held in terms of the previous article, where applicable.

Article 380.

In the event that any of the parties does not attend any of the meetings, without justified cause, it shall be sanctioned in terms of section I of article 388 of this Law.

In addition, if both parties do not attend, the minutes of the respective meeting shall record said circumstance and it shall be understood that the conciliation was rejected.

Article 381.

If the parties reach an agreement, prior to the holding of the second negotiation meeting, they may file the respective agreement, duly formalized, before the Institute or, where appropriate, exhibit it on the day of the second meeting.

Article 382.

When provisional measures have been applied in an administrative declaration of infringement procedure, the proposals of the parties, as well as the respective agreement, must expressly indicate the destination of the exhibited guarantees and, where appropriate, that of the seized goods.

Article 383.

The agreement reached by the parties may not be contrary to public order, public health, or the general interest of society.

Article 384.

The conciliation and its negotiations shall not suspend the conduction of the administrative declaration of infringement procedure.

Article 385.

The agreement resulting from the conciliation shall put an end to the procedure of administrative declaration of infringement, shall have the character of res judicata and shall entail execution.

TITLE SEVENTH On Infractions, Administrative Sanctions and Crimes

Chapter I On Infractions and Administrative Sanctions

Article 386.

The following are administrative offenses:

I. - Carry out acts contrary to good practices and customs in industry, commerce and services that imply unfair competition and that are related to the matter that this Law regulates;

II. - Carry out, in the exercise of industrial or commercial activities, acts that cause or induce the public to confusion, error or deception, by making believe or supposing unfoundedly:

a) The existence of a relationship or association between an establishment and that of a third party;

b) That products are manufactured under the specifications, licenses, or authorization of a third party;

c) That services are provided, or products are sold under authorization, licenses, or specifications of a third party, or

d) That the product in question comes from a territory, region, or locality other than the true place of origin, so as to mislead the public as to the geographical origin of the product;

III. - Attempting or achieving the purpose of discrediting the products, services, industrial or commercial activity or the establishment of someone. The comparison of products or services protected by the trademark for the purpose of informing the public shall not be included in this provision, provided that said comparison is not biased, false or exaggerated in the terms of the Federal Consumer Protection Law;

IV. - Make those that are not appear as patented products. If the patent has expired or was declared invalid, the infringement shall be incurred after one year from the expiration date or, where appropriate, from the date on which the declaration of nullity is required;

V. - Manufacture or elaborate products covered by a patent or by a utility model or industrial design registration, without the consent of the holder or without the respective license;

VI. - Offer for sale, put into circulation, or use products that incorporate a patented invention, without the consent of the holder or without the respective license;

VII. - Use patented processes, without the consent of the patent holder or without the respective license;

VIII. - Offering for sale or putting into circulation products that are the result of the use of patented processes, which were used without the consent of the patent holder or whoever had an exploitation license;

IX. - Offer for sale, put into circulation, or use products covered by a utility model registration, without the consent of the holder or without the respective license;

X. - Offer for sale, put into circulation, or use a product to which a registered industrial design is incorporated, without the consent of its holder or without the respective license;

XI. - Use an industrial design that does not differ in a significant degree or combinations of characteristics from a protected industrial design registration, without the consent of its holder or without the respective license;

XII. - Reproduce a protected layout scheme, without the authorization of the registration holder, in its entirety or any part that is considered original on its own, by incorporation into an integrated circuit or otherwise;

XIII. - Import, sell or distribute in contravention of the provisions of this Law, without the authorization of the holder of the registry, in any way for commercial purposes:

- a) A protected layout scheme;
- b) An integrated circuit in which a protected a layout scheme design is incorporated, or
- c) A good that incorporates an integrated circuit that in

turn incorporates an illegally reproduced protected layout scheme;

XIV. - To improperly appropriate information that is considered an industrial secret, without the consent of the person exercising its legal control or its authorized user, in order to obtain a competitive advantage in the market, or to carry out acts contrary to good practices and customs in the industry, trade and services that imply unfair competition;

XV. - Produce, offer for sale, sell, import, export or store products or services that use a trade secret, when the person carrying out said activities knows or has reasonable grounds to know that the trade secret was used without the consent of the person who exercises his/her legal control or his/her authorized user and in a manner contrary to good practices and customs in industry, commerce and services that imply unfair competition;

XVI. - Putting products for sale or circulation or offering services, indicating that they are protected by a registered trademark without being so. If the trademark registration has expired or has been declared null or canceled, an infringement shall be incurred after one year from the expiration date or, where appropriate, from the date on which the corresponding declaration is required;

XVII. - Use a trademark similar to a degree of confusion to another registered one, to protect the same or similar products or services as those protected by the registered trademark;

XVIII.- Use, without the consent of its holder, a registered or similar trademark in a degree of confusion as an element of a commercial name or of a denomination or company name, or of a domain name or vice versa, provided that said names, denominations or social reasons are related to establishments that operate with the products or services protected by the trademark;

XIX. - Use as trademarks the names, signs, symbols, initials, or emblems referred to in sections VII, VIII, IX, XII, XIII, XIV, XV, XVI, XVII and XX of article 173 of this Law; as well

as those that are contrary to public order or that contravene any legal provision;

XX. - Use a trademark previously registered or similar to a degree of confusion as a trade name, denomination or company name or domain name or as parts of these, of an individual or entity whose activity is the production, importation or commercialization of the same goods or services or similar to which the registered trademark applies, without the consent, expressed in writing, of the holder of the trademark registration or of the person who has the powers to do so;

XXI. - Use a registered trademark, without the consent of its holder or without the respective license, in the same or similar products or services to which the trademark applies;

XXII. - Offering for sale or putting into circulation products to which a registered trademark is applied and that said products, or their labeling have been altered;

XXIII.- Offer for sale or put into circulation products to which a registered trademark is applied, after having partially or totally altered, substituted, or suppressed it;

XXIV. - Use the combination of distinctive signs, operational or image elements, which allow identifying the same or similar products or services in a degree of confusion to others protected by this Law and that by their use cause or induce the public to believe or suppose a non-existent association with whom accredits the right;

XXV. - Failure to provide the franchisee with the information, referred to in article 245 of this Law, as long as the term for it has elapsed and it has been required;

XXVI. - Use a registered slogan or one similar to a degree of confusion, without the consent of its holder or without the respective license to advertise goods, services, or establishments equal or similar to those to which the notice applies;

XXVII.- Use a commercial name or a similar one in a degree of confusion, without the consent of its holder or without the respective license, to protect an industrial, commercial, or service establishment of this or similar business, within the geographical area of the effective clientele or in any part of the Republic, in accordance with the provisions of article 206 of this Law;

XXVIII.- Use an identical commercial name or one similar in degree of confusion to another previously used by a third party, to protect an industrial, commercial, or service establishment of this or similar business, within the geographical area of the effective clientele or in any part of the Republic, in accordance with the provisions of article 206 of this Law;

XXIX. - Use without the corresponding authorization of use a protected appellation of origin or geographical indication;

XXX. - Use a denomination or indication identical or similar in degree of confusion to a protected national or foreign appellation of origin or geographical indication recognized by the Institute, to protect the same or similar products. The use of the name or indication in services is included in this case;

XXXI. - Use the translation or transliteration of a protected national or foreign appellation of origin or geographical indication recognized by the Institute, to protect the same or similar products. The use of the name or indication in services is included in this case;

XXXII.- Produce, store, transport, distribute or sell identical or similar products to those that are protected by a protected national or foreign appellation of origin or geographical indication recognized by the Institute, using any type of indication or element that creates confusion in the consumer on its origin or quality, such as "genre", "type", "manner", "imitation", "produced in", "with manufacture in" or other similar ones, and

XXXIII.- Other violations of the provisions of this Law that do

not constitute crimes.

The investigation of administrative offenses shall be carried out by the Institute ex officio or at the request of an interested party.

Article 387.

For the purposes of the preceding article, "use", shall be understood as, but not limited to: manufacturing, producing, imitating, storing, distributing, importing, exporting, offering for sale, selling, transporting, or putting into circulation.

Article 388.

Administrative infractions to this Law or other provisions derived from it, shall be sanctioned with:

I. - Fine up to the amount of two hundred and fifty thousand units of measurement and updating, in force at the time the offense is committed, for each conduct that is updated;

II. - Additional fine up to the amount of a thousand units of measurement and updating, for each day that the infraction persists;

III. - Temporary closure for up to ninety days, and

IV. - Final closure.

The sanctions shall be applied based on the seriousness of the conduct or omission in which the offender has incurred, without there being any specific priority regarding their imposition.

Article 389.

The income from the fines imposed by the Institute shall be used to cover its operating expenses.

Article 390.

In cases of recidivism, the fines previously imposed shall be doubled, without their amount exceeding three times the maximum set in article 388 of this Law, on a case by case basis. Recidivism is understood, for the purposes of this Law and

other provisions derived from it, each of the subsequent infractions of the same precept, once the resolution issued by the Institute is enforceable.

Article 391.

Closures may be imposed in the resolution that resolves the infraction, in addition to the fine or without it having been imposed. The definitive closure shall be appropriate when the establishment has been temporarily closed twice and the offense is repeated, regardless of whether its address has changed.

Article 392.

To determine the sanctions, the following must be considered:

I. - The intentional nature of the action or omission constituting the offense;

II. - The economic conditions of the offender, and

III. - The seriousness that the infringement implies in relation to the trade of products or the provision of services, as well as the damage caused to those directly affected.

When the action or omission constituting the infringement has been carried out knowingly, a fine shall be imposed in the amount of double the fine imposed on the offending conduct. It shall be understood that the action or omission was carried out knowingly when the offender knew of the existence of the rights of the holder.

Article 393.

The fines imposed by the Institute shall be considered tax credits and shall be collected or, where appropriate, shall be executed by it, in its capacity as fiscal authority, under the Administrative Procedure for Execution provided for in the Fiscal Code of the Federation and its Regulation.

The Institute shall implement mechanisms for the payment of fines through the use of electronic means or any other technology.

Article 394.

The person who obstructs or prevents, by himself/herself or

through a third party, the administrative procedure of execution ordered by the Institute shall be entitled to the sanctions provided in sections I or III of article 388 of this Law.

Article 395.

The sanctions established in this Law and other provisions derived from it, shall be imposed in addition to the corresponding compensation for damages, or the repair of material damage to those affected.

Article 396.

Compensation for the violation of one or some of the industrial property rights regulated in this Law, in no case may it be less than forty percent of the legitimate value indicator filed by the affected holder, in terms of article 397 of this Law.

Compensation may be claimed, at the choice of the affected holder, before:

- I. - The Institute once the respective administrative procedure has been concluded, in the terms of this Law, or
- II. - The Courts directly, in accordance with the provisions of common legislation, and without the need for a prior administrative declaration, in accordance with the provisions of Article 409 of this Law.

Article 397.

Once the Institute has declared an administrative offense and it is enforceable, in terms of the Federal Law of Administrative Procedure, the affected holder may file his/her claim for the damages caused, as well as the corresponding quantification, incidentally, for which it must offer the evidence it deems pertinent.

To determine the amount of compensation, the date on which the infringement of the right was proven, and, at the choice of the affected holder, any indicator of legitimate value filed by him/her shall be considered including:

- I. - The value of the infringed products or services calculated by the market price, or the suggested retail price;

II. - The profits that the holder had ceased to receive as a result of the infringement;

III. - The profits that the offender has obtained as a result of the offense, or

IV. - The price that the offender should have paid to the right holder for the granting of a license, considering the commercial value of the infringed right and the contractual licenses that have already been granted.

The obligations to do or not to do established in the resolution on the merits of the controversy, which cannot be fulfilled by the offender, and which result in damages to the affected holder, may also be quantified for the purposes of the corresponding compensation.

Article 398.

The offender shall be given knowledge of the claim of the affected holder, so that, within a period of fifteen business days following the respective notification, he/she may express what may be appropriate by his/her right and file the evidence he/she deems appropriate.

Once the evidence has been processed and considering the statements filed, the Institute shall determine the damages caused, as well as the amount of the corresponding compensation.

In the processing of the incident to which this article refers, the same rules of the administrative declaration procedures regarding the offer, admission, and release of evidence, provided for in article 333 of this Law, shall be applied.

Article 399.

The action to claim the damages and losses caused by the infractions to this Law, shall prescribe in two years counted from the date in which the Institute has declared an administrative infraction, and this is enforceable.

Article 400.

The execution of the resolution of the incident issued by the Institute may be applied for in accordance with the provisions

contained in the Federal Code of Civil Procedures, before the competent Federal Courts.

Article 401.

If from the analysis of the file formed on the occasion of the investigation for administrative infraction, the Institute notices the realization of facts that could constitute any of the crimes provided for in this Law, it shall be stated in the resolution issued.

Chapter II On Crimes

Article 402.

The following are crimes:

I. - Falsify a trademark for commercial speculation purposes. For the purposes of this Law, falsification shall be understood to mean using an identical trademark or in such a way that it cannot be distinguished in its essential aspects from one previously registered or one protected by this Law, without the authorization of its legitimate holder or its licensee, to falsely represent a product or service as original or authentic. To prove the falsification, it shall be enough that the trademark is used identically or in such a way that it cannot be distinguished in its essential aspects from how it appears represented in the registration title or, where appropriate, in the resolution that estimates or declares its notoriety or fame;

II. - Produce, store, transport, introduce into the country, distribute, or sell for commercial speculation purposes, objects that show counterfeit trademarks, as well as knowingly contribute or provide in any way, raw materials or supplies for the production of objects that show such forgeries;

III. - Disclose an industrial secret to a third party, which is known due to their work, position, performance of their profession, business relationship or by virtue of the granting of a license for its use, without the consent of the person exercising its legal control or its authorized user, having been warned about its confidentiality, with the purpose of obtaining an economic benefit for itself or for the third party or with the purpose of causing damage to the person who keeps the secret;

IV. - Seizing an industrial secret without the right and without the consent of the person exercising its legal control or its authorized user, to use it or reveal it to a third party, with the purpose of obtaining an economic benefit for itself or for the third party or in order to cause damage to whoever exercises its legal control or to its authorized user;

V. - Use the information contained in an industrial secret, which is known by virtue of the job, position, exercise of the profession or business relationship, without the consent of the person exercising its legal control or its authorized user, or that it has been revealed to him/her by a third party, that he/she did not have the consent of the person who exercises the legal control or the authorized user, with the purpose of obtaining an economic benefit or with the purpose of causing damage to whom exercises legal control of the industrial secret or its authorized user;

VI. - Appropriating, acquiring, using, or improperly disclosing an industrial secret through any means, without the consent of the person exercising its legal control or its authorized user; with the purpose of causing harm or obtaining an economic benefit for himself/herself or for a third party;

VII. - Produce, store, transport, distribute or sell products of national origin that bear a protected appellation of origin that do not have the corresponding certification in terms of the applicable Official Mexican Standard, with the purpose of obtaining an economic benefit for themselves or for a third party.

It is included in the previous assumption, to carry out any act of customs clearance related to the product, before the competent authorities, for the introduction to or departure from the country.

There shall be no criminal liability when the corresponding Official Mexican Standard is not in force or the respective conformity assessment body is not accredited, in terms of the applicable legislation;

VIII. - Produce, store, transport, distribute or sell products of national origin that bear a protected geographical indication that do not have the certificate of compliance with the respective rules of use, with the purpose of obtaining an economic benefit for themselves or for a third party.

It is included in the previous assumption, to carry out any act of customs clearance related to the product, before the competent authorities, for the introduction to or departure from the country.

There shall be no criminal liability when the person responsible for issuing the certificate of compliance with the respective rules of use, in terms of the applicable legislation, is not accredited before the Institute.

The crimes provided for in sections I to VI of this article shall be prosecuted at complaint of the offended party. The crimes contemplated in sections VII and VIII shall be prosecuted ex officio or at complaint.

Article 403.

In the case of the crimes provided for in sections I, II, VII and VIII of article 402 of this Law, three to ten years in prison and a fine of two thousand to five hundred thousand units of measurement and updating shall be imposed, in force at the time the offense is committed.

Whoever commits any of the crimes indicated in sections III, IV, V or VI of article 402 of this Law, shall be imposed from two to six years in prison and a fine in the amount of one thousand to three hundred thousand units of measurement and updating, in force at the time the offense is committed.

Article 404.

From two to six years in prison and a fine of one thousand to one hundred thousand units of measurement and updating, in force at the time the crime is committed, shall be imposed to any person who sells to any end consumer on roads or in public places, fraudulently and for the purpose of commercial speculation, objects that show counterfeits of trademarks protected by this Law.

If the sale is made in commercial establishments, or in an organized or permanent manner, three to ten years in prison and a fine of two thousand to two hundred and fifty thousand units of measurement and updating shall be imposed, in force at the time the offense is committed.

The crimes referred to in this article shall be prosecuted ex officio.

Article 405.

In order for the Prosecution Office to exercise criminal action, in the cases provided for in sections I and II of

Article 402, the Institute shall be required to issue a technical opinion within a period not exceeding 30 business days in which It shall not be prejudged on the civil or penal actions that proceed.

Article 406.

Regardless of the exercise of the criminal action, the injured party for any of the crimes to which this Law refers may demand from the perpetrators of these, the reparation and payment of the damages suffered as a result of said crimes, under the terms provided in article 396 of this Law.

Chapter III On Jurisdictional Procedures

Article 407.

The Courts of the Federation have competence to hear civil, commercial, or criminal controversies, as well as the precautionary measures that arise due to the application of this Law, without prejudice to the power of individuals to submit to the arbitration procedure, in accordance with the provisions contained in the Commercial Code.

At the choice of the actor and when only private interests are affected, the judges and courts of the common order may hear from them.

The Federal Administrative Court of Justice is competent to hear the lawsuits that are brought against administrative acts and resolutions that put an end to a procedure issued by the Institute in its capacity as authority, in accordance with the applicable legal provisions and with the provided in the International Treaties to which Mexico is a party.

Article 408.

In the procedures referred to in the previous article, the judicial authority may adopt the measures provided for in this Law, as well as those contained in the International Treaties in which Mexico is a party.

Article 409.

For the claim for damages and the exercise of civil, commercial or criminal actions derived from the violation of an industrial property right as well as for the adoption of the measures provided for in article 344 of this Law, it shall be necessary for the right holder to have applied to the products, containers or packaging of products covered by an industrial property right the indications and legends referred to in articles 44, 89, 236 and 302 of this Law, or to have stated by some other means or made it public knowledge that the products or services are protected by an industrial property right. This requirement shall not be enforceable in cases of administrative infractions that do not imply a violation of an industrial property right.

Article 410.

In the case referred to in section II of article 396 of this Law, when the validity of a patent, registration, publication, or authorization granted by the Institute is disputed in the claim for damages, the Court shall suspend the trial once the defendant proves in his/her answer, to have initiated the corresponding application for an administrative declaration of nullity, expiration or cancellation, in the terms of this Law. The trial shall resume once any of the parties submits to the Court, the enforceable resolution issued by the Institute. The execution of the sentence that orders the payment of damages shall be carried out in accordance with the applicable legal provisions.

PROVISIONAL ARTICLES (Omitted)