

3. While blockchain technologies and data privacy protection represent some of the most recent developments affecting IP rights, it is important not to lose sight of the fact that a robust and well-developed body of law exists to protect IP.

(1) The EU was faced early on with the need to harmonize trademark and copyright laws across numerous jurisdictions, involving distinct legal regimes, languages and traditions. What steps have been taken in Europe to facilitate the cross-border protection of rights in the EU?

(2) What are the corollary laws and regulations available in the US? Colombia? Guatemala?

Colombia

1. Regulations applicable and available in Colombia.

Colombia as a contracting party of the World Trade Organization (WTO) applies the Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement) which is considered the most comprehensive multilateral agreement on intellectual property matters.

Colombia also is part of the Following conventions and treatments:

Copyright matters:

- Bern convention, for the Protection of Literary and Artistic Works. (Joined on 1987).
- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Joined on 1987).
- Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (Joined on 1992).
- Universal Copyright Convention. (Joined on 1975).
- Treaty on the International Registration of Audiovisual Works (Film Register Treaty) (Joined on 1992).
- Inter-American Convention on the Rights of the Author in Literary, Scientific and

Artistic Works (Joined on 1970).

- Ibero-American cinematographic integration agreement (Joined on 1995).
- Convention establishing the World Intellectual Property Organization (Joined on 1979).

Those, among others,

Industrial property matters:

- Decision 486, Common Andean regime on industrial property dated September 14, 2000.
- Paris Convention for the Protection of Industrial Property of 1883 (Joined on 1994).
- Madrid International Trademarks System (Adopted by Colombia on 2011).
- Patent Cooperation Treaty –PCT- (Adopted by Colombia on 2000).
- The International Union for the Protection of New Varieties of Plants (UPOV) (Adopted by Colombia on 2012).
- General Inter-American Convention for Trade Mark and Commercial Protection or Washington Convention (in force since 1936).
- Trademark Law Treaty –TLT-(in force since 2012).
- Patent Prosecution Highway –PPH- which are bilateral agreements signed between patent offices in order to promote work-sharing and enable patent applicants to request accelerated processing in the national phase, where patent examiners can make use of the work products from the other Office(s).

In Colombia, it is possible to file evidence and copies of the patentability tests already performed to the same patent application by the National Patent Offices listed below:

- Office of the United States of America (USPTO)
- Spanish Patent and Trademark Office (OEPM)
- Japanese Patent Office (JPO)
- Korean Industrial Property Office (KIPO)
- European Patent Office (EPO)

- Offices of Pacific Alliance member countries (Mexico, Peru, Chile)
- Offices of Prosur member countries (Brazil, Ecuador, Peru, Chile, Uruguay, Argentina, Paraguay)
- Offices of member countries of the global alliance for PPH (Spain, Finland, Great Britain, Hungary, Israel, Iceland, Japan, South Korea, Norway, Poland, Portugal, Russia, Sweden, Singapore, United States of America, Austria, Australia, Canada, Germany, Denmark, Estonia and New Zealand).

2. Intellectual Property Protection for Innovation (formal protection).

2.1. Patent: A patent is an exclusive right to a product or a process that generally provides a new way of doing something, or offers a new technical solution to a problem.

In order to be patentable, an invention must be (i) new, (ii) non-obviousness and (iii) be capable of industrial application. In Colombia the Patent protection is granted for a 20 years period from the filing date of the application.

Rights granted by the patent: invention cannot be commercially made, used, distributed, imported, or sold by others without the patent owner's consent. Additionally, patent can be licensed by its owner.

2.2. Industrial Designs: An industrial design protects the ornamental or aesthetic aspects of an article product. It may consist of three or two dimensional features of objects which are not purely utilitarian. This protects solely the non-functional features of a product and does not protect any technical features of the object to which it is applied.

In order to be registrable, the industrial design must be new. In Colombia the Industrial Design protection is granted for a 10 years period from the filing date of the application.

Rights granted by the Industrial Designs: As patent rights, the Industrial Designs cannot be commercially made, used, distributed, imported, or sold by others without the owner's consent. Additionally, they can be licensed by its owner.

The Registration of an Industrial Design is faster, easier and cheaper than registration of a patent.

2.3. Utility Models: They are also known as “petty patents” and, under Colombian Legislation it is understood as any invention which is new and involves an inventive step which consists of giving an object a configuration, structure or constitution that results in a practically significant advantage in its use or manufacture. In Colombia the Utility Models protection is granted for a 10 years period from the filing date of the application.

In order to be registrable, the industrial design must be (i) new and (ii) be capable of industrial application. In Colombia the Industrial Design protection is granted for a 10 years period from the filing date of the application.

Rights granted by the Utility Models: As aforesaid rights, the Utility Models cannot be commercially made, used, distributed, imported, or sold by others without the owner's consent. Additionally, they can be licensed by its owner.

The Registration of a Utility Model is faster, easier and cheaper than registration of a patent.

2.4. Circuits layout: it is the representation of an integrated circuit in terms of planar geometric shapes which correspond to the patterns of metal, oxide, or semiconductor layers that make up the components of the integrated circuit. In Colombia the **Circuits layout** protection is granted for a 10 years.

2.5. Trademarks: A trademark is *“any sign susceptible to graphic representation which serves to distinguish in the market one company's products and services from those of other entities”*. In Colombia, a trademark could be a word, device, symbol, logo, picture, sound, smell, trade dress, tridimensional sign or a combination of these or any other sign. In Colombia, the trademark must be registered, as the rights over the trademarks arise from its registration.

In Colombia the Trademark protection is granted for a 10 years period and it can be

renewed indefinitely.

Rights granted by the Trademarks: The Trademark registration confers to its holder an exclusive right to the use it. Therefore, the trademark can be exclusively used by its owner, or licensed to another party for use. Registration provides legal protection against possible infringements of third parties, for example, in case of litigation.

2.6. Plant Varieties. A Plant varieties right are a type of Industrial Property (breeder right) performed to protect plant inventions by recognizing the rights of breeders of new the plant varieties.

As a general principle, in Colombia the Plant Varieties protection is granted for a 25 years period.

2.7. Copyrights: A copyright protects intellectual creations in the form of literary, artistic and scientific works, including: books (this section includes any internal manual or protocol which the company may develop irrespective of the subject), training courses, leaflets, architectural works, musical compositions, audiovisual works, multimedia works, databases, computer programs, websites, photographs, sculptures, paintings and drawings, plans, projects, models etc. In this regard, the ideas are not protected but the manner in which they are materialized.

In Colombia copyrights are free and long lasting. In Guatemala, they are protected during the author's life and there is a framework in relation to the duration of the economic rights in the field of copyright ranging from 50 to 70 years after the author's death on the assumption that the exploitation rights fall on an individual, and from his publication in the case of a legal person.

The legal action to protect the trade secrets are usually handled by unfair competition actions.

The trade secret protection are not limited by time.