



Doing Business in Dominican Republic

Intellectual Property

The Dominican Republic's laws on patents, copyright and trade-marks provide the main protection for intellectual property matters. Dominican Republic is a member of the WTO agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and has agreed to the minimum standards of protection and reciprocal treatment provided in this treaty, pursuant to international norms on Industrial Property, as well as Copyrights and related rights.

Industrial Property is governed by Law 20-00, enacted on May 8th, 2000. By means of this Law, the applicable legislation to patents of invention, trademarks, trade names and related matters was updated, for the purpose of adapting the same to the obligations assumed in the agreement of trade related aspects of intellectual property rights (TRIPS) in the framework of the World Trade Organization (WTO).

The Competent Authority to enforce law 20-00, is the Dominican Industrial Property Office (“ONAPI”).

1. Trademarks

A trademark is any sign or combination of signs that may be presented graphically, to distinguish the products or services of a business from the products and services of other businesses.

The exclusive right to use a Trademark is acquired through registration in ONAPI, and preference is given to the person using the trademark in the country for the longest time, for more than six (6) months, if applicable.

The registration of a trademark has a duration of ten (10) years, renewable for equal periods indefinitely.

2. Trade Names

Trade name is defined as the name, denomination, designation or abbreviation which identifies a business or commercial establishment. It is acquired by its first use in commerce. Nonetheless, registration of trade name constitutes a good way of proving ownership.

The registration of a trade name has a duration of ten (10) years, renewable for equal periods indefinitely.

3. Patents of invention

An invention is patentable when its industrial application is possible, is innovative and has an inventive level. The innovation implies that the invention does not previously exist in the current technique, meaning that it is something that has not been disclosed or published, in any part of the world, within the year preceding the date of the patent request in Dominican Republic.

Every request of patent must pass through an exam of form and an exam of substance.

Intellectual Property in Dominican Republic

The validity of the registration of a patent of invention has a duration of twenty (20) years nonrenewable, starting of the date of the presentation of the request in the Dominican Republic. To maintain the validity for patent, annual fees shall be paid starting from the third year.

The right of use of a patent may be granted to third parties. Such agreement must be duly registered before ONAPI.

On the other hand, mandatory licenses may be granted by ONAPI, in cases where the title holder of the patent does not respond to a license concession request (made in reasonable terms and conditions) within a specified period of time and subject to the compliance of certain conditions. In addition, there are mandatory licenses derived from the absence of exploitation of the invention in a period of three (3) years after the patent was conceded, excepting in cases of force majeure. Mandatory licenses may also be granted when ONAPI determines that the title holder of the patent has incurred in anticompetitive practices.

Patents for models of utility and industrial designs may be also registered under the umbrella of Law 20-00.

A model of utility is any new form, configuration or disposition of elements of any artifact, tool, instrument, mechanism or other object that permits a better or different functioning, utilization, fabrication, or that provides some utility or additional advantage. The model of utility may be patented for a period of fifteen (15) years.

An industrial design is any gathering or combination of colors, or any two-dimensional or tri-dimensional external form, that incorporates an industrial or craft art product, in order to provide it with a special appearance without modifying the use or purpose destined for such product. The validity of the registry of an industrial design has a duration of five (5) years, renewable for two additional periods.

4. Copyright Protection

Copyrights comprehend the protection of literary and artistic work, and the literary and artistic form of scientific works, including creations of the intellect in such areas, regardless of the form or way of expression, disclosure, reproduction or communication, the genre, merit or destiny; as Law 65-00, dated March 14th of 2001 as amended.

A copyright is tied with the creation to the author and is independent from the property of the material supporting it. Therefore, the transfer of such material does not entail the transfer of rights over the creation to the acquirer.

For publicity, guarantee and insurance purposes, the registration of works, interpretations, productions including phonograms, and contracts in connection with copyrights or related rights, shall be made before the National Office of Copyright (ONDA for its Spanish acronym). Such office shall grant a resolution within a period of 30 days after filing of a written request with the required supporting documents, which may vary depending on the type of works.

In general, the rights to transfer the works, in exchange of consideration or for free, is held by the author throughout its entire life, after which the right is transferred to the spouse and heirs for a period of 70 years.

Questions about this Publication can be directed to Our Team at 809.472.2222 (info@aclaw.com) or to our lead contact Maria Arthur (marthur@aclaw.com).

This AC Law Publication is provided for informational purposes only and not as legal advice. Hiring a lawyer is a very important decision. Confirming a lawyer's legal qualifications and experience should be considered. Attorney advertising. Prior results do not guarantee a similar outcome. Arthur & Castillo. © 2017. All rights reserved.