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AMENDMENT TO THE INDUSTRIAL PROPERTY LAW

Industrial property refers to the set of rights which an individual or a Company possess over their inventions and distinctive signs.

Examples of inventions and developments are: Patents, Utility Models and Industrial Designs, whereas distinctive signs may be identified as Trademarks, Trade Names and Commercial Messages.

According to a study developed by the ITAM (Autonomous Technologic Institute of Mexico) in 2016, around 50 million Mexicans consumed some type of piracy. This figure allows to size the big risk to which companies are exposed.

In addition to the piracy matter, companies face unfair competition behaviors from competitors who take improper advantage over their own industrial property, which causes them significant damage, given that they become unable to obtain the profit that they legitimately deserve.

A third element that adds to piracy and unfair competition as risks to industrial property is the legal system of protection of rights, where it is more and more common to find that legally-advised third parties behave in bad faith to obtain invention registries and distinctive signs that do not belong to them.

In the case of Mexico, the previously described context drove to the request of a reform bill regarding the Industrial Property Law, which had not suffered significant amendments since its entry into force in 1994.

The legal amendments to which we refer were published the past May 18th, 2018 and will enter into force following two months from such publication, meaning on July of this year.

In general terms, the amendments consist in the enlargement of those distinctive signs which may be subject to legal protection, as in the case of smells, sound marks (sound) and holograms, to give some examples.

In addition to the abovementioned, the reform contemplates changes in the way trademarks are registered and renewed. Consequently, expiration and cancellation requests filed by third parties who are not part of the company may represent vulnerabilities if such trademarks are not managed and monitored adequately.

The commented amendments, along with others in matters of patents, utility models and designs, represent both opportunity areas to boost the most valuable economic assets of the companies: (inventions and trademarks), and potential legal risks that, in some cases, are impossible to repair.

By identifying this situation, Industrial Property Attorneys of Legem Attorneys at Law participated during 15 days with experts of the WIPO (World Intellectual Property Organization) and IMPI (Mexican Industrial Proprety Institute) in order to analyze the legal implications of the reform.

Based on the abovementioned, we attentively invite you to contact us in order for us to perform an evaluation of the industrial property portfolio of your company and to suggest you an administration strategy of such portfolio.

We are certain that you will find it highly interesting to identify your industrial property and how to protect it, based on the commented legal reforms.

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