**MEXICO**

**Industrial Property Law**

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**TABLE OF CONTENTS**

**TITLE I General Provisions**

ARTICLE 1

ARTICLE 2

ARTICLE 3

ARTICLE 4

ARTICLE 5 [Repealed]

ARTICLE 6

ARTICLE 7

ARTICLE 7 BIS

ARTICLE 7 BIS 1

ARTICLE 7 BIS 2

ARTICLE 8

**TITLE II Inventions, Utility Models and Industrial Designs**

**CHAPTER I Preliminary Provisions**

ARTICLE 9

ARTICLE 10

ARTICLE 10 BIS

ARTICLE 11

ARTICLE 12

ARTICLE 13

ARTICLE 14

**CHAPTER II Patents**

ARTICLE 15

ARTICLE 16

ARTICLE 17

ARTICLE 18

ARTICLE 19

ARTICLE 20 [repealed]

ARTICLE 21

ARTICLE 22
ARTICLE 23
ARTICLE 24
ARTICLE 25
ARTICLE 26

CHAPTER III Utility Models
ARTICLE 27
ARTICLE 28
ARTICLE 29
ARTICLE 30
ARTICLE 30 BIS

CHAPTER IV Industrial Designs
ARTICLE 31
ARTICLE 32
ARTICLE 32 BIS
ARTICLE 33
ARTICLE 34
ARTICLE 35
ARTICLE 36
ARTICLE 36 BIS
ARTICLE 37
ARTICLE 37 BIS

CHAPTER V Processing of Patents
ARTICLE 38
ARTICLE 38 BIS
ARTICLE 39
ARTICLE 40
ARTICLE 41
ARTICLE 42
ARTICLE 43
ARTICLE 44
ARTICLE 45
ARTICLE 46
ARTICLE 47
ARTICLE 48
ARTICLE 49
ARTICLE 50
ARTICLE 51 [Repealed]
ARTICLE 52
CHAPTER VI Licensing and the Transfer of Rights
ARTICLE 62
ARTICLE 63
ARTICLE 64
ARTICLE 65
ARTICLE 66
ARTICLE 67
ARTICLE 68
ARTICLE 69
ARTICLE 70
ARTICLE 71
ARTICLE 72
ARTICLE 73
ARTICLE 74
ARTICLE 75
ARTICLE 76
ARTICLE 77

CHAPTER VII Invalidity and Lapse of Patents and Registrations
ARTICLE 78
ARTICLE 79
ARTICLE 80
ARTICLE 81

TITLE III Trade Secrets
ARTICLE 82
ARTICLE 83
ARTICLE 84
ARTICLE 85
ARTICLE 86
ARTICLE 86 BIS
ARTICLE 86 BIS 1

TITLE IV Trademarks, Advertising Slogans and Commercial Names

CHAPTER I Trademarks
ARTICLE 87
ARTICLE 88
ARTICLE 89
ARTICLE 90
ARTICLE 91
ARTICLE 92
ARTICLE 93
ARTICLE 94
ARTICLE 95

CHAPTER II Collective and Certification Marks
ARTICLE 96
ARTICLE 97
ARTICLE 97 BIS
ARTICLE 97 BIS 1
ARTICLE 98
ARTICLE 98 BIS
ARTICLE 98 BIS 1
ARTICLE 98 BIS 2
ARTICLE 98 BIS 3
ARTICLE 98 BIS 4
ARTICLE 98 BIS 5
ARTICLE 98 BIS 6
ARTICLE 98 BIS 7
ARTICLE 98 BIS 8
ARTICLE 98 BIS 9

CHAPTER II BIS Well-known and famous Trademarks
ARTICLE 98 TER
ARTICLE 98 TER 1
ARTICLE 98 TER 2
ARTICLE 98 TER 3
ARTICLE 98 TER 4
ARTICLE 98 TER 5
ARTICLE 98 TER 6
ARTICLE 98 TER 7
ARTICLE 98 TER 8
ARTICLE 98 TER 9

CHAPTER III Advertising Slogans
ARTICLE 99
ARTICLE 100
ARTICLE 101
ARTICLE 102
ARTICLE 103
ARTICLE 104

CHAPTER IV Commercial Names
ARTICLE 105
ARTICLE 106
ARTICLE 107
ARTICLE 108
ARTICLE 109
ARTICLE 110
ARTICLE 111
ARTICLE 112

CHAPTER V Trademark Registration
ARTICLE 113
ARTICLE 114
ARTICLE 115 [Abolished]
ARTICLE 116
ARTICLE 117
ARTICLE 118
ARTICLE 119
ARTICLE 120
ARTICLE 120 BIS
ARTICLE 120 BIS 1
ARTICLE 120 BIS 2
ARTICLE 120 BIS 3
ARTICLE 121
ARTICLE 122
ARTICLE 122 BIS
ARTICLE 123
ARTICLE 124
ARTICLE 125
ARTICLE 126
ARTICLE 127
ARTICLE 128
ARTICLE 129
ARTICLE 130
ARTICLE 131
ARTICLE 132 [Repealed]
ARTICLE 133
ARTICLE 134 [Repealed]
ARTICLE 135 [Repealed]

CHAPTER VI Licensing and Transfer of Rights
ARTICLE 136
ARTICLE 137
ARTICLE 138
ARTICLE 139
ARTICLE 140
ARTICLE 141
ARTICLE 142
ARTICLE 142 BIS
ARTICLE 142 BIS 1
ARTICLE 142 BIS 2
ARTICLE 142 BIS 3
ARTICLE 143
ARTICLE 144
ARTICLE 145
ARTICLE 146
ARTICLE 147
ARTICLE 148
ARTICLE 149 [Repealed]
ARTICLE 150

CHAPTER VII Invalidity, Lapse and Cancellation of Registration
ARTICLE 151
ARTICLE 152
ARTICLE 153
ARTICLE 154
ARTICLE 155

TITLE V Appellations of Origin and Geographical Indications
CHAPTER I Common Provisions
Article 156
ARTICLE 157
ARTICLE 158
ARTICLE 159
ARTICLE 160
ARTICLE 161
ARTICLE 162
ARTICLE 163
ARTICLE 164

Chapter II Procedure for Declaration of Protection
Article 165
Article 165 BIS
Article 165 BIS 1
Article 165 BIS 2
Article 165 BIS 3
Article 165 BIS 4
Article 165 BIS 5
Article 165 BIS 6
Article 165 BIS 7
Article 165 BIS 8
Article 165 BIS 9
Article 165 BIS 10
Article 165 BIS 11
Article 165 BIS 12
Article 165 BIS 13

Chapter III Authorization for Use
Article 165 BIS 14
Article 165 BIS 15
Article 165 BIS 16
Article 165 BIS 17
Article 165 BIS 18
Article 165 BIS 19
Article 165 BIS 20
Article 165 BIS 21
Article 165 BIS 22
Article 165 BIS 23
Article 165 BIS 24
Article 165 BIS 25

Chapter IV Cessation of the Effects of Declarations and Authorizations for Use
Article 165 BIS 26.
Article 165 BIS 27
Article 165 BIS 28
Article 165 BIS 29
Article 165 BIS 30

Chapter V Recognition of Appellations of Origin and Geographical Indications Protected Abroad
ARTICLE 166
ARTICLE 167
ARTICLE 168
ARTICLE 169
ARTICLE 170
ARTICLE 171
ARTICLE 172
ARTICLE 173
ARTICLE 174
ARTICLE 175
ARTICLE 176
ARTICLE 177
ARTICLE 178

TITLE V BIS Layout Designs of Integrated Circuits

ARTICLE 178 BIS
ARTICLE 178 BIS 1
ARTICLE 178 BIS 2
ARTICLE 178 BIS 3
ARTICLE 178 BIS 4
ARTICLE 178 BIS 5
ARTICLE 178 BIS 6
ARTICLE 178 BIS 7
ARTICLE 178 BIS 8
ARTICLE 178 BIS 9

Title VI Administrative Procedures
CHAPTER I General Rules of Procedure
ARTICLE 179
ARTICLE 180
ARTICLE 181
ARTICLE 182
ARTICLE 183
ARTICLE 184
ARTICLE 185
ARTICLE 186

CHAPTER II Administrative Action Procedure
ARTICLE 187
ARTICLE 187
ARTICLE 188
ARTICLE 189
ARTICLE 190
ARTICLE 191
ARTICLE 192
ARTICLE 192 BIS
ARTICLE 192 BIS 1
ARTICLE 193
ARTICLE 194
ARTICLE 195
ARTICLE 196
ARTICLE 197
ARTICLE 198
ARTICLE 199
ARTICLE 199 BIS
ARTICLE 199 BIS 1
ARTICLE 199 BIS 2
ARTICLE 199 BIS 3
ARTICLE 199 BIS 4
ARTICLE 199 BIS 5
ARTICLE 199 BIS 6
ARTICLE 199 BIS 7
ARTICLE 199 BIS 8

CHAPTER III Appeal for Reconsideration
ARTICLE 200
ARTICLE 201
ARTICLE 202
Title VII Inspection, Administrative Infringements and Sanctions, and Offenses

CHAPTER I Inspection
ARTICLE 203
ARTICLE 204
ARTICLE 205
ARTICLE 206
ARTICLE 207
ARTICLE 208
ARTICLE 209
ARTICLE 210
ARTICLE 211
ARTICLE 212
ARTICLE 212 BIS
ARTICLE 212 BIS 1
ARTICLE 212 BIS 2

CHAPTER II Administrative Infringements and Sanctions
ARTICLE 213
ARTICLE 214
ARTICLE 215
ARTICLE 216
ARTICLE 217
ARTICLE 218
ARTICLE 219
ARTICLE 220
ARTICLE 221
ARTICLE 221 BIS
ARTICLE 222

CHAPTER III Offenses
ARTICLE 223
ARTICLE 223 BIS
ARTICLE 224
ARTICLE 225
ARTICLE 226
ARTICLE 227
ARTICLE 228
ARTICLE 229
Transitional Provisions (Omitted)
TITLE I General Provisions

ARTICLE 1.
The provisions of this Law are a matter of public policy and of general observance throughout the Republic, without prejudice to the provisions of the international treaties to which Mexico is party. Its administrative enforcement is incumbent on the Federal Executive through the Mexican Institute of Industrial Property.

ARTICLE 2.
The purpose of this Law is to:
I. Lay the foundations to permit the country’s industrial and trade activities to have a permanent system for the improvement of their processes and products;
II. Promote and encourage inventive activities with industrial applications, technical improvements and the dissemination of technological knowledge in production sectors;
III. Support and promote quality improvements of goods and services from the industry and trade in a manner consistent with the interests of consumers;
IV. Encourage creativity in the design and presentation of novel and useful products;
V. To protect industrial property by regulating and granting invention patents; registration of utility models, industrial designs, layout designs of integrated circuits, trademarks, and commercial slogans; publication of trade names; declaration of protection for appellations of origin and geographical indications; and regulation of industrial secrets;
VI. Prevent acts against industrial property or acts that constitute unfair competition in relation to industrial property, and implement sanctions and penalties for such acts and VII. Establish legal certainty between parties in the operation of franchises, and guarantee non-discriminatory treatment of all franchisees from the same franchisor.

ARTICLE 3.
For the purposes of this Law:
I. “This Law” refers to the Industrial Property Law;
II. “International Treaties” refers to those treaties concluded by Mexico in compliance with the Law on the Conclusion of Treaties;
III. [Repealed]

IV. “Institute” refers to the Mexican Institute of Industrial Property;

V. “Official Journal” refers to the Official Journal of the Federation;

VI. “Gazette” refers to the Gazette mentioned in Article 8 of this Law.

ARTICLE 4.
No patent, registration or authorization shall be granted, nor shall any publicity be given in the Gazette to any of the legal authorities or institutions governed by this Law, where their contents or substance are contrary to public policy, morality or proper practice, or if said contents or substance violate any legal provision.

ARTICLE 5. [Repealed]

ARTICLE 6.
The Mexican Institute of Industrial Property, the administrative authority in industrial property matters, is a decentralized body with legal personality and its own assets, which shall be empowered to:

I. Coordinate with the administrative units of the Ministry of Economy, and with the different national, foreign and international public and private institutions of which their purpose is to promote and protect industrial property rights, to transfer technology, to study and promote technological development, to implement innovations, to establish differentiation of goods and to provide information and technical cooperation as required by the proper authorities in compliance with the rules and policies established for such purpose;

II. Encourage the industrial sector involvement in the development and application of technology to improve its quality, competitiveness and productivity and conduct research on the progress and application of national and international industrial technology and its effect on the achievement of such aims, as well as propose policies to stimulate development;

III. To process and, where appropriate, grant invention patents, registration of utility models, industrial designs, layouts of integrated circuits, trademarks, and commercial slogans, to issue declarations of notoriety or fame for trademarks, to issue declarations of protection for appellations of origin and geographical indications and to authorize the use thereof; publication of trade
names, as well as the registration of their renewals, transfers, or licenses for use and exploitation, and other powers granted by this Law and its regulations, for the recognition and preservation of industrial property rights;

IV. Substantiate proceedings for the invalidation, lapse and cancellation of industrial property rights, hand down rulings and issue the corresponding administrative actions, in compliance with the provisions of this Law and the Regulations thereunder and, in general, rule on such requests as may arise as a result of the implementation of this Law;

V. Conduct investigations into alleged administrative infringements, order and conduct inspections, request information and data, order and implement provisional measures to prevent or stop violations of industrial property rights; hear alleged infringers speak in their defense and impose the appropriate administrative sanctions in industrial property matters;

VI. Appoint experts when requested to do so under the Law; issue such technical rulings as may be required by individuals or by the Federal Public Prosecutor and take such proceedings and collect such proof as may be necessary for the issue of said rulings;

VII. Act as receiver when so designated under the Law, and make available to the proper authorities the assets as have been entrusted to it;

VIII. Substantiate and settle the administrative appeals provided for in this Law that are lodged against the rulings handed down by it, relating to acts performed pursuant to this Law, the regulations thereunder and other relevant provisions;

IX. Act as arbitrator in the settlement of disputes relating to the payment of damages for violation of the industrial property rights protected by this Law where the parties to said disputes expressly designate it as such, in compliance with the provisions contained in Title IV of Part V of the Code of Commerce;

X. To carry out the legal publication in the Gazette, and also disseminate information derived from patents, registrations, declarations of notoriety or fame for trademarks, authorizations and publications granted, and any other information relating to industrial property rights as conferred to it by this Law, as well as to establish general rules for managing procedures through electronic means of communication and put them into application.

The final decisions issued in the administrative declaration procedures provided for in this Law, as well as any resolutions that
amend the conditions or scope of patents or registrations granted, must be published in the Gazette the month immediately following their date of issue;

XI. Disseminate, advise and render services to the public in industrial property matters;

XII. Promote the creation of inventions of industrial application, support the development and use of said inventions in industry and trade, and encourage technology transfer through:

(a) Disclosure of documents on inventions published either in Mexico or abroad, and advice on the consultation and use thereof;
(b) Preparation, updating and distribution of directories of individuals or companies concerned with the making of inventions and with technological research work;
(c) Holding of competitions, contests or exhibitions and awarding of prizes and recognition to promote inventive activity, design creativity and presentation of goods;
(d) Advice to firms or financial intermediaries undertaking or financing the manufacture of prototypes and the industrial or commercial development of specific inventions;
(e) Dissemination of the provisions of this Law and their scope among individuals, groups, associations or institutions concerned with research, higher education or technical assistance in order to facilitate their work during the creation of inventions and their subsequent industrial and commercial development; and
(f) Conclusion of agreements providing for cooperation, coordination and concerted action with the governments of federated entities, and also with national or foreign public or private institutions to promote and encourage industrially and commercially applicable inventions and creations;

XIII. Participate in encouragement and support programs for the protection of industrial property with a view to the generation, development and implementation of Mexican technology in the economic activities, as well as to improve productivity and competitiveness;

XIV. Form and update the collections of inventions published in Mexico and abroad;

XV. Conduct researches of the prior art in different industry and technology sectors;

XVI. Promote international cooperation through the exchange of administrative and legal experience with institutions responsible for the registration and legal protection of industrial property abroad, including among others: vocational training of staff, transfer of work
and organizational methodology, exchange of publications and updating of documents and databases in the industrial property field;

XVII. Conduct studies on the industrial property situation at world-scale and take part in international meetings or forums concerned with said subject;

XVIII. Act as an advisory body on industrial property matters for the various departments and agencies of the Federal public administration, and also advise social and private institutions;

XIX. Take part in the training of human resources specialized in the various industrial property disciplines by means of the design and implementation of training, teaching and specialization programs and courses for professional, technical and auxiliary staff;

XX. Formulate and implement an institutional operations program;

XXI. Take part in negotiations lying within its sphere of competence in coordination with the proper units of the Ministry of Economy; and

XXII. Provide other services and carry out the necessary activities for the due fulfillment of their faculties under this Law and any other legal provisions applicable.

ARTICLE 7.

The Institute’s administrative bodies shall be the Board of Directors and the Director General, who shall have the powers provided for in the Federal Law of Public-Sector Bodies and in the legal enactment by which it was created, without prejudice to the provisions of Articles 6 and 7 bis 2 of this Law.

ARTICLE 7 BIS.

The Board of Directors shall be composed of 10 representatives:

I. The Minister of Economy, who shall preside over it;

II. One representative appointed by the Ministry of Economy;

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

IV. One representative each from the Ministry of Foreign Affairs, of Agriculture, Livestock, Rural Development, Fishing and Food, of Public Education and of Health, as well as from the National Council for Science and Technology and from the National Center for Metrology. For each official representative, an alternative will be designated, who will attend the sessions of the Board of Directors in the absence of the first representative, and will have all the powers and rights of the first representative.
ARTICLE 7 BIS 1.
The Director General or an equivalent officer is the Institute’s legal representative and shall be appointed at the direction of the Federal Executive, through the Minister of Economy by the Board of Directors.

ARTICLE 7 BIS 2.
The Director General of the Institute shall be responsible for the exercise of the powers referred to in Article 6 of this Law, and may, without prejudice to the direct exercise thereof, delegate those powers only on such terms as may be established in the respective agreements, which shall be approved by the Board of Directors and published in the Official Gazette. The Director General of the Institute shall issue, through Agreements published in the Official Gazette, the rules and specifications for the submission of applications, as well as the procedures, criteria, guidelines, and specific requirements to facilitate the operation of the Institute and guarantee the legal protection of the information, including the general rules for the management of procedures through electronic means of communication.

ARTICLE 8.
The Institute shall issue the Gazette, in which the publications referred to in this Law shall be made and any information of interest with a bearing on industrial property and such other subjects that are determined shall be made public. Acts recorded in said organ of information shall take effect before third parties from the day following the date on which said acts are distributed, and that date shall be specified on each Gazette copy.
TITLE II Inventions, Utility Models and Industrial Designs

CHAPTER I Preliminary Provisions

ARTICLE 9.
An individual who makes an invention or utility model or creates an industrial design, or his successor in title, shall have the exclusive right to use said invention, utility model or industrial design for their benefit, either themselves or through third parties with their consent in compliance with the provisions of this Law and the regulations thereunder.

ARTICLE 10.
The right referred to in the previous article shall be granted in the form of a patent for inventions and in the form of a registration for utility models and industrial designs.

ARTICLE 10 BIS.
The right to obtain a patent or a registration shall belong to the inventor or designer, as the case may be, without prejudice to the provisions of Article 14 of this Law. If the invention, utility model or industrial design has been made jointly by two or more persons the right to obtain the patent or registration shall belong to all of them in common.
Where several individuals make the same invention or utility model independently of each other, the person who files the first application for said invention or utility model or claims the earliest priority shall have the prevailing right to obtain the patent or registration, provided that the application is not abandoned or refused.
The right to obtain a patent or registration may be transferred between persons alive or by succession.

ARTICLE 11.
Patent or registration owners may be individuals or companies.

ARTICLE 12.
For the purposes of this Title it will be considered as:
I. “Novel” refers to anything not found in the prior art;
II. “Prior art” refers to all the technical knowledge that has been made public through oral or written means, by use or by any other
dissemination or information means, either in the country or abroad; III. “Inventive step” refers to the creative process where the results of which are not obvious from the prior art to a person skilled in the art; IV. Industrial application, the possibility that an invention has practical utility or can be made or used in any branch of economic activity, for the purposes stated in the application; V. “Claim” refers to the essential characteristic of a product or process for which protection is precisely and specifically claimed in the application for a patent or registration and granted, where appropriate, in the corresponding title; and VI. “Filing date” refers to the date on which the application is filed with the Institute, or with the local offices of the Ministry of Economy within the country, provided that it meets the requirements specified in this Law and the regulations thereunder.

Article 13.
The person or persons claiming to be the inventor or designer in an application for a patent or registration shall be presumed to be the inventor or designer. The inventor or designer has the right to be referred to in this capacity in the publication of the application and, where appropriate, in the corresponding title. The right referred to in the previous paragraph is inalienable. If appropriate, any waiver of the right shall be deemed not to have been done.

Article 14.
The provisions of Article 163 of the Federal Labor Law shall be applicable to inventions, utility models and industrial designs made by individuals under employment relationships.

CHAPTER II Patents

Article 15.
Any human creation that allows matter or energy existing in nature to be transformed for use by man for the satisfaction of his specific needs shall be considered an invention.

Article 16.
Novel inventions resulting from an inventive step and subject to industrial applicability under the terms of this Law shall be
patentable, with the exception of:
I. Essentially biological processes for obtaining, reproducing and propagating plants and animals;
II. Biological and genetic material as found in nature;
III. Animal breeds;
IV. The human body and the living matter constituting it; and
V. Plant varieties.

ARTICLE 17.
The prior art on the filing date of the patent application or, where applicable, the recognized priority date, shall be used to determine whether an invention is novel and involves an inventive step. Furthermore, in order to determine whether an invention is novel, the prior art shall include all patent applications filed in Mexico prior to said date and still pending, even if the publication referred to in Article 52 of this Law occurs at a later date.

ARTICLE 18.
The disclosure of an invention shall not prevent it from continuing to be considered novel where, within the 12 months prior to the filing date of the patent application or where applicable, the recognized priority date, the inventor or his successor in title has made the invention public by any means of communication, by putting it into practice or by displaying it at a national or international trade show. When the corresponding application is filed, the confirming documentation shall be included in the manner laid down in the regulations under this Law.
The publication of an invention contained in a patent application or in a patent granted by a foreign office shall not be regarded as corresponding to any of the situations referred to in this Article.

ARTICLE 19.
For the purposes of this Law, the following shall not be considered inventions:
I. Theoretical or scientific principles;
II. Findings that consist in making public or disclosing something that already existed in nature, even though it was previously unknown to man;
III. Diagrams, plans, rules and methods for carrying out mental processes, playing games or doing business, and mathematical methods;
IV. Computer programs;
V. Methods to present information;
VI. Aesthetic creations and artistic or literary works;
VII. Surgical and therapeutic treatment or diagnostic methods applicable to the human body and to animals; and
VIII. Juxtaposition of known inventions or mixtures of known products, or alteration of the use, form, dimensions or materials thereof, except where in reality they are so combined or merged so that they cannot function separately or where their particular features or functions have been so modified as to produce an industrial result or their use is not obvious to a person skilled in the art.

Article 20. [Repealed]

ARTICLE 21.
The right conferred by the patent shall be determined by the claims as approved. Descriptions and drawings or, where applicable, the deposit of biological material referred to in Article 47, subparagraph I of this Law, shall be used to interpret them.

ARTICLE 22.
The right conferred by a patent shall not have any effect against the following:
I. A third party who, in the private or academic sphere and for non-commercial purposes, engages in scientific or technological research activities for purely experimental, testing or teaching purposes, and to that end manufactures or uses a product or a process identical to the one patented;
II. Any person who markets, acquires or uses the patented product or the product obtained by means of the patented process, after said product has been lawfully placed on the market;
III. Any person who, prior to the filing date of the patent application or where applicable the recognized priority date, uses the patented process, manufactures the patented product or undertakes the necessary preparations for such use or manufacture;
IV. The use of the invention referred to in transportation vehicles of other countries when it forms part of such vehicles and when the vehicles are in transit within the national territory;
V. A third party who, in the case of patents relating to living matter, makes use of the patented product as an initial source of variation or propagation to obtain other products, except where such use is made repeatedly; and
VI. A third party who, in the case of patents relating to products consisting of living matter, uses, distributes or markets the patented products for purposes other than multiplication or propagation, after said products have been lawfully placed on the market by the patent owner or by a licensee. Performance of any activity provided for in this Article shall not constitute an administrative infringement or offense within the scope of this Law.

ARTICLE 23.
The patent shall have a non-renewable term of 20 years, starting from the filing date and shall be subject to payment of the relevant fees.

ARTICLE 24.
Once the patent has been granted, the patent owner may seek damages from third parties who, prior to the grant, made use of the patented process or product without his consent, where said use is made after the date on which publication of the application in the Gazette takes effect.

ARTICLE 25.
The exclusive right of use of the patented invention shall confer the following prerogatives to its owner:
I. If the subject of the patent is a product, the owner has the right to prevent others from manufacturing, using, selling, offering for sale or importing the patented product without his consent; and
II. If the subject of the patent is a process, the owner has the right to prevent others from using said process and from using, selling, offering for sale or importing the product obtained directly by means of the process without his consent.
Use made by the person referred to in Article 69 of this Law shall be considered made by the patent owner.

ARTICLE 26.
The existence of a patent, either pending or granted, may be mentioned only in the case of products or processes covered by any of said situations.
CHAPTER III Utility Models

ARTICLE 27.
Utility models that are novel and industrially applicable shall be eligible for registration.

ARTICLE 28.
Objects, items, appliances or tools which, as a result of a modification in their arrangement, configuration, structure or form, offer a different function with respect to their component parts or advantages regarding their usefulness shall be considered utility models.

ARTICLE 29.
Utility models registration shall have a non-renewable term of 10 years starting from the filing date and shall be subject to payment of the relevant fees. The use of the utility model and the limitations of the right conferred on the owner as a result of its registration shall be governed, as appropriate, by the provisions of Articles 22 and 25 of this Law.

Article 30.
The processing and granting of registration of a utility model shall be carried out, as appropriate, in accordance with the provisions contained in Chapters II and V of this Title, with the exception of articles 23, 45, 52, and 52 bis.

Article 30 BIS.
The publication of pending applications for registration of utility models shall take place as soon as possible after the examination as to form has been approved, and early publication may not be requested.

CHAPTER IV Industrial Designs

ARTICLE 31.
Industrially applicable and novel industrial designs shall be eligible for registration. Designs that are created independently of known designs or combinations of known features of designs, and which differ significantly therefrom, shall be considered as novel. The protection conferred to an industrial design shall not cover those
elements or features that were dictated solely by technical considerations or by the performance of a technical function, and which do not embody any arbitrary contribution on the part of the designer; it shall likewise not cover those elements or features of which their exact reproduction was necessary to allow the product incorporating the design to be mechanically assembled or connected to another product of which it constitutes an integral part or component; this limitation shall not apply to goods in which the design element lies in a shape or form intended to permit the multiple assembly or connection of the goods or their interconnection within a modular system.

An industrial design shall not be protected where its appearance consists solely of the elements or features referred to in the previous paragraph.

ARTICLE 32.

Industrial designs shall include:
I. Industrial drawings, which are any combination of shapes, lines or colors incorporated in an industrial product for ornamentation purposes and which give it a specific appearance of its own; and
II. Industrial models, which are constituted by any three-dimensional shape that serves as a model or pattern for the manufacture of an industrial product, giving it a special appearance that does not involve any technical effects.

Article 32 BIS.

For the purposes of this Chapter, the following definitions shall apply:
I. Independent creation. When no other identical industrial design has been made public before the filing date of the application for registration or before the recognized priority date. Industrial designs whose characteristics differ only in irrelevant details will be considered identical.
II. Significant degree. The general impression produced by the industrial design to an expert in the matter and the difference from the general impression produced by any other industrial design, which has been made public before the filing date of the registration application or before the recognized priority date, taking into account the degree of freedom of the designer in creating the industrial design.
Article 33.
The following shall be enclosed with applications for registration of industrial designs:
I. A graphic or photographic reproduction of the design concerned, sufficiently clear to enable understanding of the design and its publication; and
II. An indication of the product for which the design will be used.

ARTICLE 34.
The description submitted in the application shall refer briefly to the design’s graphic or photographic reproduction of the design, with a clear indication of the perspective from which the illustration is depicted.

ARTICLE 35.
The industrial design name shall be given in the application in the form of a claim followed by the words “as referred and illustrated”

Article 36.
The registration of industrial designs shall have a term of five years from the filing date of the application, which shall be renewable for successive periods of the same duration up to a maximum of twenty-five years, subject to payment of the applicable fees. Registrations of industrial designs and their renewals shall be published in the Gazette.
The use of industrial designs and the limitation of the rights conferred by its registration on the owner shall be governed, as appropriate, by the provisions of Articles 22 and 25 of this Law.

Article 36 BIS.
The renewal of an industrial design registration shall be requested by the owner within six months prior to the expiration of its term. However, the Institute shall process those requests filed within the grace period referred to in section II of article 80 of this Law.

Article 37.
The processing and granting of registration of industrial designs will be carried out, as appropriate, in accordance with the provisions contained in Chapters II and V of this Title, with the exception of articles 23, 45, 52, and 52 bis.
Article 37 BIS.
The publication of pending applications for industrial design registrations will take place as soon as possible after the examination as to form has been approved, and early publication may not be requested.

CHAPTER V Processing of Patents

ARTICLE 38.
In order to obtain a patent a written application shall be filed with the Institute in which the inventor and applicant’s name and address, the nationality of the latter, the invention’s name and any other data required by this Law and the regulations thereunder shall be included, along with the receipt of the relevant fees, including those relating to the formal and substantial examinations. The pending patent application and its addenda shall be confidential until publication.

ARTICLE 38 BIS.
The Institute shall recognize as the filing date of a patent application the date and hour of filing of the application, provided that said application complies with the requirements laid down in Articles 38, 47, subparagraphs I and II, 179 and 180 of this Law. Where the application does not comply with the requirements laid down in the previous paragraph as of the filing date, the date on which it does comply with said requirements shall be considered as the filing date. The filing date shall determine the priority between applications. The regulations under this Law may provide for other means by which applications and other submissions may be filed with the Institute.

ARTICLE 39.
The patent may be applied for directly by the inventor or by his successor in title or through his representatives.

ARTICLE 40.
Where a patent is requested having been applied for abroad, the filing date in the country of first filing may be recognized as the priority date, provided that filing in Mexico occurs within the periods specified by international treaties or, otherwise, within 12 months after the application for a patent in the country of origin.
ARTICLE 41.
To give priority referred to in the preceding article shall meet the following requirements:
I. Upon application for the patent, priority shall be claimed and the country of origin and the date on which the application was filed in that country shall be specified;
II. The application filed in Mexico shall not seek the grant of rights additional to those derived from the application filed abroad. For rights additional to those arising from the application filed abroad as a whole, the priority shall be only partial and relative to this application. With respect to the claim that claim additional rights, a new recognition of priority may be requested or, failing that, they will be subject to examination for novelty that corresponds to the filing date referred to in Article 38 bis;
III. The requirements specified in international treaties, this Law and the regulations thereunder shall be complied with within 3 months after filing the application.
IV. [Repealed]

ARTICLE 42.
Where several inventors have made the same invention independently of each other, the patent rights shall belong to the inventor whose application bears the earliest filing date or recognized priority date, as the case may be, provided that said application is not rejected or abandoned.

ARTICLE 43.
The patent application shall refer to a single invention, or to a group of inventions so related to each other that they constitute a single inventive concept.

ARTICLE 44.
If the application does not meet the provisions of the previous Article, the Institute shall notify the applicant in writing so that, within a 2-month period he may divide it into several applications, retaining as the date of each one that of the first application and that of any recognized priority. If, on expiration of the period allowed, the applicant has not divided the application, it shall be considered abandoned.
ARTICLE 45.
A single patent application may contain:
I. Claims relating to a finished product and claims relating to processes specially devised for its manufacture or use;
II. Claims relating to a certain process and claims relating to an apparatus or means specially devised for its application; and
III. Claims relating to a finished product and claims relating to a process specially devised for its manufacture and to an apparatus or means specially devised for its application.

ARTICLE 46.
The process and machinery or apparatus for producing a utility model or an industrial design shall be subject of patent applications independent of the application for registration of said model or design.

ARTICLE 47.
A patent application shall be accompanied by:
I. The description of the invention, which must be sufficiently clear and complete to enable a full understanding of it and, where appropriate, to guide its accomplishment for a person who possesses know-how and average knowledge in the matter. Likewise, when it is not clear from the description of the invention, it must also include the best method known to the applicant to implement the invention, as well as information that exemplifies the industrial application of the invention. In the case of biological material where the description of the invention cannot itself be sufficiently detailed, the application shall be completed with a record of the deposit of the material at an institution recognized by the Institute, in compliance with the provisions of the regulations under this Law;
II. The drawings required for the description to be understood;
III. One or more claims, which shall be clear and concise and may not exceed the contents of the description; and
IV. An abstract of the description of the invention, which shall serve solely for the publication thereof and as an element of technical information.

ARTICLE 48.
Where a patent application has to be divided, the applicant shall submit the descriptions, claims and drawings necessary for each application, with the exception of the documentation relating to the
priority claimed and the translation thereof included in the initial application and, where appropriate, the assignment of rights and power of attorney. The drawings and descriptions submitted shall not be altered in any way that might modify the invention contemplated to in the original application.

**ARTICLE 49.**
The applicant may convert the patent application into a utility model or industrial design registration application, or vice-versa, whenever it may be inferred from the content of the application that it does not match what is being applied for.

The applicant may make such a conversion of the application only within three months of the filing date or within three months of the date on which the Institute requires him to make the conversion, provided that the application has not been abandoned. If the applicant does not convert the application within the time allowed by the Institute, the application shall be considered abandoned.

**ARTICLE 50.**
Once the application has been filed, the Institute shall perform a formal examination of the documents, and may require that further details or clarifications be provided wherever it considers this necessary, or that omissions be rectified. If the applicant fails to fulfill this requirement within two months, the application shall be considered abandoned.

**ARTICLE 51.** [Repealed]

**ARTICLE 52.**
The publication of the pending patent application shall take place as soon as possible following the expiration of the 18-month period from the filing date or, where applicable, from the date of recognized priority. At the request of the applicant the application shall be published prior to the expiration of said period.

**Article 52 BIS.**
Within a period of two months from the date of publication in the Gazette referred to in the previous article, the Institute may receive information from any person, regarding whether the application complies with the provisions of Articles 16 and 19 of this Law. The Institute may, when it considers it appropriate, consider such
information as technical supporting documents for the substantive examination of the application, but shall not be obliged to decide on the scope thereof. The Institute will notify the applicant of the information and documents provided so that, if considered appropriate, he may put forward in writing any arguments to which he is entitled. The submission of information will not suspend the procedure, nor will it attribute the title of interested party or third party to the person who submitted it, and, if appropriate, the actions referred to in Article 78 of this Law shall be exercised.

ARTICLE 53.

Once the patent application has been published and the relevant fees have been paid, the Institute shall conduct a substantive examination of the invention in order to determine whether the requirements specified in Article 16 of this Law are complied with, or whether the invention is covered by any of the situations provided for in Articles 16 and 19 of this Law.

In order to conduct substantive examinations, the Institute may, where appropriate, request the technical support of national specialized agencies and institutions.

ARTICLE 54.

The Institute may accept or request the result from substantive examinations or the equivalent thereof conducted by foreign patent offices or, where appropriate, a plain copy of the patent granted by any of said foreign offices.

ARTICLE 55.

The Institute may call upon the applicant in writing to submit, within a period of two months, such additional or complementary information or documentation as may be necessary, including that which relates to researches or examinations undertaken by foreign offices, to alter the claims, description or drawings, or to make such clarifications as it deems relevant where:

I. It is necessary, in the judgment of the Institute, in order to carry out the substantive examination; and
II. During, or as a result of, the substantive examination, it is found that the invention for which the application is being made does not meet the patentability requirements, or it is found that it falls under any of the situations set out in articles 16 and 19 of this Law.

If the applicant does not fulfill the requirements within the period
set out in this article, his application shall be deemed to have been abandoned.

ARTICLE 55 BIS.
Documents submitted either in compliance with any of the requests referred to in Articles 50 and 55 of this Law or in the case of voluntary amendments may not contain additional material or claims that give a scope greater than that contained in the original application considered as a whole. Voluntary amendments shall be accepted only up to before the issue of the decision on the appropriateness or otherwise of the grant of a patent referred to in Articles 56 and 57 of this Law.

ARTICLE 56.
Where the Institute refuses the patent, it shall notify the applicant in writing, stating the legal basis and grounds for its decision.

ARTICLE 57.
When the grant of a patent proceeds, the applicant shall be notified in writing so that, within a period of two months, he meets the necessary requirements for its publication and submits to the Institute a receipt of the fees for the issue of the title. If the applicant does not meet the provisions of this Article within the fixed period, the application shall be considered abandoned.

ARTICLE 58.
The interested party shall have an additional period of two months to meet the requirements set out in articles 44, 50, 55, and 57 of this Law, without filing an application, and upon providing proof of payment of the fee corresponding to the month in which the requirements are met.
The period to which reference is made in the previous paragraph shall be counted beginning on the business day following the expiration date of the two-month period set out in the above-mentioned articles. If the applicant fails to comply with the stated requirements within the initial period or within the extension set out in this article, or if he fails to submit the proof of payment of the corresponding fees, his application shall be deemed to have been abandoned.

ARTICLE 59.
The Institute shall issue the patent owner with a certificate for each
patent, as proof and official recognition. The certificate shall comprise one copy of each of the description, claims and drawings, if any, and shall specify the following:
I. The number and classification of the patent;
II. The name and address of the person(s) to whom it is issued;
III. The name of the inventor(s);
IV. The filing date of the application and any recognized priority date, as well as the issue date of the patent;
V. The invention’s name; and
VI. The effective and expiration dates, specifying that it will be subject to payment of fees to maintain the rights in force, under the terms established by law.

ARTICLE 60.
Once the patent has been granted, the Institute shall proceed with its publication in the Gazette, which shall contain the information referred to in Articles 47, subparagraph IV, and 59 of this Law.

ARTICLE 61.
Changes in the text or drawings of the patent protection title may be allowed only under the following circumstances:
I. To correct any obvious errors or errors in form; and
II. To limit the scope of the claims.
The changes authorized shall be published in the Gazette.

CHAPTER VI Licensing and Transfer of Rights

ARTICLE 62.
The rights conferred by a patent or registration, or those deriving from a pending application may be encumbered and transferred either wholly or partially under the conditions and formalities laid down in ordinary legislation. For the transfer of rights or encumbrance to be binding on third parties, it shall be registered with the Institute. A single request may be filed seeking ownership transfer registration of two or more pending applications or two or more patents or registrations where the transferor and transferee are the same persons in each case. The applicant shall identify each of the applications, patents or registrations in respect of which the entry is to be made. The appropriate fees shall be paid according to the number of applications, patents or registrations involved.
ARTICLE 63.
The patent or registration owner may, by virtue of an agreement, license the use thereof. The license shall be registered with the Institute to be binding on third parties. A single request may be filed seeking rights licensing registration in two or more pending applications or two or more patents or registrations where the licensor and licensee are the same persons in each case. The applicant shall identify each of the applications, patents or registrations in respect of which the entry is to be made. The appropriate fees shall be paid according to the number of applications, patents or registrations involved.

ARTICLE 64.
To register a patent transfer, registration, license or encumbrance with the Institute, it shall be sufficient to make the appropriate request in the manner specified in the regulations under this Law.

ARTICLE 65.
There shall be grounds to cancel the registration of a license in any of the following cases:
I. When the patent or registration owner and the licensee jointly so request;
II. For nullity or expiration of the patent or registration;
III. [Repealed]
IV. By court order.

ARTICLE 66.
The license shall not be registered when the patent or registration has expired or where its duration is longer than the term of the patent or registration.

ARTICLE 67.
Unless provided otherwise, the grant of a license shall not prevent the patent or registration owner from granting other licenses, or from making use of the patent at the same time himself.

ARTICLE 68.
The person to whom a license registered with the Institute has been granted shall, unless stipulated otherwise, be entitled to institute legal proceedings in defense of the patent rights as if he were the actual owner of those rights.
ARTICLE 69.
The exploitation of the patent by the person to whom a license registered with the Institute has been granted, shall be considered as being done by the patent owner, except in the case of compulsory licenses.

ARTICLE 70.
In the case of inventions, after three years from the date of grant of the patent, or four years from the filing of the application, whichever period expires later, any person may apply with the Institute for the grant of a compulsory license to use said invention, where it has not been used, unless there are duly justified reasons for such non-use.
A compulsory license shall not be granted when the patent owner or the holder of a contractual license have been importing the patented product or a product obtained with the patented process.

ARTICLE 71.
Whoever applies for a compulsory license must have the technical and economic ability to use the patented invention efficiently.

ARTICLE 72.
Prior to granting the first compulsory license, the Institute shall give the patent owner the opportunity to make use of the patent within a period of one year from the date of the personal notification addressed to him. After the parties have been heard, the Institute shall decide on the grant of the compulsory license and, if it decides to grant the license, shall specify the duration, terms and scope thereof and the amount of the royalties payable to the patent owner. In the event of a compulsory license being applied for where another already exists, the person holding the earlier license shall be notified and heard.

ARTICLE 73.
On expiration of the period of two years following the date of grant of the first compulsory license, the Institute may for administrative purposes declare the patent lapse if the grant of the compulsory license has not corrected the lack of exploitation of the same, or if the patent owner has not proved the working thereof or the existence of reasons that are justified in the opinion of the Institute.
The payment of royalties under a compulsory license shall end when the patent expires or is invalidated, or for any other reason provided for in this Law.

ARTICLE 74.
At the request of the patent owner or of the holder of the compulsory license, the conditions of the license may be modified by the Institute when justified by supervening causes and, in particular, when the patent owner has granted contractual licenses that are more favorable than the compulsory license. The Institute shall rule on the modification of the compulsory license conditions after hearing the parties.

ARTICLE 75.
Whoever holds a compulsory license shall start making use of the patent within two years from the date on which the license was granted to him. Failure to comply with this condition, unless there are reasons that are justified in the opinion of the Institute, shall constitute grounds for the revocation of the license either ex officio or at the request of the patent owner.

ARTICLE 76.
The compulsory license shall not be exclusive. The person to whom it is granted may assign it only with the authorization of the Institute and provided that it is transferred together with that part of the production unit in which the licensed patent is being used.

ARTICLE 77.
For reasons of national emergency or security, and for as long as those reasons persist, including the outbreak of serious diseases declared as requiring priority attention by the General Health Council, the Institute shall, in a declaration published in the Official Journal, determine that use may be made of certain patents by means of the grant of licenses of public utility in cases where, if such use were not made, the production supply or distribution to the public of staple goods and services or medicines would be prevented, hindered or made more expensive.

In cases of serious diseases that are cause of emergency or threaten national security, the General Health Council shall issue the declaration of priority attention either on its own initiative or in response to a written request by the national institutions specialized
in diseases which are accredited by the General Health Council, in which it justifies the need for priority attention. Once the Council’s declaration has been published in the Official Journal, pharmaceutical firms may request that the Institute grants a license of public utility, and the Institute shall grant said license after hearing the parties, for a period as short as justified by the case in accordance with the opinion of the General Health Council, within a period not exceeding 90 days, starting from the date on which the request is submitted to the Institute.

The Ministry of Health shall determine the production and quality conditions, the duration and scope of application of said license, and the classification of the applicant’s technical ability. After listening to both parties, the Institute shall establish a reasonable total in royalties for the patent owner. The grant may cover one or all of the prerogatives referred to in subparagraphs I or II of Article 25 of this Law. With the exception of the grant of licenses of public utility as referred to in paragraphs two and three of this Article, other licenses shall be granted in accordance with the terms contained in paragraph two of Article 72. None of the licenses referred to in this Article may be exclusive or transferable.

CHAPTER VII Invalidity and Lapse of Patents and Registrations

ARTICLE 78.

The patent or registration shall be invalid in the following cases:
I. when it is granted in violation of the provisions on the requirements and conditions for the grant of patents or registrations of utility models and industrial designs. For the purposes of the provisions of this subparagraph, the requirements and conditions for the grant of patents and registrations shall be those laid down in Articles 16, 19, 27, 31 and 47;
II. When such grant takes place in violation of the provisions of the law in force at the time of grant of the patent or registration.
An action seeking invalidation under this subparagraph may not be based on the disputing of the legal representation of the patent or registration applicant;
III. When abandonment of the application occurs in the course of processing; and
IV. When the grant has been invalidated by serious error or negligence, or has been made to a person not entitled to it.
An action seeking invalidation as provided for in subparagraphs I and
II above, may be brought at any time; that deriving from the circumstances provided for in subparagraphs III and IV above may be brought within five years following the date on which the publication of the patent or registration in the Gazette becomes effective. Where the invalidation affects only one or some of the claims, or part of a claim, invalidation shall be declared only in respect of the claim(s) affected, or the affected part of a claim. Invalidation may be declared in the form of a limitation or specification of the corresponding claim.

**ARTICLE 79.**
The declaration of invalidity shall be made for administrative purposes by the Institute, either ex officio or at the request of an individual or the Federal Public Ministry, where the Federal Government has some interest in the case, as provided for in this Law. The action for invalidity shall cancel the patent or registration effects concerned with retroactive effect to the filing date of the application.

**ARTICLE 80.**
Patents or registrations shall expire and the rights that they protect shall become in the public domain under the following circumstances:
I. upon expiry of their term;
II. When the fee provided for the maintenance of the rights therein is not paid, or is not paid within the six-month grace period following said expiry date;
III. In the case provided for in Article 73 of this Law.
IV. When it is not renewed under the terms of this Law, in the case of an industrial design registration.
The lapse referred to in sections I, II, and IV of this article shall not require the Institute to make an administrative declaration.

**ARTICLE 81.**
Renewal of a patent or registration that has expired due to lack of timely payment of the fee may be requested, provided that the application is made within six months following the grace period to which reference is made in section II of the previous article and payment of the missed fee is made, including surcharges, if any.
ARTICLE 82.
Any industrially or commercially applicable information which an individual or company keeps and which is confidential in nature and associated with securing or retaining a competitive or economic advantage over third parties in the conduct of economic activities, and regarding to which said individual or company has adopted sufficient means or systems to preserve its confidentiality and restrict access thereto, shall be considered a trade secret.

The information constituting a trade secret shall necessarily relate to the nature, characteristics or purposes of products, to production methods or processes or to ways or means of distributing or marketing products or rendering services.

Information that is in the public domain, is obvious to a person skilled in the art on the basis of previously available information or must be disclosed by virtue of a legal provision or court order shall not be considered a trade secret. Information that is supplied to any authority by a person possessing it as a trade secret shall not be considered as entering the public domain or being disclosed by virtue of a legal provision, when it is supplied for the purpose of obtaining licenses, permits, authorizations, registrations or any other acts of authority.

ARTICLE 83.
The information referred to in the previous Article shall consist of documents, electronic or magnetic media, optical disks, microfilms, films or other similar material.

ARTICLE 84.
The person who keeps a trade secret may transfer it to or authorize its use by a third party. The authorized user shall be under the obligation not to disclose the trade secret by any means.

In agreements under which technical knowledge, technical assistance and basic or detailed engineering are provided, confidentiality clauses may be included to protect any trade secrets covered, which shall specify the aspects to be treated as confidential.
ARTICLE 85.
Any person who, by reason of his work, employment, function or post, the practice of his profession or the conduct of business relations, has access to a trade secret the confidentiality of which he has been warned of shall abstain from revealing it without just cause and without the consent of the person keeping said secret or of the authorized user thereof.

ARTICLE 86.
Any individual or company engaging either a worker who is working or has worked for, or a professional, adviser or consultant who is rendering or has rendered his services on behalf of another person, with a view to obtaining trade secrets from the latter, shall be liable for payment of damages and losses caused to that person. Any individual or company who by any unlawful means obtains information constituting a trade secret shall likewise be liable for the payment of damages and losses.

ARTICLE 86 BIS.
The information required by special laws to determine the safety and efficacy of pharmaceutical and agricultural products that make use of new chemical components shall be protected under the terms of the international treaties to which Mexico is party.

ARTICLE 86 BIS 1.
Where one of the parties involved in any judicial or administrative proceeding is required to reveal a trade secret, the authority hearing the proceeding shall take the necessary measures to prevent its disclosure to third parties having no connection with the dispute. No interested party may in any event reveal or make use of the trade secret referred to in the previous paragraph.
TITLE IV Trademarks, Advertising Slogans and Commercial Names

CHAPTER I Trademarks

Article 87.
Any natural person or legal entity may use a trademark in the industry, trade, or services it provides. However, the right to its exclusive use must be obtained by its registration with the Institute.

Article 88.
A trademark is understood as being any sign that is perceptible by the senses and capable of being represented in such a way that the clear and precise object of protection can be established, and that distinguishes products or services from others of the same type or category on the market.

ARTICLE 89.
The following signs may constitute trademarks:
I. Names, letters, numbers, figurative elements, combinations of colors, as well as holographic signs;
II. Three-dimensional shapes;
III. Commercial names and company or business names, provided that they are not covered by the following Article;
IV. The proper name of an individual, as long as it is not confused with a registered trademark or published commercial name;
V. The sounds;
VI. The smells;
VII. The plurality of operational elements; elements of an image, including the size, design, color, shape, label, packaging, decoration, or any other elements that distinguish products or services on the market when combined, and
VIII. A combination of the signs set out in sections I to VI of this article.

ARTICLE 90.
The following shall not be registrable as trademarks:
I. The technical or commonly used names of products or services for which the protection of the trademark is sought, and also any words, names, phrases, or figurative elements that everyday language or business practice has made into usual or generic elements thereof;
II. Three-dimensional shapes that are in the public domain or have
come into common use; those that lack distinctiveness, and the usual and everyday shapes of products or services, or those determined by their nature or function;

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

IV. Signs that, considering their characteristics as a whole, are descriptive of the products or services that they intend to distinguish. These shall include descriptive or indicative signs that are used in the trade to identify the kind, quality, quantity, composition, purpose, value, place of origin of the products or services, or the time of their production;

V. Isolated letters, digits, or colors, except when they are combined with or accompanied by other signs that give them distinctive character;

VI. Translations, arbitrarily changed spellings, and artificial constructions of words are not eligible for registration, as well as transliterations of signs that are not eligible for registration;

VII. Signs that reproduce or imitate without authorization: coats of arms, flags or emblems of any country, state, municipality or equivalent political division; and the full or abbreviated names, symbols, emblems, or any other signs of governmental or non-governmental international instruments, international organizations, or of any other officially recognized organization, as well as the verbal designation thereof;

VIII. Signs that reproduce or imitate official signs or seals of control and warranty adopted by a state without the authorization of the competent authority, or coins, bank notes, commemorative coins, or any official means of domestic or foreign payment;

IX. Signs that reproduce or imitate the names, signs, or graphic representations of decorations, medals, or other prizes awarded at officially recognized exhibitions, fairs, congresses, or cultural or sporting events;

X. Proper or common geographical areas and maps, and the names of population, the names of place, nouns and adjectives when they indicate the origin of the products or services and can cause confusion or error regarding such origin. These include those that are accompanied by expressions such as “kind,” “type,” “style,” “imitation,” “produced in,” “manufactured in,” and similar expressions that may create confusion for the consumer or imply unfair competition;

XI. Appellations of origin, geographical indications, and names or
signs of places that are characterized by the manufacture or production of certain products or the provision of certain services; and those that are accompanied by expressions such as “kind,” “type,” “style,” “imitation,” “produced in,” “manufactured in,” and similar expressions that may create confusion for the consumer or imply unfair competition;

XII. The names of places in private ownership, when they are special and not liable to be confused, and known for the production of certain products or the provision 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, mislead, confuse, or deceive the consuming public, unless they are being used by the aforementioned person, or with the express consent of the person or whoever has the corresponding right;

Likewise, the image, identifiable voice, portrait, and signatures of persons may not be registered as a trademark without their express consent, or if they have died, that of whoever has the corresponding right;

XIV. Names or terms that are identical or confusingly similar to the titles of literary or artistic works, as well as the reproduction or imitation of the elements of the aforementioned works; when, in both cases, they have such relevance or recognition that they may be liable to deceive or mislead the public due to the unjustified belief that there is a relationship or association with the aforementioned works, unless the owner of the corresponding right expressly authorizes it. Likewise, the reproduction of literary or artistic works, either total or partial, without the authorization of the copyright owner, shall not be registrable as a trademark.

Nor shall fictional or symbolic characters, or real personages portrayed, who have such relevance or recognition, be registrable as a trademark, except when requested by the owner of the corresponding right or a third party with the latter’s consent;

XV. Signs that are likely to deceive or mislead the public. This is understood to mean those that constitute false indications as to the nature, components, qualities, or business origin of the products or services they claim to distinguish;

XVI. Signs that are identical or confusingly similar to a mark that the Institute considers or has declared to be a notorious trademark in Mexico, in the terms of Chapter II bis of Title Four, which are to
be applied to any product or service, when the trademark whose registration is requested could:

a) Create confusion or a risk of association with the owner of the notorious trademark;
b) Constitute a use which is not authorized by the owner of the notorious trademark;
c) Cause the loss of prestige of the notorious trademark, or
d) Dilute the distinctive character of the notorious trademark.
This impediment shall not be applicable when the applicant for registration is the owner of the notorious trademark;
XVII. Signs that are identical or confusingly similar to a mark that the Institute considers or has declared to be famous in accordance with Chapter II bis of Title Four, which are to be applied to any product or service.
This impediment shall not be applicable when the applicant for registration is the owner of the famous trademark;
XVIII. While the process of registration is ongoing, signs that are identical or confusingly similar to a mark that has been filed earlier or to a registered and current trademark applied to the same or similar products or services. These shall include those that are identical to another trademark that is already registered or is in the process of being registered by the same owner to distinguish identical products or services;
XIX. Signs that are identical or confusingly similar to a trade name applied to a company or to an industrial, commercial, or service establishment whose principal business is the manufacture or sale of products or the provision of services that the mark is intended to protect, provided that the trade name has been used prior to the filing date of application for registration of the mark or the date of the declared use thereof. This shall not apply when the application for a mark is filed by the owner of the trade name, if no identical trade name that has been published exists;
XX. The proper name of a natural person that is identical or confusingly similar to a pending mark that has been filed earlier or to a registered and existing trademark, or a published trade name applied to the same or similar products or services;
XXI. Signs that reproduce or imitate names or elements that refer to protected plant varieties, as well as breeds of animals, which may cause confusion among consumers regarding the products or services to be distinguished; and
XXII. Signs applied for in bad faith. Bad faith is understood to mean,
among other cases, where the registration is applied for in a manner contrary to good use, practice, and customs in the system of industrial property, business, or industry; or that intends to obtain an undue benefit or advantage to the detriment of the legitimate owner. The provisions of sections I, II, III, IV, V, and VI of this article shall not be applicable when the trademark has acquired, for the products or services for which the application is made, a distinctive character resulting from the use that has been made in the course of business.

The provisions of section II shall not be applicable when the three-dimensional form has acquired a distinctive character from the use made in the course of business, with the understanding that the form inherent to its nature or function may not acquire distinctiveness. The provisions of sections XVIII, XIX, and XX shall not be applicable to the confusingly similar marks referred to in this article, where express consent is provided in writing, in accordance with the regulations of this Law.

ARTICLE 91.
A registered trademark or a trademark confusingly similar to another previously registered trademark may not be used or form part of the commercial name or company or business name of any establishment or company where:
I. The establishments or companies concerned are engaged in the production, import or marketing of goods or services identical or similar to those to which the registered trademark applies; and
II. There is no consent in writing from the owner of the trademark registration or from the person empowered to give such consent.
Violation of this principle shall lead to the imposition of the sanctions provided for in this Law, which shall be independent of the possibility of legally seeking the removal of the registered trademark or the trademark confusingly similar to the previously registered trademark from the commercial name or company or business name concerned and the payment of damages.
These provisions shall not be applicable where the commercial name or corporate or business name already incorporated the trademark prior to the filing or first declared use date of the registered trademark.

ARTICLE 92.
Registration of a trademark shall not be effective against:
I. A third party who in good faith, used the same or a confusingly
similar trademark on the national territory for the same or similar products or services, provided that the third party had begun to make uninterrupted use of the trademark prior to the filing date of the application for registration, or the date of the first declared use of the trademark. The third party shall have the right to apply for registration of the trademark within three years following the day on which the registration was published, in which case he shall first apply for and obtain an action for invalidity of said registration; and

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 on to the market by the owner of the registered trademark or his licensee.

This case shall include the import of lawful products to which the trademark is applied, carried out by any person for their use, distribution or marketing in Mexico, pursuant to the terms and conditions laid down in the regulations under this Law; and

III. An individual or company who applies his own name or his company or business name to the goods that he renders or distributes, to the services that he provides or to his places of business, or who uses it as part of his commercial name, provided that he applies it in the form in which he is accustomed to using it and that it has features that clearly distinguish it from a homonym already registered as a trademark or published as a commercial name.

The conduct of any activity provided for in this Article shall not constitute an administrative infringement or an offense within the meaning of this Law.

ARTICLE 93.

Trademarks shall be registered in relation to specific products or services according to the classification provided for by the regulations under this Law.

Any doubt as to the class to which a given product or service belongs shall be settled finally by the Institute.

ARTICLE 94.

Once a trademark has been registered, there may be no increase in the number of products or services that it protects, even where they belong to the same class, but it may be restricted to certain products or services as often as requested.

In order to protect a different product or service subsequently with
a previously registered trademark, it shall be necessary to obtain a new registration.

ARTICLE 95.
The registration of a trademark shall have a term of 10 years, starting from the filing date of the application, and may be renewed for periods with same duration.

Chapter II Collective and Certification Marks

Article 96.
Legally incorporated associations or groups of producers, manufacturers, or traders of products and service providers may apply for registration of a collective mark to distinguish the products or services of their members on the market, provided that they have a common quality or characteristic that is distinctive in relation to third-party products or services.

Article 97.
The members of the association or group that owns the collective mark may use, together with the trademark, the term “Marca Colectiva Registrada” (Registered Collective Mark).

Article 97 BIS.
The rules for use of a collective mark shall be filed with the application for the said mark, which shall contain the following:
I.- The name of the association or group that will be the owner of the mark;
II.- The representation of the mark;
III.- The products or services to which the mark will be applied;
IV.- The common characteristics or qualities of the products or services;
V.- The processes of manufacturing, production, and primary, secondary, and tertiary packaging;
VI.- An indication that the mark cannot be transferred to third parties and that its use shall be reserved for members of the association or group;
VII.- The mechanisms for controlling the use of the mark and for compliance with the rules of use;
VIII.- Sanctions in the event of non-compliance with the rules of use;
IX.- Indication of the legal actions to be exercised for its
Article 97 BIS 1.
The collective mark may not be licensed, nor may it be transferred to third parties, its use being reserved for members of the association or group. Where there is no special provision, collective marks will be governed by the provisions of this Law for trademarks.

Article 98.
A certification mark means a sign that distinguishes products and services whose qualities or other characteristics have been certified by their owner, such as:
I. The components of products;
II. The conditions under which the products have been manufactured or the services have been rendered;
III. The quality, processes, or other characteristics of the products or services; and
IV. The geographical origin of the products.

Article 98 BIS.
The certification mark may comprise the name of a geographical area or may contain that name, or another well-known indication to refer to that area, which identifies a product as originating from there, when a specific quality, reputation, or other characteristic of the product is essentially attributable to its geographical origin. In the case of domestic geographical indications protected as certification marks, these will be understood to be assets in the public domain of the Federation.

Article 98 BIS 1.
Any legal person may apply for registration, as long as it is not conducting a business activity that involves the supply of products or the provision of a service of the same nature or type as is certified by the mark.
When the certification mark comprises a national geographical indication, registration may only be applied for by:
I. Legal persons directly engaged in the extraction, production, or
manufacture of the product to be protected by the mark;
II. Chambers or associations of manufacturers or producers linked to
the product to be protected by the indication;
III. Dependencies or entities of the Federal Government; and
IV. Governments of the Entities of the Federation in whose territory
or geographical area the product to be protected is extracted,
produced, or manufactured.

Article 98 BIS 2.
The application for registration of a certification mark must be
accompanied by the rules for its use, including details on:
I. The products or services to which the mark will be applied;
II. The representation of the mark;
III. The technical specifications that define the particular
characteristics of the product or service, such as the origin of the
raw materials, the conditions of production, its processing procedure,
its physical, chemical, toxic, bacteriological, or usage
characteristics, and its composition or labeling;
IV. The procedure for verifying the specific characteristics indicated
in the previous section;
V. The arrangements and schedule with which the quality controls must
be undertaken for the production of the product in its different
stages, as well as in its processing and marketing;
VI. The sanctions regime for non-compliance with the rules of use;
VII. The indication that the mark cannot be licensed;
VIII. Indication of the legal actions to be exercised for its
protection;
IX. Where relevant, the extent to which the rules for its use are
consistent with the Official Mexican Standards, Mexican Standards, or
any international standard or guidelines; and
X. Any other information that the applicant considers relevant.
The aforementioned rules shall allow access to any person who complies
with them.
In the case of section VIII of this article, any amendment must be
registered with the Institute to be enforceable against third parties.

Article 98 BIS 3.
A certification mark may not be licensed, its use being reserved for
persons who meet the conditions specified in the rules for its use.
Certification marks will be governed, where there is no special
provision, by the provisions of this Law for trademarks.
Article 98 BIS 4.
The owner of a certification mark shall authorize its use to any person whose product or service meets the conditions specified in the rules for its use.
Only authorized users may use the term “Marca de Certificación Registrada (Registered Certification Mark)” together with the certification mark.
In the case of certification marks protecting national geographical indications, the provisions established in Title Five, Chapter III Authorization of Use must be observed.

ARTICLE 98 BIS 5.
Once the Institute has received the request and the relevant fees have been paid, the elements, data and documents provided shall be examined.
If, in the opinion of the Institute, the aforementioned elements, data and documents do not meet the legal requirements or are insufficient for the understanding and analysis of any of the elements of the request, the applicant shall be required to make the necessary clarifications or additions, for which purpose he shall be granted a 4-month period.
If the applicant fails to comply with the requirement within the period granted, the request shall be rejected.

ARTICLE 98 BIS 6.
Once the request has been processed and the legal and regulatory requirements have been met, the relevant declaration shall be issued.
In the event that the Institute denies the issue of the declaration, it shall notify the applicant in writing, stating the reasons and legal grounds for its decision and assessing all the evidentiary elements received.

ARTICLE 98 BIS 7.
Decisions on declarations of notoriety or fame shall be published in the Gazette.

ARTICLE 98 BIS 8.
The declaration shall be invalid if:
It was granted in violation of the provisions of this Chapter;
The evidence supporting the declaration is false;
It was granted based on an incorrect assessment of the evidence;
It was granted to a person who had no right to obtain it. Administrative actions for invalidity shall be issued by the Institute, at the request of persons having a legal interest who prove the grounds on which their request is based.

When the trademark registration or registrations based on which the action was issued become invalid, expire or are cancelled, the declaration shall lose its evidentiary value.

A declaration, are nullified, expire or cancel, the declaration will lose its probative value.

**ARTICLE 98 BIS 9.**

For the purposes of its transfer, the declaration shall be considered linked to the trademark registration(s) which gave rise thereto.

**CHAPTER II BIS. Well-known and famous trademarks**

**Article 98 TER.**

For the purposes of its assessment or declaration by the Institute, a trademark shall be considered well known in Mexico when a given sector of the public or of the country’s business circles is aware of the trademark as a result of business activities conducted in Mexico or abroad by a person who makes use of the trademark in connection with his goods or services, or as a result of the promotion or advertising thereof.

For the purposes of its assessment or declaration by the Institute, a trademark shall be considered famous in Mexico when the majority of consumers are aware of the trademark.

All forms of proof permitted by this Law may be used for the purpose of demonstrating that the trademark is well known or famous.

**Article 98 TER 1.**

The declaration or any updates issued shall 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 at the time that the act is issued.

The impediments provided for in ARTICLE 90, subparagraphs XVI and XVII, for the protection of well-known or famous trademarks, shall apply independently of whether those trademarks are registered or declared.
Article 98 TER 2.
The applicant shall provide the following information in order to obtain a declaration of notoriety or fame:

I. The sector of the public comprising real or potential consumers who identify the trademark with the products or services which it protects, based on a market survey or study or any other method permitted by law;

II. Other sectors of the public excluding real or potential consumers that identify the trademark with the products or services which it protects, based on a market survey or study or any other method permitted by law;

III. The commercial circles comprising traders, industrialists or service providers connected with the type of products or services, who identify the trademark with the products or services which it protects, based on a market survey or study or any other method permitted by law;

IV. The date of first use of the trademark in Mexico and, where applicable, abroad;

V. The period of continued use of the trademark in Mexico and, where applicable, abroad;

VI. The marketing channels in Mexico and, where applicable, abroad;

VII. The methods of disseminating the trademark in Mexico and, where applicable, abroad;

VIII. The period of actual advertising of the trademark in Mexico and, where applicable, abroad;

IX. The investment made during the previous three years in advertising and promoting the trademark in Mexico and, where applicable, abroad;

X. The actual geographical area of influence of the trademark;

XI. The sales volume of the products or the revenue received from the provision of the services protected by the trademark, during the previous three years;

XII. The economic value represented by the mark in the shareholders’ equity of the company owning the trademark, or in accordance with a valuation of the company;

XIII. The franchises and licenses that have been granted in relation to the mark; and

XIV. The percentage of the share of the trademark in the relevant market sector or segment.

ARTICLE 98 TER 3.
The Institute shall assume, except where there is evidence to the
contrary, that the conditions which gave rise to the declaration or its updates shall subsist for a period of five years from the date of issue; consequently, during that period, the impediment provided for in ARTICLE 90, subparagraph XVI, or the provisions of subparagraph XVII, shall apply, as applicable, expeditiously.

The declaration may be updated at any time, at the request of the person with a legal interest in such, provided that the person proves that the conditions which gave rise to said declaration subsist on the date of the relevant application.

ARTICLE 98 TER 4.
The request for a declaration of notoriety or fame shall be filed in writing in accordance with the formalities laid down for requests and submissions in this Law and the Regulations thereunder, and accompanied by the evidentiary elements on which the request is based, and shall include at least the following:
I. The name, nationality, address, telephone number, fax number and e-mail of the applicant and, where applicable, his agent; and
II. The documents and evidence attached to the request.

ARTICLE 98 TER 5.
Once the Institute has received the request and the relevant fees have been paid, the elements, data and documents provided shall be examined. If, in the opinion of the Institute, the aforementioned elements, data and documents do not meet the legal requirements or are insufficient for the understanding and analysis of any of the elements of the request, the applicant shall be required to make the necessary clarifications or additions, for which purpose he shall be granted a 4-month period.
If the applicant fails to comply with the requirement within the period granted, the request shall be rejected.

ARTICLE 98 TER 6.
Once the request has been processed and the legal and regulatory requirements have been met, the relevant declaration shall be issued. In the event that the Institute denies the issue of the declaration, it shall notify the applicant in writing, stating the reasons and legal grounds for its decision and assessing all the evidentiary elements received.
Article 98 TER 7.
Decisions on declarations of notoriety or fame shall be published in the Gazette.

Article 98 TER 8.
A declaration shall be null and void when:
I. It has been granted in violation of the provisions of this Law; and
II. It has been granted to a person who did not have the right to obtain it.
Administrative declarations of nullity shall be made by the Institute, at the request of any person who has a legal interest and who provides proof of the premises on which his request is based.

ARTICLE 98 TER 9.
For the purposes of its transfer, the declaration shall be considered linked to the trademark registration(s) which gave rise thereto.

CHAPTER III Advertising Slogans

ARTICLE 99.
The exclusive right to use advertising slogans shall be obtained by its registration with the Institute.

ARTICLE 100.
Sentences or statements the purpose of which is to make commercial, industrial or service establishments or businesses, products or services known to the public so that they may be distinguished from others of the same kind shall be considered as advertising slogans.

ARTICLE 101.
If the purpose of a piece of advertising slogans is to publicize products or services, said products or services shall be specified in the registration application.

ARTICLE 102.
If the purpose of the piece of advertising slogans is to publicize a certain establishment or business, of whatever type, it shall be considered included in a special complementary class of the classification provided for in the regulations under this Law. In such cases, the registration shall not protect products or services, even
where they are related to the establishment or business.

ARTICLE 103.
The registration of advertising slogans shall have a term of 10 years, starting from the filing date of the application, and may be renewed for periods with same duration.

ARTICLE 104.
In the absence of special provisions, advertising slogans shall be governed by the provisions of this Law that relate to trademarks.

CHAPTER IV Commercial Names

ARTICLE 105.
The commercial name of an industrial, commercial or service firm or establishment and the right to its exclusive use shall be protected without the need for registration. The protection shall cover the geographical area of the actual clients of the firm or establishment to which the commercial name is applied, and shall extend to the entire Republic if the name is widely and consistently publicized at the national level.

ARTICLE 106.
Any person using a commercial name may apply with the Institute for its publication in the Gazette. Such publication shall produce the effect of establishing the presumption of good faith in the adoption and use of the commercial name.

ARTICLE 107.
The application for publication of a commercial name shall be filed in writing with the Institute together with the documents that prove the actual use of the commercial name in connection with a specific line of business.

ARTICLE 108.
Once the application has been received and the legal requirements have been met, a substantive examination shall be made to determine whether there exists any identical or confusingly similar commercial name that is applied to the same area of business, the registration of which is pending or which has been published earlier, or any identical or confusingly similar trademark the registration of which is pending or
which has already been registered, protecting identical or similar products or services related to the principal business of the firm or establishment involved. If there is no prior art, publication may proceed.

**ARTICLE 109.**
Commercial names that lack elements distinguishing the firm or business involved from others of the same kind, and those that infringe such provisions contained in ARTICLE 90 of this Law as are applicable, shall not be published.

**ARTICLE 110.**
The effects of publication of a commercial name shall last for ten years, starting from the filing date of the application, and may be renewed for periods with same duration. If not renewed, the effects shall cease.

**ARTICLE 111.**
Unless provided otherwise, the transfer of a firm or establishment shall include the right to the exclusive use of the commercial name.

**ARTICLE 112.**
In the absence of special provisions and where applicable, commercial names shall be governed by the provisions of this Law relating to trademarks.

**CHAPTER V Trademark Registration**

**Article 113.**
In order to obtain registration of a trademark, a written application must be filed with the Institute containing the following information:
I. Name and address of the applicant;
II. Representation of the sign that constitutes the mark;
III. The date of first use of the mark in Mexico or, if applicable, indication that it has not been used. In the absence of any information, it shall be presumed that the mark has not been used;
IV. The specific products or services to which the mark is to be applied; and
V. All other information provided for in the regulations under this Law.
ARTICLE 114.
The application for registration of a trademark shall be accompanied by proof of payment of the fees payable for processing of the application, registration and issue of the relevant title, and copies of the trademark where it is devoid of a verbal element, three-dimensional or mixed.

Article 115. ABOLISHED

ARTICLE 116.
Where the trademark is applied for in the name of two or more persons, the rules agreed upon between the applicants regarding the use and licensing of the trademark and the transfer of rights in it shall be filed together with the application.

ARTICLE 117.
When the registration of a trademark is applied for in Mexico within the periods specified in international treaties or, failing that, within six months of the filing of applications in other countries, the filing date in the country of first filing may be recognized as the priority date.

ARTICLE 118.
For the priority referred to in the previous Article to be recognized, the following requirements shall be met:
I. The priority must be claimed, and the country of origin and the filing date of the application in that country are stated, when applying for registration;
II. The application filed in Mexico must not seek to cover products or services additional to those provided for in the application filed abroad, in which case priority will be recognized only for those specified in the application filed in the country of origin;
III. The requirements specified in international treaties, this Law and the regulations thereunder must be met within three months of the filing of the application; and
IV. [Repealed]

Article 119.
Once the application has been received, the Institute shall publish it in the Gazette, no later than 10 business days after its receipt, and shall carry out an examination as to form of the application, as
well as of the exhibited documentation, in order to determine whether the requirements specified in this Law and in the regulations thereof have been met.

Article 120.
The Institute shall grant any third party with an interest a non-extendable period of one month from the date on which the publication in the Institute's Gazette takes effect, to oppose the application for registration or publication, provided that the application falls under the cases provided for in Articles 4 and 90 of this Law. The opposition must be submitted in writing and accompanied by relevant proof, as well as proof of payment of the appropriate fee.

Article 120 BIS.
On expiration of the period referred to in the first paragraph of Article 120, the Institute will notify the applicant through the Gazette of any oppositions it has received, and the applicant will be granted a non-extendable period of one month from the effective date of notification, to make, in writing, whatever statement best serves his interests in relation to the opposition and, if applicable, submit proof.

Article 120 BIS 1.
For the procedure of the opposition, all kinds of evidence will be admitted with the exception of personal statements and testimonials, unless the testimony or personal statement is included in document form; evidence that is contrary to law and morals will not be admitted as well.

Article 120 BIS 2.
Once the period referred to in Article 120 bis of this Law has ended, and the proof has been submitted, the proceedings shall be made available to the applicant and to the persons who have filed oppositions so that, if applicable, they may put forward written arguments within two days, which will be taken into account by the Institute. Once this period has ended, the substantive examination will take place without further formalities.

Article 120 BIS 3.
An opposition to the registration or publication of an application will not suspend the procedure, nor will it prejudge the result of
the substantive examination of the application carried out by the Institute.

ARTICLE 121.
If at the time of filing the application meets the requirements of Articles 113, subparagraphs I, II and IV, 114, 179 and 180 of this Law, that date shall be the filing date thereof; otherwise the date on which the requirements are met within the prescribed time limit shall be considered as the filing date.
The filing date shall determine precedence between applications.
The regulations under this Law may provide for other means by which applications and other submissions may be filed with the Institute.

ARTICLE 122.
On completion of the formal examination a substantive examination shall be made to determine whether the trademark is eligible for registration under the provisions of this Law.
If the application or the documentation submitted do not meet the legal requirements, if there is any impediment to the registration of the trademark, or if there are conflicting rights, the Institute shall communicate this information to the applicant in writing, granting him a period of two months to remedy any errors or omissions committed and to state whatever may be in his best interest with regard to the cited impediments and conflicting rights. If the interested party does not respond within the time allowed, his application shall be considered abandoned.

ARTICLE 122 BIS.
The interested party shall have an additional period of two months to meet the requirements set out in the previous article, without filing an application, and upon providing proof of payment of the fee corresponding to the month in which the requirements are met.
The additional period shall be counted from the business day following that of the expiry of the 2-month period provided for in Article 122 above.
The application shall be considered abandoned if the applicant fails to comply with the requirements specified within the initial period or the additional period referred to in this Article, or fails to provide proof of payment of the relevant fees.
Article 123.
If the applicant, upon responding within the time allowed for correcting the legal impediment to registration, alters or replaces the mark, that mark shall be subjected to renewed processing.
The renewed processing must:
I. Have the required fee paid for a new application;
II. Meet the requirements of articles 113 and 114 of this Law and the applicable regulations thereof; and
III. Be published as referred to in Article 119 of this Law.
In this case, the date on which the renewed processing is applied for shall be considered the filing date.

Article 124.
The Institute shall suspend the processing of an application for registration or publication when the application contains an impediment related to the existence of one or more registrations or publications of one or more trade names that are identical or confusingly similar, and over which there exists or there is a pending administrative declaration procedure for nullity, expiration, or cancellation of the registration or cessation of the effects of the trade name.
This case will proceed ex officio or at the request of the person who initiates or initiated the application for the corresponding administrative declaration, within the period established in the corresponding impediment notice; or, when the procedure referred to in Article 178 of this Law is submitted.

Article 125.
When the application process is completed and the legal requirements and regulations have been met, the title will be issued.
The Institute shall make a ruling in relation to the oppositions received, explaining the legal basis and grounds for its decision.

ARTICLE 126.
The Institute shall issue a certificate for each trademark as proof of its registration. The certificate shall include a specimen of the trademark and shall specify the following:
I. Registration number of the trademark;
II. The sign that constitutes the trademark;
III. Products or services to which the trademark will be applied;
IV. Name and address of the owner;
V. Location of the establishment, where applicable;
VI. Filing date of the application and recognized priority and first use dates, if any, and issue date; and
VII. Validity.
Changes to the title of a trademark may only be made in order to correct obvious or clerical errors. The authorized changes shall be published in the Gazette.

ARTICLE 127.
Decisions on registrations of trademarks and their renewals shall be published in the Gazette.

Article 128.
The trademark shall be used in the national territory in the form it was registered or with only such modifications that do not alter its distinctive character.
The owner of a trademark shall declare to the Institute the actual and effective use of the trademark and must accompany this declaration with payment of the required fee.
The declaration must be submitted within three months after the end of the third year from when the registration was granted.
If the owner does not declare the use, the registration shall expire as of right.

ARTICLE 129.
The Institute may declare the registration and use of trademarks as mandatory in respect of any product or service, or prohibit or regulate the use of trademarks, registered or not, either ex officio or at the request of representative organizations, where:
I. Use of the trademark is a factor associated with monopolistic or oligopolistic practices or unfair competition which cause serious distortions in the production, distribution or marketing of certain products or services;
II. Use of the trademark impedes the efficient distribution, production or marketing of goods and services; and
III. Use of trademarks prevents, hinders or increases the cost of the production, supply or distribution of basic goods or services to the public in cases of national emergency and for as long as such an emergency persists.
The relevant declaration shall be published in the Official Journal.
ARTICLE 130.
If for three consecutive years a trademark is not used for the products or services for which it was registered, the registration thereof shall expire, except where the owner or registered licensee has used it during the three consecutive years immediately prior to the filing of the request for the administrative action for lapse, or where a situation has arisen that is beyond the control of the owner of the trademark which constitutes an obstacle to the use thereof, such as the restriction of imports or other government requirements applicable to the goods or services to which the trademark is applied.

Article 131.
The terms “Marca Registrada (Registered Trademark)”, “Marca Colectiva Registrada (Registered Collective Mark)”, “Marca de Certificación Registrada (Registered Certification Mark)”, the letters “M.R.” and the other symbols, may be used only for the products or services for which the trademark in question is registered.

ARTICLE 132 [Repealed]

Article 133.
The renewal of registration of a trademark shall be requested by the owner, accompanying the application with payment of the required fee and declaring the actual and effective use of the trademark. The application shall be submitted within six months prior to the expiration of its validity. However, the Institute shall still process applications filed within six months after the termination of the validity.
Once that period expires, without any request for renewal having been filed, the registration shall lapse as of right.
A registration made within six months following the expiration of its validity shall be considered as an impediment to the registration of a sign under the terms of the provisions of Article 90, sections XVIII and XIX of this Law.

Article 134. [REPEALED]

Article 135. [REPEALED]
CHAPTER VI Licensing and Transfer of Rights

ARTICLE 136.
The owner of a registered or pending trademark may, by agreement, license one or more persons to use the trademark in relation to all or some of the goods or services to which said trademark applies. The license shall be registered with the Institute in order to produce effects to the detriment of third parties.

ARTICLE 137.
For a license to be registered with the Institute, it shall be sufficient to file the corresponding application in the manner specified in the regulations under this Law. A single submission may be made to request registration of the licensing of rights relating to two or more pending applications or two or more registered trademarks, where the licensor and licensee are the same in all of them. The applicant shall identify each of the applications or registrations in respect of which the registration is to be made. The corresponding fees shall be paid according to the number of applications or registrations involved.

ARTICLE 138.
There shall be grounds for cancellation of the registration of a license in the following cases:
I. Where it is jointly applied for by the owner of the trademark and the user to whom the owner has granted the license;
II. Owing to invalidity, lapse or cancellation of the registration of the trademark, or where the trademarks in question were pending and their registration is not granted; and
III. By court order.

ARTICLE 139.
The products sold or the services rendered by the licensee shall be of the same quality as those manufactured or rendered by the owner of the trademark. Moreover, those products or the establishment in which the services are rendered or contracted, shall state the name of the user and any other particulars required by the regulations under this Law.

ARTICLE 140.
The person holding a license registered with the Institute shall,
unless stipulated otherwise, be empowered to institute legal proceedings for the protection of the rights in the trademark as if he were the owner.

ARTICLE 141.
Use of the trademark by the user holding a license registered with the Institute shall be considered made by the owner of the trademark.

ARTICLE 142.
There will be a franchise where, together with the licensing of the use of a trademark, granted in writing, technical know-how is transferred or technical assistance provided, so that the person to whom the license is granted can produce or sell goods or provide services in a uniform manner according to the operating, commercial and administrative methods established by the owner of the trademark, in order that the quality, prestige and image of the products or services distinguished by said trademark may be maintained.
The franchisor shall provide the prospective franchisee, at least thirty days before the signing of the corresponding agreement, with the relevant information on the state of his firm, as provided for in the regulations under this Law.
In the event that the information referred to in the previous paragraph is not truthful, the franchisee shall have the right, in addition to demanding that the contract be declared null and void, to demand compensation for damage suffered by the breach. The franchisee may exercise such right for one year from the conclusion of the contract. After that period has passed, the franchisee shall have the right only to demand that the contract be declared null and void.
The provisions of this Chapter shall apply to the registration of franchises.

ARTICLE 142 BIS.
The franchise agreement shall be drawn up in writing and contain at least the following:
I. The geographical area in which the franchisee shall carry out the activities that are the subject of the contract;
II. The location, minimum dimension and characteristics of the investments in infrastructure, with respect to the establishment in which the franchisee will carry out the activities derived from the matter of the contract;
III. The inventory, marketing and advertising policies, as well as
the provisions relating to the supply of goods and contracting of suppliers, where applicable;
IV. The policies, procedures and deadlines relating to repayments, financing and other consideration borne by the parties under the terms agreed upon in the contract;
V. The criteria and methods applicable to determining the profit and/or commission margins of the franchisees;
VI. The characteristics of the technical and operational training of the franchisee’s staff, as well as the method or form in which the franchisor is to provide technical assistance;
VII. The criteria, methods and procedures for supervision, information, evaluation and classification of the performance, as well as the quality of the services for which the franchisor and franchisee are responsible;
VIII. To establish the terms and conditions for subfranchising, where the parties agree to such;
IX. The grounds for termination of the franchise agreement;
X. The assumptions under which the terms or conditions relating to the franchise agreement may be reviewed and, where applicable, modified, by mutual agreement;
XI. The franchisee shall not be under the obligation to transfer its assets to the franchisor or to anyone designated by the franchisor on termination of the contract, except where it has been agreed to the contrary; and
XII. The franchisee shall not be under the obligation at any time to transfer shares in his company to the franchisor or make it a partner in his company, except where it has been agreed to the contrary.
This Article shall, where applicable, comply with the provisions of the Regulations under this Law.

ARTICLE 142 BIS 1.
The franchisor may interfere in the organization and running of the franchisee only to guarantee compliance with the standards of management and image of the franchise in compliance with the provisions of the contract.
The franchisor shall not be considered as interfering in the case of a merger, split, conversion, amendment to articles of association or transfer or encumbrance of shares in the franchisee’s company, which results in a change in the personal characteristics of the franchisee as laid down in the relevant contract as determining the franchisor’s willingness to conclude the contract with the franchisee concerned.
ARTICLE 142 BIS 2.
The franchisee shall, during the term of the contract and after the termination thereof, keep confidentiality of information which is of a confidential nature or of which it becomes aware, and which is the property of the franchisor, including information concerning the operations and activities carried out under the contract.

ARTICLE 142 BIS 3.
The franchisor and franchisee may not terminate or cancel the contract unilaterally, except where the contract has been concluded for an indefinite period or there is justified cause. In order for the franchisee or franchisor to terminate the contract early, either by mutual agreement or cancellation, the grounds and procedures agreed upon in the contract must be complied with.
In the event of violations of the provisions of the preceding paragraph, any early termination made by the franchisor or the franchisee shall give rise to the payment of any conventional penalties agreed in the contract or, alternatively, to indemnification for damages caused.

ARTICLE 143.
The rights deriving from an application for the registration of a trademark or those conferred by a registered trademark may be encumbered or transferred in the manner and according to the procedures laid down in ordinary legislation. Such encumbrance or transfer of rights shall be registered with the Institute as provided for in the Regulations under this Law, in order to be enforceable against third parties.
A single submission may be made to request registration of the transfer of ownership of two or more pending applications or two or more registered trademarks, where the person transferring them and the person acquiring them are the same in all cases. The applicant shall identify each of the applications or registrations in respect of which the registration is to be made. The corresponding fees shall be paid according to the number of applications or registrations involved.

ARTICLE 144.
Where companies are merged it shall be understood that, unless stipulated otherwise, the registered trademark rights are transferred.
Article 145.
For purposes of transfer, pending registrations or applications for trademarks belonging to the same owner shall be considered to be associated, if they are identical and cover similar products or services, or are confusingly similar and apply to the same or similar products and services.

Article 146.
When the owner of pending registrations or applications for two or more associated marks considers that there will be no confusion if one of them were to be used by another person, he may request that the imposed association be dissolved for the products or services to which that mark applies. The Institute will make a final decision as it deems appropriate.

ARTICLE 147.
The transfer of any of the linked trademarks shall be registered only where all of them are transferred to the same person.

ARTICLE 148.
When registration is sought for any transfer of a registered or pending trademark that has been the subject of earlier, unregistered transfers, those earlier transfers shall likewise be registered with the Institute.

ARTICLE 149 [Repealed]

ARTICLE 150.
The Institute shall refuse the registration of a license or transfer of rights where the registration of the trademark is not in force.

CHAPTER VII Invalidity, Lapse and Cancellation of Registration

ARTICLE 151.
The registration of a trademark shall be invalid when:
I. It is granted in violation of the provisions of this Law or that which was in force at the time of registration;
   Notwithstanding the provisions of this subparagraph, the invalidation action may not be based on a challenge to the legal representation of the applicant for the registration of the trademark.
II. The trademark is identical or confusingly similar to another that
has been used in the country or abroad prior to the filing date of the application in respect of the registered trademark and has been applied to the same or similar products or services, provided that the person who asserts the better right by virtue of prior use proves uninterrupted use of the trademark in the country or abroad prior to the filing date or, as the case may be, prior to the date of first declared use by the person who has registered it;

III. The registration was granted on the basis of false information contained in the application;

IV. The registration was granted in error, by mistake, or owing to a difference of judgment, there being another registration in force which is considered infringed because it is that of an identical or confusingly similar trademark applied to identical or similar services or products;

V. The agent, representative, user, or distributor of the owner of a trademark registered abroad, or any other person who has a direct or indirect relationship with the owner of a trademark registered abroad, applies for and secures registration of the said trademark or of another confusingly similar trademark in his own name without the express consent of the owner of the foreign trademark; and

VI. It was obtained in bad faith.

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

Article 152.
The registration shall lapse in the following cases:

I. When it is not renewed as provided in this Law;

II. When the mark ceases to be used for three consecutive years immediately prior to the request for an administrative declaration of expiry, except when there are reasons for its non-use that are justified in the opinion of the Institute; and

III. When the declaration of actual and effective use is not made under the terms of Article 128 of this Law.

ARTICLE 153.
The registration of a trademark will be subject to cancellation if its owner has caused or tolerated its transformation into a generic name corresponding to one or more of the products or services for
which it was registered, such that in commercial media and in general public usage, the trademark has lost its distinctive character as a means for distinguishing the product or service to which it applies.

**ARTICLE 154.**
The owner of a registered trademark may at any time, in writing, request the cancellation of the registration thereof. The Institute may require authentication of the signature on the request in the cases provided for in the regulations under this Law.

**Article 155.**
The declaration of nullity, expiry, or cancellation of the registration of a trademark shall be made administratively by the Institute ex officio or at the request of a party or of the Federal Public Ministry when the Federation has an interest. The expiry referred to in sections I and III of Article 152 of this Law will not require the Institute to make an administrative declaration.
TITLE V Appellations of Origin and Geographical Indications

CHAPTER I Common Provisions

Article 156. An appellation of origin shall be understood to be the name of a geographical región, or containing its name, or another well-known name used to refer to that region, which is used to designate a product as originating therein, whose quality or characteristics are due exclusively or essentially to the geographical environment, including both natural and human factors, and has given the product its reputation.

Article 157. A geographical indication shall be understood to mean the name of a geographical región, or one that contains said name, or another well-known indication to refer to that area, which identifies a product as originating therein, when a specific quality, reputation, or other characteristic of the product is essentially attributable to its geographical origin.

Article 158. A geographical area is understood to be a region consisting of the whole territory or a region, town, or place in a country.

Article 159. The protection that this Law affords to appellations of origin and geographical indications begins with a declaration issued to that effect by the Institute.

Article 160. Appellations of origin and geographical indications are properties belonging to the public domain of the Federation and can only be used with authorization issued by the Institute.

Article 161. The validity of the declaration of protection for an appellation of origin or geographical indication shall be determined by the subsistence of the conditions that gave rise to it.
Article 162.
The common or generic name of a product may be included as an element of the appellation of origin or geographical indication. However, the common or generic name shall be considered in all cases to be of free use.

Article 163.
The following may not be protected as an appellation of origin or geographical indication:
I. A name that is identical or confusingly similar to a protected appellation of origin or geographical indication or to one in respect of which an application for a declaration has been filed earlier and is being processed, which is to be applied to the same or similar products, unless the Institute has issued a decision allowing the coexistence of those names;
II. The technical, generic, or commonly used name of the products for which protection is sought, and also any term that, in everyday language or business practice, has become a usual or generic element;
III. Any terms that, considering their characteristics as a whole, are descriptive of the products they seek to protect. These shall include descriptive or indicative words which, in trade, serve to identify the product’s kind, quality, quantity, composition, purpose, or value;
IV. A name which is identical or confusingly similar to a previously filed application for registration of a mark or commercial slogan that is being processed, or to a registered and existing mark or commercial slogan applied to the same or similar products or services;
V. A name which is identical or confusingly similar to a previously filed application for publication of a trade name, which is being processed, or to a published and existing trade name applied to the same or similar line of business;
VI. The translation or transliteration of an appellation of origin or geographical indication that cannot be protected; and
VII. A name that comprises or contains the name of a protected plant variety or breed of animal.

Article 164.
In addition to the publications referred to in this Title, the declarations and authorizations granted by the Institute shall be published in the Gazette, as well as any action that terminates the effects of the rights granted in relation to appellations of origin.
Chapter II Procedure for Declaration of Protection

Article 165.
The declaration of protection of an appellation of origin or geographical indication shall be made ex officio or at the request of:
I. Natural or legal persons directly engaged in the extraction, production, or manufacture of the product to be protected by the mark;
II. Chambers or associations of manufacturers or producers associated with the product to be protected by the mark;
III. Dependencies or entities of the Federal Government; and
IV. Governments of the Entities of the Federation in whose territory or geographical area the product to be protected is extracted, produced, or manufactured.

Article 165 BIS.
An application for the declaration of protection for an appellation of origin or geographical indication shall be submitted in writing to the Institute, accompanied by the documents on which the application is based, and must contain the following information:
I. Name and address of the applicant;
II. The position of the applicant, with information on their legal nature and proof of the activities in which it is engaged, as referred to in the previous article;
III. Identification of the appellation of origin or geographical indication;
IV. A detailed description of product or the finished product(s), including its characteristics, components, form of extraction, production or manufacturing processes, and its use in business;
V. The Official Mexican Standards to which the product must be subjected, its form of extraction, its production or manufacturing processes, and its primary, secondary, and tertiary packaging methods, as appropriate;
VI. The criteria establishing the characteristics and specifications that the product must meet for its production, packaging, and marketing, in the case of a geographical indication;
VII. The place(s) of extraction and production or manufacture of the product to be protected, and the demarcation of the territory or geographical region, taking into account geographical and political
divisions;
VII. Detailed information on the associations between the name, product, territory or geographical región, and natural or human factors, if the request refers to an appellation of origin;
IX. A technical study issued by a public or private authority or institution substantiating the information referred to in sections IV, VII, and VIII of this article;
X. Proof of payment of the required fee; and
XI. Any other information that the applicant considers necessary or pertinent.

Article 165 BIS 1.
Once the application has been filed, the Institute shall examine the information and documents provided.
If the documents submitted do not meet the legal requirements, are insufficient for the understanding and analysis of any of the elements of the application, or the appellation of origin or geographical indication identified falls under any of the impediments referred to in Article 163, the applicant will be required to make any necessary clarifications or additions and will be granted a period of two months for that purpose.

Article 165 BIS 2.
The applicant will have an additional period of two months to comply with the requirements referred to in the previous article, without having to request it, and must provide proof of payment of the required fee corresponding to the month in which it is complied with.
The additional period of time shall be counted from the day following the expiration of the two-month period described in the previous article.
The application shall be considered abandoned if the applicant fails to comply with the requests served on him within the initial period or the additional period referred to in this article, or if he fails to provide proof of payment of the required fee.
The Institute may, ex officio, continue the processing of the declaration under the terms of this Chapter, if it considers such action appropriate.

Article 165 BIS 3.
The applicant may convert an application for appellation of origin into an application for geographical indication, and vice versa, when
it appears from the content of the application that it is not consistent with what was requested. The applicant may only make such a conversion of application within the non-extendable period of two months following the date of its filing or two months following the date on which the Institute requires him to make the conversion. In this case, the date on which the conversion of application is requested shall be considered to be the filing date. If the applicant does not convert the application within the time allowed by the Institute, the application shall be considered abandoned.

**Article 165 BIS 4.**
If the submitted documents meet the legal requirements, the Institute shall publish in the Official Gazette:
I. The name of the applicant;
II. Identification of the appellation of origin or geographical indication;
III. The description of the product(s) that it will cover;
IV. The place(s) of extraction and production or manufacture of the product to be protected; and
V. The address where the file of the application for the declaration will be open for public consultation and where documents related to it will be received.

**Article 165 BIS 5.**
The Institute shall grant a non-extendable period of two months, from the date of publication in the Official Gazette, to any third party justifying its interest, to file its opposition to the application for declaration of protection and make observations or objections regarding compliance with the provisions of Articles 163 and 165 bis of this Law. The opposition must be submitted in writing, accompanied by relevant proof, as well as proof of payment of the required fee.

**Article 165 BIS 6.**
The Institute shall notify the applicant of any oppositions received, and grant the applicant a non-extendable period of two months, from the effective date of the notice, to make, in writing, whatever statement best serves his interests in relation to the opposition, observations, or objections filed and, where appropriate, to submit
Article 165 BIS 7.
For the purposes of this Chapter, all kinds of evidence will be admitted with the exception of personal statements and testimonials, unless the testimony or personal statement is included in document form; evidence that is contrary to law and morals will not be admitted as well.
The Institute may, at any time prior to issuing the declaration, conduct such investigations as it considers appropriate and gather such elements as it considers necessary.

Article 165 BIS 8.
The Institute shall suspend the processing of an application for declaration of protection for the appellation of origin or geographical indication in the following cases:  
I. If the application falls under any of the impediments referred to in sections IV and V of Article 163 and an application has been filed for the administrative declaration of nullity, expiry, or cancellation in relation to the registered trademark or cessation of the effects of a published trade name. The suspension shall proceed ex officio or at the request of any of the parties in the administrative declaration procedure and shall be lifted when a decision has been made by the Institute; and  
II. By order of a jurisdictional or administrative authority.

Article 165 BIS 9.
Once the period referred to in Article 165 bis 6 of this Law has ended, following analysis of the background, carrying out of studies, and submission of proof, and before rendering a decision, the proceedings shall be made available to the applicant and to the persons who have filed oppositions so that, where appropriate, they may put forward written arguments within ten days, which will be taken into account by the Institute. When this period has expired, the corresponding decision shall be issued, and the parties involved shall be notified of said decision.

Article 165 BIS 10.
If the decision referred to in the previous article 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 will definitively establish the elements of the protected appellation of origin or geographical indication, providing details on:

I. The description of the product or finished products, including their characteristics, components, form of extraction, and production or manufacture processes;
II. The Official Mexican Standards to which the product must be subject, its form of extraction, its production or manufacturing processes, its primary, secondary, and tertiary packaging methods, as appropriate; and
III. The demarcation of the protected territory or geographical area.

**Article 165 BIS 11.**
If the Institute refuses to grant protection of the appellation of origin or geographical indication requested, it shall notify the applicant in writing and, where appropriate, the opponents, stating the legal basis and grounds for its decision.

**Article 165 BIS 12.**
In order for national appellations of origin or geographical indications to obtain recognition abroad, as protected under this Law, the Institute, either acting directly or through the competent authority, shall make the necessary arrangements in accordance with International Treaties, commercial agreements, or legislation in the relevant country.

**Article 165 BIS 13.**
The terms of the declaration of protection of an appellation of origin or geographical indication can be amended at any time, either ex officio or at the request of an interested party, in accordance with the procedures laid down in this Chapter. If the request is submitted by an interested party, it must contain what is required by Article 165 bis of this Law and provide a detailed account of the amendments requested, as well as the grounds on which those amendments are based. The Institute shall make an appropriate decision in accordance with the provisions of this Chapter.
Chapter III Authorization for Use

**Article 165 BIS 14.**
An application for authorization to use an appellation of origin or geographical indication shall be made to the Institute and shall be granted to any natural person or legal entity that meets the following requirements:

I. It is directly involved in the extraction and production or manufacture of the products protected by the appellation of origin or geographical indication;

II. It engages in such activities within the territory or geographical area specified in the declaration;

III. When applicable, it complies with the Official Mexican Standards established in accordance with applicable laws, with respect to the products in question; and

IV. Any other person or entity specified in the declaration.

**Article 165 BIS 15.**
The application to obtain an authorization of use for an appellation of origin or geographical indication must contain the information and be accompanied by the documents specified in the regulations under this Law.

**Article 165 BIS 16.**
When the application has been received by the Institute and the required fees have been paid, the information and documents provided will be examined. If they satisfy the legal requirements, the application will be granted.

If the documents submitted do not meet the requirements or are insufficient, the applicant shall be requested to make the necessary clarifications or additions, and shall be granted a non-extendable period of two months for that purpose.

If the applicant fails to comply with the request within the given period of time, the request shall be considered abandoned.

**Article 165 BIS 17.**
The effects of the authorization to use an appellation of origin or geographical indication shall remain in force for 10 years from the date of filing the application with the Institute, and may be renewed for a period of the same duration.

The renewal must be requested by the owner within six months prior to
the expiration of its validity. However, the Institute shall still process applications filed within six months after the termination of the validity of the authorization. Once that period expires, without any request for renewal having been filed, the authorization shall lapse.

**Article 165 BIS 18.**
The authorized user will be obliged to use the protected appellation of origin or geographical indication as it appears in the corresponding declaration and to use the phrase “Denominación de Origen Protegida” (Protected Appellation of Origin) or “Indicación Geográfica Protegida” (Protected Geographical Indication), or their Spanish acronyms “D.O.P.” and “I.G.P”, as appropriate, for the products protected.

**Article 165 BIS 19.**
An appellation of origin or geographical indication may be used in advertising, commercial documentation, primary, secondary, or tertiary packaging, on the products themselves to which it applies, or in any other way for commercial purposes.

**Article 165 BIS 20.**
Any illegal use of the protected appellation of origin or geographical indication shall be punished, such as when it is accompanied by expressions like “kind,” “type,” “style,” “imitation,” “produced in,” “manufactured in,” and similar expressions that may create confusion for the consumer or imply unfair competition.

**Article 165 BIS 21.**
It will be understood that a protected appellation of origin or geographical indication is in use if the products that it distinguishes incorporate, apply, reproduce, or record, by any means, the protected appellation or indication; if the products are meant for export, or if the products have been placed on the market or are available on the market in the country, in an amount and manner that conform to commercial use and practices.

**Article 165 BIS 22.**
If a protected appellation of origin or geographical indication is not used in the manner established by the declaration or this Law, the Institute will proceed to cancel the authorization for use.
Article 165 BIS 23.
The right to use a protected appellation of origin or geographical indication may be transferred by the authorized user under the terms of ordinary laws. This transfer must be registered with the Institute so that it can be effective to the detriment of third parties, following confirmation that the new user meets the conditions and requirements established in this Law to obtain the right to use them. The transfer will take effect from the date of its registration.

Article 165 BIS 24.
The authorized user of a protected appellation of origin or geographical indication may, in turn, through an agreement, allow its use only to those who distribute or sell the products with their trademarks. The agreement must be registered with the Institute to be effective to the detriment of third parties from the date of its registration.
The agreement must contain a clause establishing the obligation of the distributor or marketer to comply with the requirements set down in sections III and IV of Article 165 bis 14 and those provided in the regulations of this Law. If the distributor or marketer does not comply with this obligation, the registration will be canceled.

Article 165 BIS 25.
A user authorized by the Institute must register with the Institute any changes to the name, full name or business name, or legal regime, as well as any applicable changes to domicile, under the terms provided in the regulations of this Law.

Chapter IV Cessation of the Effects of Declarations and Authorizations for Use

Article 165 BIS 26.
The declaration of a protected appellation of origin or geographical indication shall cease to be effective upon another declaration made by the Institute, published in the Official Gazette, with the procedure provided in Chapter II of this Title being applicable for this purpose.

Article 165 BIS 27.
The authorization to use a protected appellation of origin or
geographical indication will be null and void if it is granted:
I. In violation of the provisions of this Law; or
II. On the basis of false information or documents.

**Article 165 BIS 28.**
The authorization to use a protected appellation of origin or geographical indication shall be cancelled when:
I. The authorized user uses it in a manner different from that specified in the declaration of protection or this Law; or
II. The authorized user fails to apply the terms or acronyms referred to in Article 165 bis 18.

**Article 165 BIS 29.**
The authorization for use shall lapse in the following cases:
I. When it has not been used for three consecutive years immediately prior to the application for an administrative declaration of expiry, except when there are reasons for its non-use that are justified in the opinion of the Institute; or
II. When the term has expired.

**Article 165 BIS 30.**
Administrative declarations of nullity, cancellation, and expiry shall be made by the Institute, ex officio or at the request of a party or the Federal Public Ministry. The expiration referred to in section II of the previous article shall not require the Institute to make an administrative declaration.

**Chapter V Recognition of Appellations of Origin and Geographical Indications Protected Abroad**

**Article 166.**
The Institute shall recognize appellations of origin or geographical indications that are protected abroad, under the terms of International Treaties and in accordance with the provisions of this Chapter.

**Article 167.**
The Institute shall register appellations of origin or geographical indications that are protected abroad, in the register created for that purpose. The owner of the registration must file an application for registration and comply with the following requirements:
I. Indicate the name, nationality, and address of the applicant;
II. Submit the document granting protection 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(s) and the territory or geographical region of its extraction and production or manufacture;
IV. Indicate the translation into Spanish or the transliteration into the modern international Latin alphabet of the protected appellation of origin or geographical indication, where appropriate;
V. Accompany the application with proof of payment of the required fee; and
VI. Any other requirements established by the regulations of this Law.

Article 168.
An appellation or indication that falls under any of the impediments referred to in Article 163 of this Law shall not be entered into the registry of appellations of origin or geographical indications protected abroad.

Article 169.
Once an application has been received, the Institute shall examine the application in order to verify whether it meets the requirements referred to in Article 167.
If the application or exhibited documentation do not comply with the legal or regulatory requirements, or if there is an impediment, the Institute will notify the applicant in writing and grant the applicant a period of two months to correct any errors or omissions made and to make, in writing, whatever statement best serves his interests, with the additional period of time provided under Article 165 bis 2 of this Law being applicable.
If the interested party does not respond within the initial period or additional period, his application will be considered abandoned.

Article 170.
If the submitted documents meet the legal requirements, the Institute shall publish in the Official Gazette the following:
I. The name, nationality, and address of the applicant;
II. Information on the appellation of origin or geographical indication, the protected product(s) and the territory or geographical region of its extraction and production or manufacture, in accordance
with the document certifying the protection in the country of origin; 
III. The translation into Spanish or the transliteration into the modern international Latin alphabet of the protected appellation of origin or geographical indication, where appropriate; and 
IV. The address where the file of the application for the declaration will be open for public consultation and where related documents will be received.

Article 171
The Institute shall grant a non-extendable period of two months, from the date of publication in the Official Gazette, to any third party justifying its interest, to file its opposition to the application for recognition and make observations or objections regarding compliance with the provisions of Articles 163 and 167 of this Law. The opposition must be submitted in writing, accompanied by relevant proof, as well as confirmation of payment of the required fee.

Article 172.
The Institute shall notify the applicant of any oppositions received and grant the applicant a non-extendable period of two months, from the effective date of the notice, to make, in writing, whatever statement best serves his interests in relation to the opposition, observations, or objections filed and, where appropriate, to submit evidence.

Article 173.
The provisions established in Articles 165 bis 7, 165 bis 8, and 165 bis 9 of this Law are applicable to the registration process for recognition provided in this Chapter, if there are no oppositions.

Article 174.
If the Institute refuses to allow the registration, it will notify the applicant in writing and, where appropriate, the opponents, stating the legal basis and grounds for its decision.

Article 175.
If the decision is favorable, the Institute shall proceed to register the recognition of the appellation of origin or geographical indication protected abroad and shall order that the following be published in the Official Gazette: 
I. The name, nationality, and address of the owner of the registration;
II. The appellation of origin or geographical indication, the protected product(s) and the territory or geographical region of its extraction and production or manufacture, in accordance with the document certifying the protection in the country of origin; and

III. The translation into Spanish or the transliteration into the modern international Latin alphabet of the protected appellation of origin or geographical indication, where appropriate.

**Article 176.**
The owner of the registration of recognition of an appellation of origin or geographical indication protected abroad shall have the power to take legal actions to protect the rights of the registration.

**Article 177.**
The recognition of an appellation of origin or geographical indication protected abroad shall not produce any effect against any person who trades, distributes, acquires, or uses the product to which the appellation or indication applies, after the product has been legally introduced into the market by its owner or by the person to whom he has granted a license.
This case shall include the import of legitimate products covered by the appellation of origin or geographical indication protected abroad, made by any person for its use, distribution, or marketing in Mexico. The conduct of any activity provided for in this Article shall not constitute an administrative infringement or an offense within the meaning of this Law.

**Article 178.**
Registration of the recognition of an appellation of origin or geographical indication protected abroad shall cease to be effective because of:
I. Nullity, in any of the following circumstances:
a) When it has been granted in violation of the provisions of this Law; and
b) When it has been granted on the basis of false information and documents.
II. Cancellation, when the document referred to in section II of Article 167 ceases to have effect in the country of origin.
The declaration of nullity or cancellation of the registration shall be made administratively by the Institute at its own initiative, at the request of a party or of the Federal Public Ministry when the
Federation has an interest.
TITLE V BIS Layout Designs of Integrated Circuits

ARTICLE 178 BIS.
The layout designs of integrated circuits shall be registered and protected in accordance with this Title. To that end, the Institute shall have the following powers:
I. To process and, where appropriate, to grant the registration of layout designs of integrated circuits, and also the registration of transfers and licenses for the use and exploitation thereof, in compliance with this Law and the regulations thereunder;
II. To substantiate the proceedings for the administrative action for infringement, invalidity or lapse in connection with the registration of layout designs of integrated circuits, to issue the rulings to which said proceedings give rise and to impose such sanctions as may be appropriate; and
III. Where not agreed between the parties, to set the amount of the royalties referred to in the second paragraph of Article 178 bis 5, subparagraph V of this Title.

ARTICLE 178 BIS 1.
For the purposes of this Title:
I. “Integrated circuit” refers to a product, in its final or an intermediate form, in which the elements, at least one of them being an active element, and some or all of the interconnections form an integral part of the body or surface of a piece of semiconductor material, and which is intended to perform an electronic function;
II. “Layout design” or “topography” refers to the three-dimensional arrangement, expressed in any form, of the elements, at least one of which is an active element, and some or all of the interconnections of an integrated circuit, or such a three-dimensional arrangement designed for an integrated circuit intended for manufacture;
III. “Protected layout design” refers to a layout design of integrated circuits in relation to which the requirements of protection referred to in this Title are satisfied; and
IV. “Original layout design” refers to a layout design of integrated circuits that is the result of intellectual effort on the part of its creator and is not usual or commonplace to the creators of layout designs or manufacturers of integrated circuits at the time of its creation.
ARTICLE 178 BIS 2.
An original layout design may be eligible to be registered, whether incorporated in an integrated circuit or not, where it has not been commercially used anywhere in the world. It may also be registered, even where it has been commercially used in the ordinary way, in Mexico or abroad, provided that the application for registration is filed with the Institute within two years following the date on which the applicant first commercially used it in the ordinary way anywhere in the world.
A layout design consisting of a combination of elements or interconnections that are usual or commonplace to creators of layout designs or manufacturers of integrated circuits at the time of its creation may be registered only if the combination as a whole is considered original within the meaning of subparagraph IV of Article 178 bis 1 of this Title, and if meets the other conditions laid down in the previous paragraph.

ARTICLE 178 BIS 3.
The registration of a layout design shall have a non-renewable term of ten years, starting from the filing date of the application for registration, and shall be subject to payment of the applicable fee.

ARTICLE 178 BIS 4.
The registration of a layout design shall confer on its owner the right to prevent others from doing the following without his authorization:
I. Reproducing the protected layout design in its entirety, or any part thereof that is considered original in itself within the meaning of subparagraph IV of Article 178 bis 1 of this Law, by incorporation in an integrated circuit or otherwise; and
II. Importing, selling or distributing in any form for commercial purposes any of the following:
   a) A protected layout design;
   b) An integrated circuit incorporating a protected layout design; or
   c) A product incorporating an integrated circuit that itself incorporates an unlawfully reproduced protected layout design.

ARTICLE 178 BIS 5.
The right conferred by the registration of a layout design shall have no effect on any third party who:
I. reproduces a protected layout design without the owner’s
authorization for private purposes or for the sole purpose of evaluation, analysis, research or teaching;

II. creates a layout design that meets the originality requirement based on the evaluation or analysis of a protected layout design referred to in subparagraph I of this Article;

The creator of the second layout design may perform any of the acts referred to in the previous Article in relation to the layout design created by him, without the authorization of the owner of the first protected layout design.

III. has independently created an original layout design identical to the protected layout design prior to the publication of the registration in the Gazette;

Anyone who seeks to avail himself of this exception in an administrative action shall bear the burden of proof.

IV. performs any of the acts referred to in subparagraph II of the previous Article in relation to the following without the owner’s authorization and after they have been lawfully placed on the market in Mexico or in any part of the world by the owner or with his consent:

a) a protected layout design;
b) an integrated circuit incorporating a protected layout design; or
c) a product incorporating an integrated circuit that itself incorporates a protected layout design;

V. sells or distributes, in any form without the owner’s authorization, an integrated circuit incorporating an unlawfully reproduced protected layout design, insofar as the person who performs or orders those acts did not know and had no reasonable means of knowing, on acquiring such an integrated circuit, that it incorporates an unlawfully reproduced protected layout design.

As of the moment when the third party acting in good faith receives sufficient notice that the protected layout design has been unlawfully reproduced, he shall be obliged to pay a reasonable royalty such as would be payable under a freely negotiated license for such a layout design, with a view to exhausting current stocks or fulfilling orders made prior to the notification.

The performance of any activity provided for in this Article shall not constitute an administrative infringement or offense within the meaning of this Law.

ARTICLE 178 BIS 6.

In addition to the particulars specified in Article 38 of this Law, the application for registration shall be accompanied by the
following:
I. a sworn declaration stating the date and place of first ordinary commercial use anywhere in the world, or stating that there has been no exploitation;
II. a graphic or photographic reproduction of the layout design; and
III. a mention of the electronic function performed by the integrated circuit in which the layout design is incorporated.
The applicant may exclude the parts of the graphic or photographic reproduction that relate to the method of manufacture of the integrated circuit, provided that the parts shown are sufficient for the layout design to be identified.

ARTICLE 178 BIS 7.
The registration of a layout design shall be effected in compliance with the applicable provisions of Articles 34, 35, 38, 38 bis, 39, 50 and 55 bis to 60 of this Law.
The provisions contained in Articles 62 to 69 of this Law shall be applicable to the transfer or licensing of the rights conferred by the registration of a protected layout design. There shall be no grant of compulsory licenses.

ARTICLE 178 BIS 8.
The registration of a protected layout design shall be null and void where it has been granted in violation of the provisions of Article 178 bis 2 of this Title, the provisions of Articles 78 to 81 of this Law being applicable as appropriate.

ARTICLE 178 BIS 9.
For the purposes of Article 229 of this Law, protected layout designs or the integrated circuits in which they are incorporated shall display a circled or otherwise enclosed letter "M" or "T", accompanied by the name of the owner, in either the full or the abbreviated form by which he is generally known.
The owner of the registration of a layout design may seek damages from third parties who, before the grant of said registration, have used the layout design without his consent, provided that said use took place after the filing date of the application for registration and the layout design concerned complies with the provisions of the previous paragraph.
Title VI Administrative Procedures

CHAPTER I General Rules of Procedure

ARTICLE 179. Any application or submission filed with the Institute that relies on the provisions of this Law and other provisions derived from this Law shall be filed in writing and be written in Spanish. Documents filed in a different language shall be accompanied by a Spanish translation.

Article 180. Applications and submissions must be signed by the interested party or his representative and, if applicable, be accompanied by proof of payment of the required fee. If the application or submission is not signed, it will be discarded outright. In the absence of proof of payment, the Institute will request, for one time only, that the applicant exhibit payment of the required fees within a period of five business days. If this request is not met within the indicated period of time, the application or submission shall be rejected outright.

ARTICLE 181. When applications and submissions are filed through an agent, the agent shall prove his status:
I. in a simple power of attorney signed before two witnesses if the principal is an individual;
II. in a simple power of attorney signed before two witnesses if, in the case of legal entities, the case involves applications for patents or registrations or the registration of licenses or transfers of licenses.
In the latter case the power of attorney shall specify that the person granting is invested with the power to do so, and shall quote the instrument by which that power is conferred;
III. in cases not covered by the previous subparagraph, in a public document or power of attorney with authentication of signatures before a notary or intermediary when a Mexican company is involved, the legal existence of the latter and the powers of the grantor having also to be verified; and
IV. In cases not covered by section II, through a power of attorney
granted in accordance with the applicable legislation of the place where it is granted or in accordance with international treaties, if the principal is a foreign legal entity. If the power of attorney attests to the legal existence of the legal entity in whose name the power of attorney is granted, as well as the right of the principal to confer it, the validity of the power of attorney will be presumed, in the absence of proof to the contrary.

In each file that is processed, proof of the personality of the applicant or submitter must be provided; however, a simple copy of the proof of registration will suffice if the power of attorney is entered into the general registry of powers established by the Institute.

To provide proof of personality in applications for registration of a trademark, collective mark, commercial slogan, and publication of a trade name; their renewals; registrations for licenses of use or transfers; changing the address of the applicant or owner, or changing the location of the establishment, it will be sufficient, in the application, for the agent to provide a sworn declaration, confirming that he has the authority to carry out the corresponding procedure, provided that it is the same agent from start to finish of the application.

If a new agent becomes involved after the application has been filed, the new agent must provide proof of his personality in accordance with the terms of this article.

**ARTICLE 182.**

When an application or submission is filed by several individuals, the relevant document shall specify which of them is the common representative. If this is not done, it shall be understood that the first person mentioned is the common representative.

**Article 183.**

In all applications, the petitioner must provide an address for the service and receipt of notifications within the national territory. The Institute shall notify through the Gazette all resolutions, requirements, and other acts that it issues, in relation to the processing of patents, registrations, and national publications, as well as those relating to the retention of rights, except for the files covered by the circumstances set out in Article 186 of this Law. In the administrative declaration procedures provided by this Law, including those carried out in absentia, the final and procedural
decision issued may be notified to the parties by the Institute and by publication in the Gazette, if it has not been possible to send notifications to the address referred to in the first paragraph of this article.

The submitter must inform the Institute of any change in the address for service and receipt of notifications. If this information is not provided, any notifications served will be considered to have been legally executed at the address that appears in the file.

ARTICLE 184.
Where this Law expresses periods in a given number of days, only working days shall be counted; in the case of terms expressed in months or years, the calculation shall be from date to corresponding date, with non-working days included.

Periods shall start on the day following the relevant notification. Publications in the Gazette shall have the effect of notifications on the date specified in the Gazette itself or, if none is specified, on the day following that on which the Gazette was brought into circulation.

ARTICLE 185.
The files of patents and registrations in force, and also those relating to published commercial names and appellations of origin, shall always be available for all types of consultation and for use in filing submissions.

Article 186.
The files of applications for patents, registration of utility models, and registrations of industrial designs not published in the Gazette may be consulted only by the applicant or his representative, or persons authorized by him, except when the said files are cited by another applicant or when they are submitted as proof in an administrative declaration procedure, in which case necessary measures for the preservation of confidentiality shall be observed.

The staff of the Institute who intervene in the various procedures to be conducted pursuant to this Law and the regulations under it shall be bound to observe absolute secrecy regarding the contents of pending files; failure to do so shall be punished in accordance with the applicable regulations relating to the responsibilities of public servants, regardless of whatever sanctions may be appropriate in such cases. The staff of public or private bodies that may be privy to the
said contents in dealings with the Institute in the course of their duties shall be under the same obligation. Information of an official nature or that required by judicial authority is excluded from the foregoing.

CHAPTER II Administrative Action Procedure

ARTICLE 187.
Statements of administrative action for invalidity, lapse, cancellation and administrative infringement under this Law shall be examined and ruled upon according to the procedure specified in this Chapter and the formalities laid down in this Law, and the Federal Code of Civil Procedure shall be subsidiarily applicable insofar as it does not contravene this Law.

ARTICLE 188.
The Institute may initiate the administrative action procedure ex officio or upon request by anyone with a legal interest and grounds for his claim. Similarly, any person may state in writing to the Institute the existence of grounds for initiating administrative action procedure ex officio, in which case the Institute may consider such information as evidence to determine the start of the procedure, if deemed appropriate.

ARTICLE 189.
Any statement of administrative action shall contain the following particulars:
I. name of the requestor and of his representative if any;
II. address for the service and receipt of notifications;
III. name and address of the other party or of his representative;
IV. the subject of the request, expressed in clear and precise terms;
V. the description of the facts; and
VI. the underlying legal grounds.

ARTICLE 190.
Originals or duly certified copies of the documents and statements on which the action relies shall be submitted with the request for an administrative action, and the corresponding proof shall be offered. Proof submitted later shall not be allowed unless it materializes later. The requestor shall also submit the number of simple copies of the application and accompanying documents as is necessary to pass on
to the other party.
When a document in the archives of the Institute is offered as proof, the applicant shall be required only to specify the file in which it is found and to request the issue of the corresponding certified copy or, if applicable, comparison with the uncertified copy that is produced, and shall request that the Institute, on the basis of the uncertified copy of the proof in question, order the affected owner to appear.

**ARTICLE 191.**
If the requestor fails to comply with the requirements referred to in Article 189 of this Law or fails to submit the copies of the application and accompanying documents as referred to in Article 190 of this Law, the Institute shall call upon him once, and only once, to remedy the omission or to provide the appropriate clarifications; to that end he shall be allowed a period of eight days, and, if the requirement is not complied with in the time allowed, the request shall be rejected.
The request shall also be rejected for failure to submit a document attesting the requestor’s status, or if the registration, patent, authorization or publication on which the action relies is invalid.

**ARTICLE 192.**
All types of evidence shall be allowed in the administrative action procedures, with the exception of testimonials and personal statements, unless the testimony or personal statement is included in documentary form; evidence that is contrary to law and moral will not be admitted as well.
Without prejudice to the provisions of the previous paragraph, evidentiary value shall be accorded, for the purposes of this Law, to invoices issued and inventories drawn up by the owner or his licensee.

**ARTICLE 192 BIS.**
For the substantiation of facts liable to constitute an infringement of any one or more of the rights protected by this Law, or in administrative action procedures, the Institute may avail itself of such elements of proof as it considers necessary.
Where the affected owner or alleged infringer has submitted a sufficient proof to which he could reasonably have access in support of his claims and has specified the relevant proof to substantiate those claims that is in the possession of the opposing party, the
Institute may order the latter to submit said proof, subject, where appropriate, to such conditions as will guarantee the protection of confidential information.

Where the affected owner or alleged infringer refuses access to proof or fails to provide relevant proof in his possession in a reasonable time, or significantly obstructs the procedure, the Institute may hand down preliminary and final rulings, either favorable or adverse, on the basis of the proof submitted, including the arguments put forward by the person adversely affected by the denial of access to the proof, on condition that the parties concerned are given the opportunity to be heard in relation to the arguments and to the proof submitted.

**ARTICLE 192 BIS 1.**

Where the subject matter of the patent is a process for the manufacture of a product, the alleged infringer shall, in the procedure for the administrative action for infringement, prove that said product has been manufactured according to a process different from the patented process where:

I. the product obtained by the patented process is new; and

II. there is a significant probability that the product has been manufactured using the patented process and the owner of the patent has not succeeded, in spite of having tried, in establishing the process actually used.

**ARTICLE 193.**

Once the request for an administrative declaration of nullity, expiration and cancellation has been admitted, the Institute, with the simple copy of the request and the accompanying documents, will notify the affected owner of the request, granting him a period of one month in which to express in writing whatever is in his best interest. Procedures for the administrative action for infringement shall conform to the provisions of Articles 209, subparagraph IX, and 216 of this Law. The notification shall be made to the address given by the party requesting the administrative action.

**ARTICLE 194.**

Where it has not been possible to make the notification referred to in the previous Article on account of a change of address, whether that specified by the requestor or that found in the relevant file, and the new address is not known, the notice shall be served at the expense of the person requesting the measure by publication, once and
only once, in the Official Journal and in a major national newspaper. The publication shall disclose an extract from the statement of administrative action and a period of one month shall be specified for the owner concerned to make whatever is in his best interest.

ARTICLE 195.
In the administrative action procedure issues specially ruled upon previously shall not be examined, but will be settled when the appropriate finding is handed down.

ARTICLE 196.
When the Institute initiates the administrative action procedure ex officio, notice shall be served on the owner concerned or, where applicable, on the alleged infringer, at the address specified in the relevant file and, if any change has occurred without the Institute being notified, by publication as provided for in Article 194 of this Law.

ARTICLE 197.
The document in which the owner concerned or, where applicable, the alleged infringer, makes his statements shall contain:
I. name of the owner concerned or alleged infringer and that of his representative if any;
II. address for the service and receipt of notifications;
III. exceptions and defenses;
IV. statements on or rebuttals of each of the points in the request for an administrative action; and
V. legal grounds.
The provisions of Article 190 of this Law shall apply to the filing of the aforementioned document and the submission of evidence.

ARTICLE 198.
When the owner concerned, or where applicable, the alleged infringer, is unable to submit all or part of the evidence within the period allowed, owing to the evidence being abroad, he may be granted a further period of 15 days for its submission, provided that he proposes it in his document and makes a statement to that effect.

ARTICLE 199.
Upon expiration of the period granted to the affected owner or alleged infringer to submit his statements and, if applicable, the time
extension to which reference is made in the previous article, following study of the relevant background and full examination of the required evidence, the appropriate administrative resolution will be issued and the interested parties will be notified thereof at the address specified in the file or, if applicable, by publication under the terms of article 194 of this Law.

In the case of procedures for the administrative action for infringement, the same ruling shall likewise impose the sanction where one is appropriate.

ARTICLE 199 BIS.

In administrative action procedures relating to the infringement of any of the rights protected by this Law, the Institute may adopt the following measures:

I. order the withdrawal from circulation or ban the distribution of merchandise that infringes such rights as are protected by this Law;

II. order the withdrawal from circulation of:
   a) objects manufactured or used illegally,
   b) objects, wrappers, containers, packaging, paperwork, advertising material and similar Articles that infringe any of the rights protected by this Law,
   c) signs, labels, tags, paperwork and similar Articles that infringe any of the rights protected by this Law, and
   d) implements or instruments intended or used for the manufacture, preparation or production of any of the Articles specified in paragraphs a), b) and c), above;

III. prohibit with immediate effect the commercialization or use of the goods by which one of the rights protected by this Law is infringed;

IV. order the seizure of goods, which shall take place in accordance with the provisions of Articles 211 to 212 bis 2;

V. order the alleged infringer or third parties to suspend or discontinue the acts constituting a violation of the provisions of this Law; and

VI. order the suspension of the rendering of the service or the closure of the establishment where the measures provided for in the previous subparagraphs are not sufficient to prevent or avoid the infringement of the rights protected by this Law.

If the product or service is on the market, the traders or service providers shall be under the obligation to abstain from disposing of the product or rendering the service as from the date on which the
ruling is notified to them.
Producers, manufacturers, importers and their distributors shall be under the same obligation, who shall be responsible for immediately recovering any goods that are already on the market.

ARTICLE 199 BIS 1.
Before ordering the implementation of the measures referred to in the previous Article, the Institute shall call upon the requestor to:
I. prove his ownership of the rights and any of the following assumptions:
   a) the existence of an infringement of his rights,
   b) the imminence of the infringement of his rights,
   c) the existence of the possibility of irreparable damage being sustained, and
   d) the existence of a justified fear that evidence might be destroyed, concealed, lost or altered;
II. provide sufficient security to cover any damages that might be caused to the person against whom the measure is sought; and
III. provide the necessary information for the identification of the goods, services or establishments with which or in which the infringement of industrial property rights has been committed.
A person against whom the measure has been granted may provide counter-security to cover any damages that might be caused to the party seeking it, with a view to having it lifted.
The Institute shall take into consideration the seriousness of the infringement and the nature of the measure sought to adopt the practice of it.
To determine the amount of the security, the Institute shall consider the elements that the right holder brings as well as those arising from the actions. The amount of the counter-security shall include the amount of the security provided by the applicant and an additional forty percent of that. The Institute may require the applicant to increase the security, when the practice of action is clear that the initially granted security is insufficient to cover any damages that may cause the person against whom action is sought. Similarly, the Institute may order an increase in counter-security.

ARTICLE 199 BIS 2.
A person against whom any of the measures referred to in Article 199 bis of this Law has been ordered shall have a period of ten days within which to submit to the Institute any observations that he might
have regarding said measure.
The Institute may amend the terms of the measure that has been adopted in the light of any observations made to it.

**ARTICLE 199 BIS 3.**
The party requesting the provisional measures referred to in Article 199 bis shall be liable for the payment of damages caused to the person against whom they have been carried out when:
I. the final ruling handed down on the merits of the dispute finds that there has been no infringement or threat of infringement of the rights of the party seeking the measure; and,
II. precautionary measures have been requested, and the petition or statement of administrative action for infringement has not been filed with the competent authority or the Institute on the substance of the dispute within a period of 20 days beginning with the implementation of the measure.

**ARTICLE 199 BIS 4.**
The Institute shall hand over to the person concerned any security or counter-security that may have been deposited when the procedure for administrative action for an infringement is settled.

**ARTICLE 199 BIS 5.**
The Institute shall, in the final ruling on the administrative action for infringement procedure, decide on the lifting or confirmation of the measures adopted.

**ARTICLE 199 BIS 6.**
In any provisional measures ordered, care must be taken that they do not serve as the means of violating trade secrets or performing acts that constitute unfair competition.

**ARTICLE 199 BIS 7.**
The requesting party may only use the documentation relating to the application of provisional measures to institute the appropriate proceedings or to exhibit it in files pertaining to pending procedures, and shall be prohibited from using it, disclosing it or communicating it to third parties.

**ARTICLE 199 BIS 8.**
In the procedures for the administrative action for infringement, the
Institute shall at all times seek to reconcile the interests of those involved.

CHAPTER III Appeal for Reconsideration

ARTICLE 200.
An appeal for reconsideration may be made against a decision refusing a patent or utility model or industrial design registration; it shall be filed with the Institute in writing within a period of 30 days from the date on which notice is given of the relevant ruling. The appeal shall be accompanied by the documentation attesting its legal basis.

ARTICLE 201.
Once the arguments presented in the appeal and the documents provided have been examined, the Institute shall issue the appropriate ruling, which shall be communicated to the appellant in writing.

ARTICLE 202.
If the ruling issued by the Institute rejects the appeal, that fact shall be communicated to the appellant in writing and published in the Gazette. When the ruling is in the appellant’s favor, the procedure specified in Article 57 of this Law shall apply.
Title VII Inspection, Administrative Infringements and Sanctions, and Offenses

CHAPTER I Inspection

ARTICLE 203.
In order to verify compliance with the provisions of this Law and other provisions derived therefrom, the Institute shall carry out inspections and monitoring in accordance with the following procedures:
I. requests for reports and information; and,
II. inspections.

ARTICLE 204.
All persons shall be under the obligation to provide the Institute, within a period of 15 days, with such reports and information as are requested of them in writing in connection with their observance of the provisions of this Law and other provisions derived therefrom.

ARTICLE 205.
Inspection visits will be carried out in working hours and days and only by personnel authorized by the Institute, with prior identification and exhibition of their authorizing documents. The Institute may also authorize visits to be carried out in non-working hours and days in order to avoid the commission of infractions, in which case such authorization will be indicated in the authorizing documents. The staff appointed for the inspection visits may, in the course of their work, take photographs or film videos or collect any other instrument considered admissible as evidence in terms of the Federal Law on Administrative Procedure and the Federal Code of Civil Procedures. Photographs which are taken, videos which are filmed and other instruments gathered in the terms of this article, may be used by the Institute as elements with full probative value.

ARTICLE 206.
The owners or those in charge of establishments in which the products are manufactured, stored, distributed or sold or which offer the products for sale or which supply services, will be obliged to allow access to the personnel authorized to carry out inspection visits, as long as they comply with the requirements established in the previous
article.
If the authorized personnel are denied access into the establishments referred to in the previous paragraph or if the inspection visit is obstructed in any way, these circumstances will be noted in the respective report and the charges against them in the corresponding administrative action procedures shall be presumed to be true.

ARTICLE 207.
Inspections shall be understood as being those conducted at locations where products are manufactured, stored, shipped, delivered or marketed, or where services are rendered, for the purpose of examination of the products or the conditions under which the services are rendered, and the documents relating to the activity in question.

ARTICLE 208.
A detailed record shall be made of every inspection visit, in the presence of two witnesses nominated by the person to whom notice was served or by the inspector who conducted the visit if the former should decline to make a nomination.
If the person with whom the visit was arranged or the witnesses do not sign the report, or refuse to accept a copy of the same, or do not provide witnesses to sign the report, these circumstances will be incorporated into the record itself without this affecting its validity or its probative value.

ARTICLE 209.
The record shall contain:
I. the hour, day, month and year when the inspection was carried out;
II. the street, number, locality and state in which the site where the inspection was carried out is located;
III. the number and date of the warrant authorizing the inspection, including the identity of the inspector;
IV. the name and position of the person with whom the proceeding was understood;
V. the names and addresses of the persons acting as witnesses, whether designated by the party visited or, failing that, by the inspector;
VI. a mention of the opportunity given to the party visited to exercise his right to make observations to the inspector in the course of the inspection;
VII. Information relating to the proceedings, including the reporting of any circumstance or event which has been observed during the course
of the visit, even if the said circumstance or event is not included in the action points of the inspection, and the mention of whether photographs have been taken, video films have been made or any other evidential elements have been gathered during the course of the inspection. Where applicable, these elements must be attached to the corresponding report;

VIII. a statement by the party visited, if he wished to make one;
IX. a mention of the opportunity given to the party visited to exercise his right to confirm in writing the observations that he made at the time of the inspection, and to make additional observations on the production of the record within a period of ten days; and
X. the names and signatures of the persons who took part in the inspection, including the inspector, and, where applicable, a mention that the party visited refused to sign the record.

ARTICLE 210.
When making observations either during the inspection or in writing, the parties visited may offer proof relating to the facts contained in the record.

ARTICLE 211.
If in the course of the inspection the commission of any of the acts or acts provided for in Articles 213 and 223 is verified, the inspector shall, as a precautionary measure, confiscate the products with which such infringements or offenses were presumably committed, and shall make an inventory of the goods confiscated, which shall be mentioned in the record of the inspection, the person in charge or the proprietor of the establishment in which they were found being designated as depositary if said establishment has fixed premises, failing which the products shall be consigned to the Institute.
If acts are involved that could possibly constitute offenses, the Institute shall state that fact in the ruling that it issues on the subject.

ARTICLE 212.
A copy of the inspection record shall be left with the person with whom the inspection was understood, even where that person has refused to sign it, its validity being unaffected thereby.

ARTICLE 212 BIS.
The confiscation referred to in Article 211 of this Law may be
practiced on:
I. equipment, instruments, machinery, devices, designs, specifications, plans, manuals, molds, printing blocks, plates and, in general any other means used in the performance of the acts or facts considered in this Law as infringements or offenses;
II. Books, registries, documents, models, samples, labels, paperwork, advertising material, invoices and, in general any other material from which elements of proof may be inferred; and
III. merchandise, products and any other goods in which the infringement of the rights protected by this Law takes place.

ARTICLE 212 BIS 1.
In the confiscation of goods referred to in the previous Article, the person or institution whom or which the party applying for the measure appoints under his own responsibility shall be the preferred depositary.

ARTICLE 212 BIS 2.
In the event of the final ruling on the substance of the dispute finding that an administrative infringement has indeed been committed, the Institute shall decide on the fate of the confiscated goods, after hearing the parties, subject to the following rules:
I. it shall make available to the competent judicial authority the goods that have been confiscated as soon as it receives notice that the judicial action seeking compensation for material damages or payment of damages has been initiated;
II. it shall place them at the disposal of any persons specified by the award where an arbitration procedure has been chosen;
III. it shall, where appropriate, proceed according to the terms laid down in the agreement that the owner affected and the presumed infringer have entered into regarding the fate of the goods;
IV. in the cases not included in the previous subparagraphs, each of the parties concerned shall submit in writing, within the five days following that on which they are given sight thereof, his proposal regarding the fate of the confiscated goods that have been withdrawn from circulation or whose marketing has been prohibited;
V. It must notify the parties of the proposals submitted so that they may decide by mutual agreement regarding the disposition of the goods in question and communicate their decision to the Institute within five days following the date on which they were notified; and
VI. if the parties fail to announce in writing their agreement on the
fate of the goods within the period allowed, or if none of the situations referred to in subparagraphs I to III above has arisen within a period of 90 days from the issue of the final decision, the board of Directors of the Institute may decide on:

a) the donation of the goods to departments and agencies of the Federal Public Administration, states, municipal councils or public, charity or social security institutions, provided that the public interest is not affected thereby; or
b) the destruction thereof.

CHAPTER II Administrative Infringements and Sanctions

ARTICLE 213.
The following shall constitute administrative infringements:
I. engaging in acts contrary to proper practice and custom in industry, commerce and services, which imply unfair competition and which relate to the subject matter regulated by this Law;
II. causing to appear as patented products goods that are not. If the patent has expired or been declared invalid there shall be infringement after one year following the date of lapse or, where applicable, the date on which the action for invalidity became effective;
III. Distributing or putting products into circulation or offering services with the indication that they are protected by a registered trademark when they are not; if the registration of the trademark has expired or been declared invalid or cancelled, there shall be infringement one year after the date of lapse or, where applicable, the date on which the relevant action became effective;
IV. using a trademark confusingly similar to another registered trademark to protect products or services identical or similar to those protected by the registered trademark;
V. using a registered trademark or one confusingly similar thereto without the consent of its owner as an element of a commercial name or business name, or vice versa, provided that said commercial names or business names are related to establishments working with the products or services protected by the trademark;
VI. using, within the geographical area of the actual clients or in any part of the Republic, in the case provided for in Article 105 of this Law, a commercial name that is identical or confusingly similar to another already being used by a third party to protect an industrial, commercial or service establishment in the same or a similar field;
VII. using as trademarks the names, signs, symbols, abbreviations or emblems referred to in Articles 4 and 90, subparagraphs VII, VIII, IX, XII, XIII, XIV and XV of this Law;

VIII. using a trademark previously registered or confusingly similar thereto as a trade name, denomination or business name or part of such a name by an individual or company whose activity is the production, import or marketing of goods or services identical or similar to those to which the registered trademark is applied without the written consent of the owner of the trademark registration or of the person empowered to give such consent;

IX. performing, in the exercise of industrial or mercantile activities, acts that cause or induce the public to confusion, error or deception, for making believe or suppose unfounded:
   a) that a relation or association exists between a given establishment and that of a third party,
   b) that products are manufactured according to specifications, licenses or authorizations from a third party,
   c) that services are rendered or products sold according to authorizations, licenses or specifications from a third party,
   d) that the product concerned comes from a territory, region or locality different from the true place of origin, in such a way as to mislead the public as to the geographical origin of the product;

X. attempting or achieving the aim of discrediting the products or services, the industrial or commercial activity or the establishment of another party. This provision shall not apply to the comparison of products or services protected by the trademark for the purpose of informing the public, provided that the comparison is not biased, false or exaggerated within the meaning of the Federal Consumer Protection Law;

XI. manufacturing or developing goods protected by a patent or by a utility model or industrial design registration without the consent of the owner thereof or without the appropriate license;

XII. offering for sale or putting into circulation goods protected by a patent or by a utility model or industrial design registration in the knowledge that they have been manufactured or developed without the consent of the owner of the patent or registration or without the appropriate license;

XIII. using patented processes without the consent of the owner of the patent or without the appropriate license;

XIV. offering for sale or putting into circulation goods that are the result of the use of patented processes, in the knowledge that they
have been used without the consent of the owner of the patent or of the person who holds a license of use thereof;
XV. reproducing or imitating industrial designs protected by registration without the consent of the owner thereof or without an appropriate license;
XVI. using registered advertising slogans or advertising slogans confusingly similar thereto without the consent of the owner thereof or without the appropriate license for the purpose of advertising goods, services or establishments identical or similar to those to which the announcement applies;
XVII. using a commercial name or a name confusingly similar thereto without the consent of the owner thereof or without the appropriate license to protect an industrial, commercial or service establishment in the same or a similar branch;
XVIII. using a registered trademark without the consent of the owner thereof or without the appropriate license on goods or services identical or similar to those to which the trademark is applied;
XIX. offering for sale or putting into circulation goods identical or similar to those to which a registered trademark is applied in the knowledge that said trademark has been used on those goods without the consent of the owner thereof;
XX. offering for sale or putting into circulation goods to which a registered trademark is applied and which have been altered;
XXI. offering for sale or putting into circulation goods to which a registered trademark is applied after having partially or totally altered, replaced or deleted said trademark;
XXII. Using a protected appellation of origin or geographical indication without the corresponding authorization for use;
XXIII. reproducing a protected layout design without the authorization of the owner of the registration in its entirety, or any part that is considered original in itself, by incorporation in an integrated circuit or in another way;
XXIV. importing, selling or distributing any of the following in violation of the provisions of this Law, without the authorization of the owner of the registration, in any form for commercial purposes: a) a protected layout design; b) an integrated circuit incorporating a protected layout design; or c) a product incorporating an integrated circuit that itself incorporates an unlawfully reproduced protected layout design;
XXV. not providing the franchisee with the information referred to in Article 142 of this Law, provided that the relevant period has
elapsed and that the information has been requested;
XXVI. Using a combination of distinctive signs and operative and picture elements making it possible to identify products or services that are equal or similar in their degree of confusion with others protected by this Law, and whose use causes or induces confusion, error, or deception among the public by causing a belief in, or an assumption of, the existence of a relation between the owner of the protected rights and the unauthorized user. Use of such operative and picture elements in the manner indicated is unfair competition in terms of Section I of this article;
XXVII. When the patentee or his licensee, user or distributor, start infringement proceedings against one or more third parties, once the Institute has been determined in a procedure that caused previous administrative enforcement, the lack of the same offense, and
XXVIII. Denying access to the personnel authorized to carry out inspection visits, in the terms established in article 206 of this Law;
XXIX. Not providing, without just cause, reports and information to the Institute when it requests them in order to carry out its functions under section I of Article 203;
XXX. Using an appellation or indication that is identical or confusingly similar to a national appellation of origin or geographical indication protected by the Institute, or to a foreign appellation of origin or geographical indication recognized by the Institute to protect the same or similar products. This shall include the use of the appellation or indication in services;
XXXI. Using the translation or transliteration of a national appellation of origin or geographical indication protected by the Institute or a foreign appellation of origin or geographical indication recognized by the Institute to protect the same or similar products. This shall include the use of the appellation or indication in services;
XXXII. Producing, storing, transporting, distributing, or selling products that are identical or similar to those of a national appellation of origin or geographical indication protected by the Institute or a foreign appellation of origin or geographical indication recognized by the Institute, using any type of indication or element that may create confusion in the mind of the consumer with regard to its origin or quality, such as “kind,” “type,” “style,” “imitation,” “produced in,” “manufactured in,” and other similar wordings; and
ARTICLE 214.
Administrative infringements of this Law or other provisions derived therefrom shall be sanctioned as follows:
I. A fine of up to the amount of 20,000 Measurement and Upgrade Units;
II. An additional fine up to the amount of 500 Measurement and Upgrade Units, for each day that the infraction persists;
III. temporary closure for up to 90 days;
IV. permanent closure;
V. administrative detention for up to 36 hours.

ARTICLE 215.
The investigation of administrative infringements shall be carried out by the Institute either ex officio or at the request of the interested party.

ARTICLE 216.
Should the nature of the administrative infringement not warrant an inspection, the Institute shall serve notice on the presumed infringer, with the elements and proof on which the alleged infringement relies, allowing him a period of ten days within which to make whatever statement best serves his interests and submit the corresponding proof.

ARTICLE 217.
Once the term referred to in Articles 209, subparagraph IX and 216 of this Law has expired, the Institute shall hand down the appropriate ruling on the basis of the inspection record issued and, where no record was warranted by the nature of the infringement, on the basis of the elements appearing in the file, taking due account of the statements and evidence submitted by the interested party.

ARTICLE 218.
In the event of a second or subsequent offense the fines previously imposed shall be doubled, but the amount thereof shall not exceed three times the applicable maximum set in Article 214 of this Law.
For the purposes of this Law and the other provisions deriving therefrom, second or subsequent offense refers to every subsequent infringement of one and the same provision, committed within the two years following the date on which the ruling on the infringement was
ARTICLE 219.
Closures may be ordered in the decision that rules on the infringement in addition to a fine or without a fine having been imposed. There shall be grounds for permanent closure when the establishment has been temporarily closed twice within a period of two years if, during said period, the infringement is repeated regardless of whether the location thereof has changed.

ARTICLE 220.
For determining sanctions the following shall be taken into account:
I. the intentional nature of the act or omission constituting the infringement;
II. the economic circumstances of the infringer; and
III. The severity entailed by the infringement in relation to the product business or the provision of services, as well the harm caused to those directly affected.
When the action or omission constituting the infringement has been made knowingly, a fine will be imposed of double the sum of the fine imposed for the infringing conduct.
The action or omission will be considered to have been made knowingly, when the party committing the infraction knew of the existence of the owner’s rights, through the information referred to in articles 26, 131 and 229 of the Industrial Property Law and article 17 of the Federal Law on Copyright, through the Industrial Property Gazette, including publications in national newspapers and notifications with acknowledgment of receipt.

ARTICLE 221.
The sanctions provided for in this Law and other provisions deriving therefrom shall be imposed in addition to appropriate indemnification for damages of the parties affected under ordinary legislation and without prejudice to the provisions of the following Article.

ARTICLE 221 BIS.
Compensation for material damages or indemnification for damages due to violation of the rights conferred by this Law shall in no case be less than 40 percent of the public sale price of each product or the price of the rendering of services that involve infringement of any one or more of the industrial property rights provided for in this
ARTICLE 222.
If, on examining the file relating to the investigation of an administrative infringement, the Institute notes that acts have been committed that might constitute any of the offenses provided for in this Law, it shall state that fact in the decision that it issues.

Chapter III Offenses

ARTICLE 223.
The following shall constitute offenses:
I. repeating the conduct provided for in Article 213, subparagraphs II to XXII of this Law, once the first administrative sanction imposed on that account has become final;
II. falsifying trademarks, protected by this Law, on a commercial scale and with ill intent;
III. producing, storing, transporting, introducing into the country, distributing or selling, on a commercial scale and with ill intent, items which display falsifications of trademarks protected by this Law, as well as knowingly providing or supplying in any form raw or other materials intended for the production of objects which display falsifications of trademarks protected by this Law;
IV. revealing to a third party a trade secret that was known by virtue of employment, position, responsibility, the practice of a profession or business relations, or as a result of the grant of a license for its use, without the consent of the person keeping the trade secret, having been advised of its confidentiality, for the purpose of procuring an economic benefit for oneself or for the third party, or for the purpose of doing harm to the person keeping the secret;
V. appropriating a trade secret without the right to do so and without the consent of the person who keeps it or its authorized user, in order to use it or reveal it to a third party for the purpose of procuring an economic benefit for oneself or for the third party, or for the purpose of doing harm to the person keeping the trade secret or to the authorized user thereof; and
VI. using information constituting a trade secret that is known by virtue of employment, responsibility or position, the practice of a profession or business relations, without the consent of the person keeping it or the authorized user thereof, or that has been revealed to one by a third party, in the knowledge that said third party was
so acting without the consent of the person keeping the trade secret or the authorized user thereof, for the purpose of procuring an economic benefit or doing harm to the person keeping the trade secret or the authorized user thereof.

VII. Produce, store, transport, distribute or sell products of national origin that do not have the corresponding certification according to the appellation of origin or geographical indication and the corresponding Official Mexican Standard, with the purpose of obtaining an economic benefit for themselves or for a third party. It is included in the previous case, perform any act of customs clearance before the competent authorities, for the introduction to the country or exit from it.

There will 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.

The offenses provided for in this Article shall be prosecuted by the complaint of the offended party.

**Article 223 BIS.**

A penalty of imprisonment for 2 to 6 years and a fine of 100 to 10,000 Measurement and Upgrade Units shall be imposed on anyone who sells to a final consumer on the streets or in public places, fraudulently and for the purpose of commercial speculation, objects that show counterfeit versions of trademarks protected by this Law. If the sale is made in commercial establishments, or in an organized or permanent manner, a penalty of imprisonment for 3 to 10 years and a fine of 2,000 to 20,000 Measurement and Upgrade Units shall be imposed. This crime shall be prosecuted ex officio.

**Article 224.**

A penalty of imprisonment for 2 to 6 years and a fine of 100 to 10,000 Measurement and Upgrade Units shall be imposed on anyone who commits any of the offenses indicated in sections I, IV, V, or VI of Article 223 of this Law. In the case of the offenses described in sections II, III, or VII of the same Article 223, a penalty of imprisonment for 3 to 10 years and a fine of 2,000 to 20,000 Measurement and Upgrade Units shall be imposed.

**ARTICLE 225.**

For the institution of the criminal action in the circumstances
ARTICLE 225.
Provided for in Article 223, subparagraphs I and II, the Institute shall be requested to issue a technical opinion which shall not prejude such civil or criminal action that may proceed.

ARTICLE 226.
Regardless of the institution of criminal proceedings, the aggrieved party in any of the offenses referred to in this Law may demand from the perpetrator or perpetrators thereof compensation and the payment of damages, as provided for in Article 221 bis of this Law, for the harm sustained as a result of said offenses.

ARTICLE 227.
The Federal courts shall have jurisdiction over the offenses referred to in this Chapter, and also over commercial and civil disputes and the precautionary measures arising out of the implementation of this Law.
When such disputes affect only private interests, they may be heard by the ordinary courts if the plaintiff so chooses, without prejudice to the right of the parties to submit the proceeding to arbitration.

ARTICLE 228.
In the judicial proceedings referred to in the previous Article, the judicial authority may adopt the measures provided for in this Law and in international treaties to which Mexico is party.

ARTICLE 229.
For the exercise of the civil and criminal actions arising from the infringement of industrial property rights, and also for the adoption of the measures provided for in Article 199 bis of this Law, it shall be necessary for the owner of the rights to have affixed to the goods, containers or packaging of goods covered by an industrial property right the indications and notices referred to in Articles 26, 131, 165 bis 18 and 178 bis 9 of this Law, or by any other means to have stated or brought to the notice of the public that the goods or services are protected by industrial property rights.
This requirement need not be met in cases of administrative infringements that do not involve violation of industrial property rights.