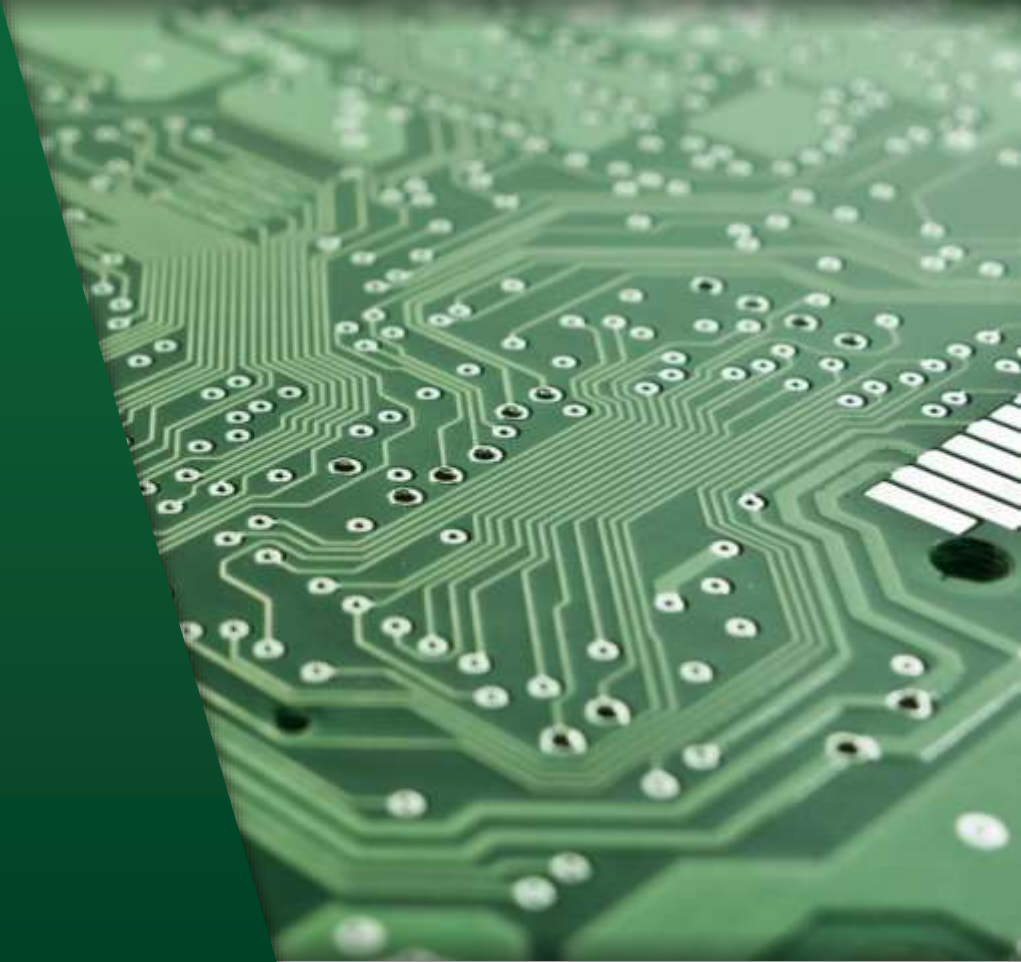


Newsletter:
INTELLECTUAL
PROPERTY



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Newsletter:

INTELLECTUAL PROPERTY



Subscription T.V.

According to the interpretation of Article 15 of Decision 351 issued by the Andean Community, the declarative list of the methods of public communication is not restrictive. In Prejudicial Interpretation 2221-IP-2020, issued on May 6th, 2022 by the Andean Community Tribunal of Justice it has been stated that broadcasting and other means of public communication in which technology carries information from one place to another, can be considered as public communication, in accordance with the above-mentioned Decision since the information is received by a plurality of people, whether they are in the same room or not, by electromagnetic waves or another diffusion method of signs, images or sounds. The rebroadcast of this information to the public is also a form of public communication, even when it has been previously broadcasted or televised. Consequently, media that serves the purpose of rebroadcasting such as subscription T.V., is also subject to intellectual property protection and its laws.

Franchise and Trademark Use

According to the Andean Community Tribunal of Justice, the trademark license of use granted to the franchisee will have the same duration as the original franchise agreement. Since the license of use is contingent to the franchise agreement, determining its duration is crucial to know if a trademark infringement has taken place. According to Prejudicial Interpretation 15-IP-2020, issued by the Andean Community Tribunal of Justice, a judge may rule which is the duration of the contract. If the judge concludes that the contract is no longer valid and has expired, the trademark owner will have the right to sue its franchisee for damages caused by the unauthorized use.



“Mivacuna” APP receives EU approval

Since June 1, 2022, Colombia has become the first country to implement blockchain technology in its app “Mivacuna.” This technology allows to have accurate and updated information on the vaccination process of each citizen via a digital certificate of security and trust that aims to avoid fraudulent information in the system. Using this technology allows information to be extrapolated for it to be compatible with the database used in the European Union. The Ministry of Health has updated this app and the information of its users to obtain international approval, which is the only one given in Latin America. This app compiles information from the National Registry, Colombian Migration and INPEC to guarantee that the resident population eligible for vaccination is associated with the app and informed using the app's platform Koibanx.

IP Rights and Vaccines

The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), in which Colombia is a signing member, has established rules and guidelines about the protection of copyright law, patents, brand registration and other aspects of intellectual property rights. TRIPS has introduced an exception to this protection so that every country can modify its national legislation to circumvent the existing regulation in circumstances of public emergency. In the 12th Ministerial Conference of the WTO, celebrated on 12-17 of June 2022, a new draft was approved by the secretary general based on policies made in the European Union. Instead of an exemption of protection of intellectual property rights, this decision would offer consistent guidelines to a limited number of exceptions and a specific time period of 5 years in which the exportation of Covid-19 vaccines would be restricted.



The End of the National Health Emergency in Colombia

On the 22th of June, 2022, the national government of Colombia announced the end of the sanitary emergency, after 27 months and 18 days. This, in agreement with the WTO and its recommendation to relax vaccine patents against Covid 19 for third world countries. This is important for third world countries that have not been able to acquire sufficient vaccines and have low vaccination percentages. This measure will last for 5 years and only covers vaccines but not the medications used to treat the virus. In addition, the decision only refers patent protection and excludes other IP rights such as copyrights and trade secrets.

IMPI and BSA Alliance

The Mexican Institute of Intellectual Property (IMPI) has signed a collaboration agreement with the BSA organization, Software Alliance. This collaboration is aiming to improve innovation, cybersecurity and digital inclusion in the Mexican population. While this alliance has entered into force in earlier years, it was renewed to continue relationships in the region in order to promote the adequate use of technology and original computer programs in all productive units of the country. One of the main challenges of this alliance has been to combat counterfeiting in Mexico and inspect businesses in order to catch illegal use of technology. Between 2018 and 2022, there were 2,184 visits to inspect illegal activity regarding the improper use of software and technology.



5G Patent Infringement in Colombia (Apple vs Ericsson)

Apple Devices with 5G technology have been banned from Colombia due to a patent infringement action ruling. Jury 43 of the Bogota District, established that since Ericsson has a valid patent of that technology in the country, and the license Apple signed that paid royalties to Ericsson has expired, Apple cannot import, sell or advertise products with this type of technology, which is protected by patent NC2019/0003681 until 2037. Apple plans to appeal this decision.