

Delivering expert knowledge to global counsel



Intellectual Property - Mexico

Senate Considers Competing Patent Reforms

Contributed by [Becerril, Coca & Becerril SC](#)

January 26 2009

The Senate is reviewing two bills to amend the Industrial Property Law, proposed by two different political parties. One bill proposes a fundamental review of the law, whereas the other aims to introduce a procedure for opposing patent grants and penalties for abusive practices in the enforcement of invalid patents.

Although the Institutional Revolutionary Party's proposal, originally drafted in March 2008, would affect the entire IP system, it seems to have been devised particularly with pharmaceutical research and development in mind. The party's rationale for the proposal incorporates objections which have long been advanced from domestic generic manufacturers: patent holders can extend the term of their patents without modifying their IP rights, which blocks the market entry of generic medicaments. The main objection of the pharmaceutical research and development sector is that third parties use the extension procedure to delay the prosecution of patent applications.

The provisions related to abusive enforcement have been strongly opposed, as it is feared that a change would primarily affect small entities and individual inventors, potentially leaving them with crippling liabilities if they try to enforce a patent that later becomes invalid.

The reform proposed by the Green Ecology Party in September 2008 would initiate an integral review of the law in order to meet Mexico's economic requirements and bring IP legislation into line with the global view of industrial property.

The main proposed changes to prosecutions in respect of patents relate to:

- establishing time limits for filing divisional applications and voluntary amendments to claims;
- filing certified copies issued in electronic format;
- implementing a form of proceeding that would allow the public to submit information about the patentability of a published application to the Mexican Institute of Intellectual Property;
- clarifying and interpreting certain definitions; and
- increasing the term for replying to Patent Office actions from two to three months.

The proposal also suggests making computer-implemented inventions patentable where the invention incorporates a technical contribution.

Industrial property issues - and patents in particular - are in the spotlight, but this does not guarantee that the bills before Congress will be enacted soon. Their progress will depend on lobbying by interested parties and the economical and political conditions in Mexico.

For further information on this topic please contact [José Antonio Romero](#) at Becerril, Coca and Becerril SC by telephone (+52 55 5263 8730) or fax (+52 55 5263 8731) or by email (aromero@bcb.com.mx) .

The materials contained on this website are for general information purposes only and are subject to the [disclaimer](#).

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription. Register

at www.iloinfo.com.

Author

José Antonio Romero



Official Online Media Partner to the International Bar Association
An International Online Media Partner to the Association of Corporate Counsel
European Online Media Partner to the European Company Lawyers Association

© Copyright 1997-2010 Globe Business Publishing Ltd