

LAW No. 19.039

ON INDUSTRIAL PROPERTY

TITLE I

PRELIMINARY PROVISIONS

PARAGRAPH 1

SCOPE OF APPLICATION

Article 1. Regulations pertaining the existence, scope and exercise of industrial property rights, will be governed by this Law. These rights include trademarks, patents of invention, utility models, industrial designs and drawings, layout-designs or topography of integrated circuits, geographical indications and appellations of origin as well as other titles for protection the Law may establish.

Likewise, this Law determines the conducts that are considered unfair conducts in the field of protection of non-disclosed information.

Article 2. Any individual or entity, be it national or foreign, shall be entitled to the industrial property rights guaranteed by the Political Constitution, provided the corresponding protection title has been previously obtained in accordance to this Law. Individuals or entities residing abroad must, for the purpose of this Law, appoint an agent or representative in Chile.

Industrial property rights, which have been registered in accordance with the Law, will fully enter into force on the date of registration, notwithstanding those rights that may correspond to the applicant and other rights established in this Law.

Article 3. The procedure for applications, the granting of titles and other services related to industrial property shall be the responsibility of the Industrial Property Department, hereinafter “the Department”, which depends from the Ministry of Economy.

Applications can be filed personally or through an agent.

The present Law shall guarantee that the protection conferred by industrial property rights hereby regulated will duly safeguard and respect the biological and genetic patrimony as well as national traditional knowledge. The granting of industrial property rights involving protected elements, which have been developed with material obtained from such patrimony or such knowledge, will be subject to the condition that such material was acquired according to the legal system in force.

PARAGRAPH 2

GENERAL PROCEDURES OF OPPOSITION AND REGISTRATION

Article 4. When an application is filed and accepted to procedure, it will be obligatory a publication of an extract of the same in the Official Gazette, in the form and terms determined in the Special Regulations complementary to this Law. All publication mistakes that according to the Head of the Department are not substantial can be corrected by a resolution ordering such correction in the corresponding proceeding. In case of substantial errors, the Head of the Department will order a new publication, which must be done within 10 days, from the publication date of the application.

Article 5. Any interested party can file before the Department a notice of opposition to an application for a trademark, patent of invention, utility model, and industrial design, lay-out design or topography of integrated circuits, geographical indication or appellation of origin. The notice of opposition must be filed within 30 days from the date of publication.

The above mentioned period will be of 45 days for applications of patents of invention, utility models, and industrial designs, layout-designs or topography of integrated circuits, geographical indications or appellations of origin.

Article 6. When the term indicated in the above Article has expired, the Head of the Department will refer the application to an examiner, with respect to applications for patents of invention, utility models, industrial designs, layout-designs or topography of integrated circuits, in order to verify if it complies with the requirements set forth in Articles 32, 56, 62 and 75 of this Law.

In the proceedings in which there is a controversy and the Industrial Property Department is acting as first instance tribunal, it is necessary to appear represented by a qualified Lawyer, according to the regulations of Law No. 18,120.

Article 7. Once the examiner's report is decreed, it must be issued within 60 days as from the date the examiner accepts the appointment. This term can be extended for an additional 60 days, in those cases that, in judgment of the Head of the Department, it is so required.

The expert's report will be made known to the parties, which will have 60 days from the date of the notice to make the observations they deem convenient. This period can be extended only once during the proceedings, at the request of an interested party, for an additional 60 days. The parties' observations will be sent to the examiner, and a 60-day period will be given to the expert for the purpose of responding them.

Article 8. After the examiner's report has been ordered, the applicant must prove that has paid the corresponding fee within the following 60 days. In case payment is not made within this period, the application will be considered as abandoned. In qualified cases, at the request of the examiner, the Head of the Department will set a specific amount to cover expenses necessary to carry out the examination, amount that must be paid within the next 30 days by the applicant. Such cost will be paid by the applicant of the patent of invention, utility model, and industrial design, lay-out design or topography of integrated circuits or by the petitioner of the cancellation of these rights.

Article 9. In the procedures in which an opposition is filed, a term for responding it will be given to the applicant, for 30 days in the case of trademarks and for 45 days in the case patents of invention, utility models, and industrial designs, layout-designs or topography of integrated circuits, geographical indications and appellations of origin.

Article 10. If there were relevant, substantial and controversial facts, a 45-day period evidentiary stage will be decreed, this period will be of 30 days in case of trademarks.

This evidentiary period can be extended for an additional 30 days in qualified cases.

Article 10 bis. In the case an evidentiary stage is opened in the proceedings, all documents submitted in them must be in Spanish language, or duly translated if the Department so required.

Once the proceedings are in state that a decision will be issued, no further writs or evidence will be admitted, save those regarding assignment of applications, settlements, dismissal request or limitation of the claim.

Article 11. The terms in day established in this Law and its complementary regulations cannot be extended and of working days only. For this purpose, Saturdays are not considered as working days.

Article 12. In these proceedings, parties can use all common means of evidence in these types of matters, and those provided for in the Civil Procedure Code, except testimonial evidence.

In these proceedings, the provisions of the second paragraph of Article 64 of the above Code are also applicable.

Article 13. All notices regarding the procedure for granting an industrial property right, oppositions, cancellations and, in general, any matter followed before the Department, shall be done by the official notifications listings to be done by it. Said listings may have one or more lists. Any decision included in said listings shall be considered as having been properly notified.

Notification of an opposition against the application for registration shall be done by means of a registered letter sent to the address indicated by the applicant in the file. In such cases, it will be considered that the notice has been given three days after the letter has been put in the mail, and it shall consist of remittance of a full copy of the opposition and the resolution on it. When, observations to the subject of the application for registration, said decision shall be notified also by registered letter, jointly with the notification of the opposition.

Notification of a cancellation action of a registration shall be done in the terms indicated in Articles et seq. of Civil Procedure Code, for which, foreign applicants must establish domicile in Chile. A cancellation action against a person with no domicile or residence in Chile will be notified to its Lawyer or representative referred to in Article 2 of this Law.

All rulings and decisions issued in contentious proceedings before the Head of the Department shall be signed by it and the Secretary-Lawyer of the Department.

All notification to be made by the Industrial Property Court will be done in the official notifications listings, and said listings shall be made by the Court's Secretary.

The date and manner, in which the notification was made, must be recorded in the file.

Article 14. Industrial property rights are transmissible by death and may be the object of all kind of agreements and acts, which should be executed, at least, by means of a private deed executed before a Notary Public. A side annotation of the extract of such document must be recorded at the corresponding registration.

In the case of assignment of pending applications for registration of an industrial property right, a private deed executed before a Notary Public will suffice, and evidence of the same must be included in the corresponding proceeding. Trademarks are indivisible and none of the elements or characteristics of the distinctive sign protected by the title can be partially or separately transferred. However, a trademark protected by a registration which includes one or more classes that are not related, can be partially transferred, remaining the rest of the registration the property of the owner.

Regarding geographical indications and denominations of origin, the matter is regulated by Article 92 of this Law.

Article 15. Powers of attorney regarding industrial property may be granted by public deed or by a private document executed before a Notary Public or a competent official of the Civil Registrar, in districts where there is no Notary Public. Powers of attorney issued abroad can be granted or legalized by the corresponding Chilean Consulate with no further formality; or as established in Article 345 of the Civil Procedure Code.

Article 16. In the proceedings referred to in this Paragraph, the evidence will be weighed according to the rules of sound judgment.

Article 17. Proceedings for opposition, cancellation of a registration or for an assignment or those for expiration, as well as any claim related to their validity or effects, or to industrial property rights in general, will be held before the Head of the Department, and will follow the formalities set forth in this Law and its complementary regulations.

The decision rendered must be founded and comply with the regulations established in Article 170 of the Civil Procedure Code.

Article 17 bis A. Within 15 days of the date of the service of notice, both in first and second instance, decisions concerning proceedings in which oppositions have been filed and contain or are founded on evident factual errors, shall be corrected ex-officio or at the request of one of the parties. Regarding proceedings in which oppositions have not been filed, these can be corrected in the same manner, until the end of the term established to appeal the resolution that completes the registration proceedings.

Article 17 bis B. The decisions rendered in first instance proceedings, by the Head of the Department, can be appealed whether oppositions have been filed or not. Appeals have to be filed within 15 days from the date the decision is notified and will be heard by the Industrial Property Court.

The appeal will be granted in both effects¹ and will proceed against definitive or interlocutory resolutions.

Final decisions of second instance can be subject to cassation, before the Supreme Court.

Appeals will be filed and processed according to the provisions of the Code of Organization of the Judiciary and the Civil Procedure Code.

However, it will not be necessary to appear at the Industrial Property Court to continue the appeal.

PARAGRAPH 3

INDUSTRIAL PROPERTY COURT

Article 17 bis C. The Industrial Property Court, hereinafter, the “Court”, is a special and independent judicial organ, subject to the directive, corrective and economic supervision of the Supreme Court, having its seat in the city of Santiago.

The Court will be formed by six judges and four alternates. Each judge will be appointed by the President of the Republic, by means of a Supreme Decree of the Ministry of Economics, from a list of three candidates proposed by the Supreme Court, prepared on the basis of a public call for the provision of antecedents. Such call must respond to

¹ This means that first instance proceedings will cease in their prosecution until a final decision is rendered.

objective, public, transparent and non discriminatory conditions, established by the Supreme Court.

The members of the Court must prove having qualified in a law degree for a minimum period of 5 years. Specialized knowledge on industrial property will be required in the selection of at least four of the members and two of the alternates.

Article 17 bis D. The Court will hold regular sessions in two courtrooms and extraordinarily in three. Each courtroom must be integrated by at least two members. For the resolution of cases submitted to their knowledge, each courtroom must hold hearings at least three days a week.

The quorum to hold a hearing is of three members.

The resolutions will be adopted by simple majority. In case of a tie, the vote of the presiding judge will decide. With respect to other procedural matters the provisions of the Code of Organization of the Judiciary shall be followed.

In complex cases, the Court can order an expert's report and decide who must bear its costs, notwithstanding what may eventually be resolved as to litigation costs. In cases heard by the Court, other than those related to trademarks, and upon request of any of the parties, the Court shall order the report of one or more experts. In such cases these experts shall participate in deliberations without vote.

The President of the Court, as well as the President of each courtroom, will be elected by the corresponding members.

Article 17 bis E. The remuneration of the members of the Court will be the equivalent to 50 Unidades Tributarias Mensuales² (UTM) for its members and 20 UTM for its alternates.

Each member of the Court will also receive the amount of 0.4 UTM for each case heard and decided. However, the total amount that each member can receive every month in this regard will be subject to a 50 UTM cap.

Article 17 bis F. Members of the Court shall be subject to recusal, disqualification or challenge for cause established in Articles 195 and 196 of the Code of Organization of the Judiciary.

Likewise, it will be grounds for recusal or disqualification of a member of the Court if in a case being reviewed by him, his spouse or any relative up to the third degree of consanguinity or second degree of affinity; or people who are linked to him by the entailment of adoption have interests involved, or companies where these same people are their legal agents, attorneys, directors, managers or hold other directive positions, or

² The Unidad Tributaria Mensual (UTM) is an account unit used for several purposes, and is adjusted monthly according to the inflation rate, i.e., the variation of the Consumer Price Index. Initially was used solely for tax purposes by the Tax Authority, but its use has extended to other purposes. Is paid or collected in its equivalent in Chilean pesos.

directly own, or through other person or legal entity, a percentage of the company which will permit them to participate in the administration of same, or elect or have elected one or more of its administrators.

The grounds invoked can be accepted by the affected member if not, the case shall be heard by the Court, with the exclusion of such member. A fine will be imposed, for fiscal benefit of up to 20 UTM, on the party that invoked the grounds for recusal or disqualification, and the motion was denied by unanimity.

If by any reason, the Court did not have sufficient quorum to function in at least one chamber, judges of the Court of Appeals of Santiago may stand in according to the Code of Organization of the Judiciary provisions.

The rules set forth in Articles 319 to 331 of the Code of Organization of the Judiciary apply to the members of the Court, with the exception of Article 322.

Members and alternates of the Court remain three years in their position and can be reappointed for new consecutive periods.

Article 17 bis G. The members of the Court of Industrial Property will cease in their function for the following reasons:

- a) Expiration of the legal term of appointment;
- b) Voluntary resignation;
- c) Reaching the age of 75;
- d) Dismissal of office for notorious abandonment of duties;
- e) Sudden disability. This means, disability that prevents the person to perform his job for a total period of three consecutive months or six months in a year.

The above measures of letters d) and e) above will be made effective by the Supreme Court, upon petition of the President of the Court or two of its members, notwithstanding of the disciplinary prerogatives of the Supreme Court.

The resolution that orders the dismissal must state the factual grounds of the dismissal and the information considered to prove it.

Once the dismissal has been decided, if the remaining term exceeds one hundred and eighty days, a new appointment must take place according to the rules set forth in Article 17 bis C of this Law. Regarding the above letters b), d) and e) above, the replacement judge will stay in post for the whole duration of the remaining term.

Article 17 bis H. The Court will have a guaranteed staff of one Attorney Secretary, two Attorney Court Reporters and four administrative employees, who will all belong to the staff of the Under-Secretariat of Economics and will be permanently destined to the Industrial Property Court. They will follow the rules applicable to the employees of such Under-Secretariat, except when it is incompatible with the nature of their functions.

Any of the Court Reporters can replace the Secretary, who can also in turn replace them.

Article 17 bis I. The Secretary, the Court Reporters and the administrative staff, if necessary, can be replaced or substituted by staff from the Under-Secretariat of Economics provided they comply with the requirements to take over the position they will replace or substitute, and if the needs of the Court so require, temporary staff may be hired, with prior authorization by the Budget Office,

The furniture, equipment, materials and any service necessary for the normal functioning of the Court will be the administrative and economic, responsibility of the Under-Secretariat of Economics.

The Budget Law of the Public Sector shall annually include the necessary resources for the functioning of the Court. To these effects, the President of the Court will communicate the economic requirements to the Minister of Economics, who will include them along with those of the Ministry, according to the rules established for the public sector.

Article 17 bis J. The Attorney Secretary will be the directing authority of the Court's staff for administrative effects, notwithstanding of other specific functions and attributions assigned or delegated by the Court.

Article 17 bis K. Before assuming their functions, the members of the Court, Secretary and Court Reporters will take an oath or promise to uphold the Constitution and the Laws of the Republic, before the President of the Court and the Secretary. The President will take the oath before the most Senior Judge.

PARAGRAPH 4

PAYMENT OF RIGHTS (OFFICIAL FEES)

Article 18. The granting of patents of invention, utility models, industrial drawings and designs and layout-designs or topography of integrated circuits, are subject to the payment of a fee equivalent to 2 UTM for each 5-year period that the right is granted. At the filing of an application, an application fee of 1 UTM will be paid in order to start the proceedings. After the application is accepted, the payment of the fee corresponding to the first ten years must be completed for patents of invention and for the first five years in case of utility models, industrial drawings and designs and layout-designs or topography of integrated circuits.

If the application is rejected, the amount paid will not be returned and be of fiscal benefit.

The payment which corresponds to the second ten-year or five-year period, in the case of patents of invention, utility models, industrial designs or layout-designs or topography of integrated circuits, must be done before the expiration date of the first ten-year or five-year period or within six months after the expiration of such term, with a

surcharge of 20% per month or fraction of a month, as from the first month of the grace period. If the payment is not made within the indicated period, the rights mentioned in this Article will be considered as lapsed.

Article 18 bis A. Applicants of the rights referred to in the above Article, which lack of economic means, can request registration without payment of fees of any kind. To enjoy such benefit, the applicant must attach to the corresponding application a sworn statement declaring lack of economic means, together with the documents required by the Complementary Regulations of this Law.

Once the benefit is granted, the holder of the right will not have to make the payments referred to in the first paragraph of Article 18, and deferring any payment for the successive years according to the Complementary Regulations. The deferral and the obligation to pay the deferred amount will be registered. This obligation will fall on whoever is the petitioner of the registration.

The cost of the examiners' report referred to in Article 6 of this Law is equally deferred, and the Head of the Department must appoint an examiner belonging to the registry of the Department, according to the rotation system established by the Complementary Regulations of this Law. The examiner must accept the obligation under penalty of being removed from the registry, and perform it with due diligence and promptness. Likewise, the name of the examiner who issued the report, and the fees owed, will also be recorded and they will be paid on the date established in the Complementary Regulations by the person who appears as the owner of the registration.

In case of no payment of the deferred fees the Department shall declare the patent as having lapsed.

Article 18 bis B. The registration of a trademark, geographical indication or appellation of origin will be subject to the payment of a fee equivalent to 3 UTM. On filing of the application, an application fee of 1 UTM must be paid; otherwise, the application will not be admitted to proceedings. Once the application is granted registration, payment of the fee must be completed, and if rejected the amount will not be returned and be of fiscal benefit.

The renewal of trademarks is subject to payment of double the fee established in the above paragraph. Payment can be made within the following six months of the expiration date of the registration, subject to a surplus of 20% of the rate per each month or fraction of a month, as from the first month of the expiration term, as set forth in Article 24 of this Law.

Geographical indications and appellations of origin shall not be subject to the renewal fee established for trademarks in the above paragraph.

Article 18 bis C. The filing of appeals will be subject to the payment of a fee of 2 UTM. The payment form must be attached to the appeal brief. If the appeal is accepted, the

Industrial Property Court will order the reimbursement of the amount paid according to the procedure established in the Complementary Regulations.

Article 18 bis D. Recordal of assignments, licenses of use, pledges, change of name and of any other type of lien affecting patents of inventions, utility models, industrial designs, trademarks and layout-designs or topography of integrated circuits, will be recorded prior payment of a fee of 1 UTM. The above deeds are not enforceable against third parties until recorded with the Department.

Article 18 bis E. The above mentioned fees are for fiscal benefit. The prescribed fee must be paid within 60 days from the date of the final resolution authorizing the registration in the corresponding registry or the application will be deemed abandoned and will be archived.

Such resolution shall be notified by registered mail in the form established in the Complementary Regulations.

Article 18 bis F. Trademark registrations for services and that are limited to one or more provinces will be considered as extended to the whole of the national territory.

Trademark registrations to protect a commercial establishment in a certain province or provinces will be considered as extended to all of the region or regions in which the corresponding provinces are comprised.

Owners of registrations mentioned in the above paragraphs, that by effect of this provision may have the effect of having extended the territorial scope of protection of their trademark, will not be able to render services or install commercial establishments in the same province where identical or similar trademarks, with services or establishments with the same line of business are already registered, under penalty of infringement, established in letter a) of Article 28 of this Law.

PARAGRAPH 5

ON THE PROCEDURE FOR THE CANCELLATION OF A REGISTRATION

Article 18 bis G. Any person with interest in so may request from the Department the cancellation of a registration of an intellectual property right.

The cancellation claim must contain, at least, the following information:

- a) Name, domicile and profession of the claimant.
- b) Name, domicile and profession of the plaintiff.
- c) Number and date of the registration which cancellation is requested, and individualization of the respective right.
- d) Facts and legal reasons in which the claim is founded.

Article 18 bis H. In the case of patents for inventions and utility models, cancellation may be requested regarding the whole of the registration or one or more of its claims.

Article 18 bis I. Notice of the claim will be served to the holder of the industrial property right or its representative, and a term for responding the claim will be given. Said term will be of sixty days in the case of patents of invention, utility models, industrial drawings or designs, layout-designs or topography of integrated circuits and geographical indications and denominations of origin. In the case of trademarks, said term to respond will be of thirty days.

Article 18 bis J. With the response to the cancellation claim of a patent of invention, utility model, industrial drawing or design, lay-out design or topography of integrated circuits and geographical indications and denominations of origin, or in default of response by the plaintiff, a report by one or more experts will be ordered regarding the facts contained in the claims and its response. The expert will be appointed in a hearing by mutual accord by the parties or by the Head of the Department if there was no accord or the hearing is not held by any cause.

Anyway, the party that feels grieved by the report issued by the expert may request a second report, case in which the procedure will be that established in this Article.

The Head of the Department may, in any time, hold a private hearing with the expert or experts that issued the report at the time registration was requested, as antecedents for better resolving the matter.

Article 18 bis K. If an expert is appointed by the Head of the Department, the parties may object, within five days of the date of the resolution by which is appointed, founded solely in one or more of the following:

- a) For having publicly expressed an opinion on the matter.
- b) For relation of kinship, evident friendship or enmity with one of the parties.
- c) For lack of aptitude or competence regarding the matter submitted to its consideration.
- d) For having rendered professional services, be them dependently or independently, to any of the parties in the last five years or for having had an economic or business relation with any of them in the same time.

Of the writ objecting an expert, the other party will be given a twenty-day term for responding it, and with said response or in default of it, the Head of the Department will decide the matter with no further formality.

The expert's report will be made known to the parties, who may make observations to it within sixty days,

If there are facts that are substantial, pertinent and controverted, the Head of the Department shall open a term of forty five days for submitting evidence, which can be extended only once for other forty five days in duly qualified cases.

With all claims made by the parties and the expert's report, the Head of the Department will decide on the cancellation requested.

Article 18 bis L. In the case of trademarks, once the term for responding the claim has expired and there are facts that are substantial, pertinent and controverted, the Head of the Department shall open a term of thirty days for submitting evidence, which can be extended for other thirty days in cases duly qualified by said Head.

Article 18 bis M. Rules set forth in Articles 10 bis, 12 and 16 of this Law are applicable to the procedure for cancellation.

Article 18 bis N. The registration that is cancelled shall be deemed as null and void from its date of validity.

The decision declaring the cancellation of the registration, in all or part of it shall be recorded at the margin of the respective registration.

Article 18 bis O. The procedure established in this paragraph will be applied to all other proceedings of competence of the Head of the Department, according to what is established in Article 17 of this Law.

TITLE II

TRADEMARKS

Article 19. Under the name of trademark is comprised any sign that can be represented graphically, and is able to distinguish in the market products, services or industrial or commercial establishments. Such signs may consist of words, including the names of persons, letters, numbers, figurative elements such as images, graphics, symbols, color combinations, sounds, as well as any combination of such signs. When signs are not intrinsically distinctive, registrability may be granted provided they have acquired distinctiveness through use in the national market.

Slogans or advertising phrases may also be registered provided they are always linked to a registered trademark of the product, service or commercial or industrial establishment for which they will be used.

The nature of the product or service to which the trademark refers to shall never be an obstacle for trademark registration.

Article 19 bis. In the case that registration of a trademark is requested for two or more holders, they may, acting jointly and of common accord, may request also the registration of a regulation for use and control of it that will be mandatory for the holders and unenforceable to third parties. In this case, the holders in common may renounce the right to request the division of the community for a certain period of time or indefinitely.

The Department may object to the registration of the regulation in the case it contains regulations that are illegal or that induce to error or confusion in the consuming public.

The regulation for use and control shall be filed with the trademark application and will be decided jointly with said application. The Department may make observations until before issuing its final decision, which must be corrected within sixty days.

Non compliance by any of the holders in common of the regulations established in the regulation for use and control, will entitle the other holder or holders in common to commence legal actions for the forced enforcement and/or claim damages, according to the regulation of Title X of this Law.

Under same procedure and with same effects may be registered a trademark to be used collectively, with the purpose of guaranteeing the nature or quality of certain products or services. In this case, the trademark may not be assigned to third parties.

Article 19 bis A. Cancellation or expiration due to failure of payment of the renewal fees shall have the same effect regarding advertising phrases linked to the registration. Consequently, upon cancellation or expiration of a trademark, the Department shall cancel ex-officio the registrations of advertising phrases linked to the trademark that has been cancelled or has expired. A recordal shall be made thereof by means of a side annotation in the corresponding registration.

Article 19 bis B. Advertising phrases or slogans may not be assigned or transferred, unless they are assigned or transferred with the principal registration to which they attach.

Article 19 bis C. Trademark registrations containing signs, figures, numbers, colors, prefixes, suffixes, commonly used roots or segments that may be considered generic, indicative or descriptive shall be deemed to confer protection upon the trademark as a whole and be registered under the specific stipulation that no protection is granted to such elements independently considered.

Article 19 bis D. The trademark confers its owner the exclusive and excluding right to use it in economic trade in the manner it has been granted and to distinguish products, services, commercial or industrial establishments included in the registration.

Accordingly, the owner of a registered trademark may prevent any third party from using in the market, without its consent, identical or similar trademarks for products, services or commercial or industrial establishments that are identical or similar to those for

which the registration has been granted, where such use by a third party would induce to error or confusion.

When the use made by a third party refers to an identical trademark for identical products or services, or commercial or industrial establishments, confusion shall be presumed

Article 19 bis E. The right conferred by the trademark registration does not authorize its holder to prevent third parties from using the same regarding products legitimately commercialized under that trademark in any country by said holder or under the holder's specific consent.

Article 20. The following may not be registered as trademarks:

a) Coats of arms, flags or other emblems, name or acronyms of any State, of international organizations and state public services.

b) Regarding to the object to which they refer, technical or scientific denominations, the name of vegetable varieties, common denominations recommended by the World Health Organization and those indicative of therapeutic action.

c) The name, pseudonym or portrait of any person, unless under consent given by such person or by the heirs, if it had deceased. However, the names of historic figures may be registered provided that, at least, 50 years has passed since their death and it does not affect their honor. However, the names of persons cannot be registered when in violation of letters e), f), g) and h).

d) Trademarks that reproduce or imitate official guarantee control stamps or signs adopted by a State without said State's authorization; and those that reproduce or imitate medals, diplomas or awards granted in national or foreign exhibitions whose registration is requested, by someone other than who obtained them.

e) Expressions or signs used to indicate genre, nature, origin, nationality, source, destination, weight, value or quality of the goods, services or establishments; those that are generally used in trade to designate a certain type of good, service or establishment and those that are not distinctive or describe the goods, services or establishments to which they refer.

f) Those that are misleading or deceitful as to origin, quality or genre of the goods, services or establishments, including those belonging to different classes which coverage is related, or indicates, a connection to the respective goods, services or establishments.

g) Trademarks that are identical or graphically or phonetically similar to others registered abroad to protect the same goods, services or commercial or industrial establishments and are liable to create confusion and provided they are famous and notorious in a sector of the public that usually consumes those goods, demands those services or has access to those commercial or industrial establishments in the country of origin.

If a registration is rejected or cancelled for this cause, the holder of the registered trademark that is well-known abroad must apply for registration of the trademark within 90 days. If not, the trademark may be applied for by anyone and the person whose application was rejected or registration cancelled shall have priority within the following 90 days from the date of expiration of the right of the holder of the well-known trademark.

Likewise, trademarks registered in Chile that are famous and notorious may bar the registration of other identical or similar signs applied for to distinguish different and unrelated goods, services or commercial or industrial establishments provided that, on one hand the latter have some type of connection to the goods, services or business or industrial establishment distinguished by the well-known trademark and, and on the other, it is likely that said protection will harm the interests of the holder of the well-known registered trademark. In this case, the fame and notoriety shall be determined in the pertinent sector of the public that usually consumes those goods, demands those services or has access to those commercial or industrial establishments in Chile.

h) Those that are the same as or graphically or phonetically similar to, others already registered or pending registration for identical or similar goods, services or commercial establishments in the same class or related classes and liable to create confusion.

This cause will also be applicable to unregistered trademarks that are truly and effectively being used in the national territory prior to an application for registration. If a registration is rejected or cancelled for this cause, the user of the trademark must apply for its registration within 90 days. If not, the trademark may be applied for by any person, having the person whose trademark was rejected or cancelled, priority to register, within 90 days following the expiration of the user's right. Notwithstanding the provisions indicated in the first No. of this letter, the Department may accept trademark coexistence agreements provided they do not violate the rights previously acquired by third parties or are not misleading to the consumer public.

i) The form or color of the goods or packages as well as the color itself.

j) Those that may induce to error or confusion in the consuming public regarding the origin or attributes of the product that pretends to protect in Chile by a Geographical Indication or Denomination of Origin.

k) Those contrary to moral codes, norms of good behavior and public order, including the principles of fair competition and business ethics.

Article 20 bis. If filing for registration for a trademark has been filed abroad, the applicant will have a 6-month period priority from the filing date in the country of origin, to file the application in Chile

Article 21. The trademark registry shall be kept in and by the Department and applications for registration shall be filed in observance of the regulations and in the form established in the Complementary Regulations.

Article 22. After an application has been filed, the Trademark Registrar shall verify that all formalities required have been fulfilled. If the Trademark Registrar finds any error or omission in this formal examination, the applicant shall be advised to make the pertinent corrections or clarifications within a 30-day period without forfeiting his priority date. If the correction is not made in the aforesaid period, the application shall be deemed abandoned. A remedy against the resolution declaring the abandonment of the application may be filed before the Head of the Department, according to the general rules. If the correction is not made or the complaint is rejected, the application will be deemed abandoned.

If the Head of the Department accepts an application to prosecution, it cannot be later rejected ex-officio for the same legal grounds and reasoning that were known by such officer in the remedy.

If other actions are required to overcome the objection raised against an application, the applicant is entitled to request that the procedure be suspended until such formalities conclude. If the formalities serving as the basis for the petition are not begun within 60 days as of the date when it is legally possible, the application shall be deemed abandoned.

Once the period to file an opposition has expired, the Head of the Department shall analyze the merits of the application and indicate whether there are reasons to officially reject the petition. These observations shall be notified to the applicant, who shall respond thereto in the same term set to respond oppositions and jointly with them if they have been filed.

Once the indicated period expires and the other actions ordered in the procedure have been completed, the Head of the Department shall render his final decision accepting or rejecting the application. In this case, the application cannot be rejected for a different reason than the one contained in the opposition or in the observations of the Head of the Department.

Article 23. Each trademark may only be filed for specific and determined goods or services, indicating the class or classes to which they belong according to the International Classification of Products and Services.

Trademarks may be filed to distinguish commercial or industrial manufacturing or commercialization establishments in connection with specific and determined goods, in one or several classes; and advertising phrases or slogans to be applied in the publicity of trademarks already registered.

Article 23 bis A. For the purposes of the payment of fees, the application or registration of a trademark for goods and services shall be deemed a different application or registration for each class, regardless of the number of specific goods or services included in each class. The stipulations in the preceding Article shall also be applicable to the diverse classes of goods included in the coverage of industrial and commercial

establishments. Such principle shall be extensive both to new registrations as well as renewals thereof.

Article 23 bis B. Trademark registrations that protect goods, services and industrial establishments shall be valid throughout the entire territory of the Republic.

Trademark registrations that protect commercial establishments shall apply only to the region in which the establishment is located. If the applicant wishes to extend ownership of the same trademark to other regions, he must indicate so in his application and pay the corresponding fee for an application and registration per each region.

Article 24. The registration of a trademark shall have a validity of 10 years as of the date of registration in the registry. The holder shall be entitled to request its renewal for equal periods of time during the term thereof or within 30 days following expiration of such period.

Article 25. All trademarks registered and being used in trade shall visibly bear the words “Registered Trademark” or the initials “M.R.” or the letter “R” inside a circle. Omission of this requirement will not affect the validity of the registered trademark, but those who do not comply with this provision cannot enforce the criminal actions indicated in this Law.

Article 26. The cancellation of trademark registrations is applicable when any of the prohibitions set forth in Article 20 of this Law have been infringed.

Article 27. The statute of limitations for a cancellation action of a trademark registration is of five years as from the date of registration. No statute of limitations is applicable regarding registrations obtained in bad faith.

Article 28. The following will be subject to a penalty of fine, of fiscal benefit, of 25 to 1000 UTM:

(a) Those who maliciously use, for commercial purposes, a trademark identical or similar to another registered for the same goods, services or establishments or in respect of goods, services or establishments related to those protected by the registered trademark. The foregoing shall be understood notwithstanding the provisions contained in Article 19 bis E.

(b) Those who use, for commercial purposes, a trademark that is not registered, is extinguished or has been cancelled, with the indications corresponding to, or simulating, a registered trademark.

(c) Those who make use, for commercial purposes, of containers or packaging materials bearing a registered trademark and not being entitled to use it or not having

previously erased it, unless the marked packaging intended to package products different and unrelated to those protected by the trademark.

Those who reoffend within five years from the date of a fine will be subject to another fine which cannot be less than the double of the previous one, with a maximum of 2,000 UTM.

Article 29. Those convicted pursuant to the preceding Article shall be forced to pay court costs and damages caused to the owner of the trademark.

Utensils and elements used directly in forging or imitating and objects with forged trademarks shall be confiscated. Objects bearing a forged trademark shall be destroyed. Regarding the utensils and elements used, it shall be within the authority of the competent judge to decide their destination, either ordering their destruction or distribution to charity.

Article 30. When an unregistered trademark is being used by two or more individuals or entities, simultaneously, the one who obtains its registration cannot pursue responsibility from those who continue its use, until after, at least, 180 days from the date of registration.

Likewise, once a trademark has been cancelled, the holder of the registration that was used for the cancellation action may not pursue responsibility from the owner of the cancelled registration, for at least 180 days as of the date of the incontestability of the cancellation decision

TITLE III

PARAGRAPH I

ON INVENTIONS IN GENERAL

Article 31. It is considered an invention any solution to a problem of the technique resulting in an industrial activity. An invention can be a product or a procedure or be related to them.

A patent is the exclusive right granted by the State for the protection of an invention. The effects, obligations and limitations inherent to the patent are determined by this Law.

Article 31 bis. For the purposes of civil proceedings on infringement of patents related to procedures, the judge shall have the authority to order the defendant to prove that the procedure to obtain a product is different from the patented procedure, subject to the condition that the product obtained by the patented procedure is new.

In these proceedings and in the absence of proof to the contrary all identical products will be deemed to have been obtained by the patented procedure.

For the effects of this Article, a product will be considered new if at least complies with the requirement of novelty of Article 33, at the time the application for the patented procedure was filed in Chile or when the date of priority was validated in Chile, according to Article 34. For such qualification, the judge will request information from the Head of the Department, at the cost of the applicant.

Anyway, as for the submission of evidence to the contrary, the legitimate interests of defendants in protecting their manufacturing and business secrets shall be taken into account.

Article 32. Patents shall be obtained for any inventions, whether products or procedures, in all fields of technology, provided that they have novelty, inventive level and can be of industrial application

Article 33. An invention is considered new, when it did not exist earlier in the state-of-the-art. The state-of-the-art comprises everything that has been disclosed or made available to the public, in any place of the world by means of a publication, sale or commercialization, use or any other means, before the filing date of the patent application in Chile or of the priority claimed according to Article 34.

It shall be the state-of-the-art the contents of national applications for patents or utility models as originally filed, whose filing date is earlier than the one indicated in the above provision and which have been published on that date or on a later date.

Article 34. If a patent of invention has been previously filed abroad, the applicant will have a priority term of one year to file an application in Chile, from the date of filing in the country of origin.

Article 35. An invention will be considered as having inventive level when it is non-obvious for a person skilled in the art and it is not an evident result of the state-of-the-art.

Article 36. An invention will be considered to be of industrial application if according to its nature it can be, in principle, produced or used in any type of industry. For these purposes, the term industry will be understood in its broadest sense, including activities such as manufacturing, mining, construction, handicrafts, agriculture, forestry and fishing.

Article 37. The following will not be considered invention and will thus be excluded from patent protection:

- a) Discoveries, scientific theories and mathematic methods.
- b) Plants and animals, except microorganisms that comply with general conditions for patentability. Plant varieties shall have only the protection provided for in

Law No. 19.342, on Rights of Breeders of New Plant Varieties. Processes for the production of plants and animals which are essentially biological, cannot be patented, with exception of microbiological procedures. For these purposes, procedures that are essentially biological are those that consist entirely of a natural phenomenon, such as crossing and selection.

c) Systems, methods, economic, financial or commercial plans and principles, business plans or plans of simple verification and supervision; and those that refer to pure mental or intellectual activities or gambling matters.

d) Methods for surgical or therapeutic treatment of the human or animal body, as well as diagnostics methods applied to the human and animal body, except the products destined to put in practice one of these methods.

e) The new use, change of form, change of dimensions, change of proportions or change of materials of goods, objects or elements already known and employed for determined purposes. However, the new use of goods, objects or elements can be an invention that can be protected, if said new use solves a technical problem which did not have previously an equivalent solution, and complies with the requirements referred to in Article 32 and it further requires changes in dimensions, proportions or materials of the Article, object or known element to obtain said solution to such technical problem. The claimed new use will have to be proven by means of experimental evidence in the patent application.

f) Parts of living beings as they are found in nature, natural biological procedures, biological material existing in nature or material that can be isolated, including genome or germoplasm. Nevertheless, procedures using one or more of the biological materials mentioned above and the products directly obtained by those procedures shall be protectable, provided they comply with the requirements established in Article 32 of this Law, in the sense that the biological material be adequately described and that the industrial application of the same is explicitly outlined in the patent application.

Article 38. Inventions whose commercial exploitation must necessarily be prevented to protect State security, moral codes, norms of good behavior and public order, to protect human, animal or plant life or health or to preserve plants or the environment shall not be patentable, provided that such exclusion is not made merely because of the existence of a legal or administrative provision that prohibits or regulates such exploitation.

Article 39. Patents of invention will be granted for a non renewable period of 20 years, from the application date.

Article 40. Repealed

Article 41. Repealed

Article 42. Will not be considered for the purposes of determining the novelty of the invention or the inventive level, all disclosures done within twelve months prior to the filing of the application, if the public disclosure:

- a) Was made, authorized or comes for the applicant of the patent, or
- b) Has been made or arises from abuse or unfair practices of which has been an object the applicant or the inventor.

Article 43. The application for a patent of invention must be accompanied by the following documents:

- An abstract of the invention.
- Specification of the invention
- Set of claims.
- Drawings of the inventions, when necessary

Article 43 bis. The abstract will have an exclusively technical purpose and cannot be considered for any other purpose, not even for the determination of the requested protection.

The set of claims defines the matters that require protection. The claims must be clear and precise and based on the specification.

The specification must be clear and complete in order to allow an expert or a person skilled in the art to reproduce the invention without the need of additional information.

Article 44. Declarations about novelty, property and utility of the invention, shall be the sole responsibility of the interested person.

The granting of a patent does not entail a guarantee by the State in respect of the necessity or exactness of the statements made by the applicant in the application and in the specification.

Article 45. Once the application is filed with the Department, a preliminary examination will be conducted in order to verify that the documents listed in Article 43 have been attached. If the preliminary examination were to detect an error or omission, the applicant will be informed in order to make the necessary corrections or clarifications or submit any other pertinent documents within 60 days, without losing the priority date. If the errors or omissions are not corrected within the indicated term, the application will be considered as not been filed.

Applications that do not comply with other requirements, within the terms indicated by this Law or its Complementary Regulations, will be declared abandoned and archived.

Notwithstanding the above, the applicant can request the revival of the application provided the filing requirements are corrected within the following 120 days from the date of abandonment, without losing the priority right. If the term expires and errors or omissions have not been corrected, the application will be considered definitely abandoned.

If from the examination of an application for an industrial property right appears that the application corresponds to another category, the application shall be examined and treated as such, and the priority date maintained.

Article 46. Applicants of patents already filed abroad must submit the results of the search and examination conducted by the foreign office, if available, irrespective if the patent has been granted or not

Article 47. The complete information related to a patent application will be kept at the Department and will be available to the public, after the publication referred to in Article 4.

Article 48. Once the application is approved and after payment of the corresponding fees the patent will be granted to the applicant and a certificate will be issued declaring the relevant protection from the application date.

Article 49. The owner of a patent will have an exclusive right to manufacture, sell or commercialize, in any way, the product or object of the invention and, in general, to carry out any other type of commercial exploitation of the same.

In the case of procedure patents, protection extends to the products directly obtained by such procedure.

The scope of the protection granted by the patent or patent application shall be determined by the content of the claims. Specifications and drawings will be used to interpret the claims.

The patent rights extend to the whole territory of the Republic until the day the patent expires.

The patent does not confer the right to prevent third parties to commercialize the product protected by the patent, which they may have legitimately acquired after said product has been legally introduced into the market of any country, by the owner of the right or by a third party, with the owner's consent.

The patent of invention does not confer the right to prevent third parties from importing, exporting, manufacturing or producing the matter protected by a patent with the purpose of obtaining the sanitary registration or authorization of a pharmaceutical product. The above does not enable for commercialization of said products without authorization of the holder of the patent.

Article 50. A patent will be cancelled for any of the following reasons:

- a) When the person obtaining the patent is neither the inventor nor the assignee.
- b) When the granting has been based on erroneous or an evidently deficient examiners' report.

c) When it has been granted in violation of provisions or requirements of patentability according to this Law.

For patents, the cancellation action prescribes in the term of 5 years as from the date of granting.

Article 51. An application for a non-voluntary license may be filed in the following cases:

1) When the owner of a patent has incurred in behavior or practices declared contrary to the free competition, in direct relation with the use or exploitation of the patent, according to a final resolution from the Competition Court.

2) When the granting of such licenses by the competent authority may be justified for reasons of public health, national security, non-commercial public use or national emergency or other reasons of extreme urgency.

3) When the purpose of the non voluntary license is the exploitation of a subsequent patent which cannot be exploited without infringing an earlier patent.

The granting of non-voluntary licenses for dependent patents will be subject to the following rules:

a) The invention claimed in the subsequent patent must involve an important technical advance of considerable economic significance in relation to the invention claimed in the first patent;

b) The non voluntary license to exploit the previous patent can only be transferred with the subsequent patent.

c) The owner of the previous patent could in the same circumstances, obtain a non voluntary license in reasonable conditions to exploit the invention claimed in the latter patent.

In the case of semi-conductor technology, the license shall only be granted for public non-commercial purposes or to remedy a practice declared contrary to competition.

Article 51 bis A. The person applying for a non-voluntary license, must prove that he has made efforts to obtain a contractual license from the patent holder on reasonable commercial terms and conditions and that such efforts have not been successful within a reasonable period of time. This requirement will not be necessary in relation to the cause set forth in No. 2 of Article 51 of this Law. This requirement will also not be necessary when the purpose of the non-voluntary license is to stop practices considered contrary to competence.

Article 51 bis B. The application for the granting of a non-voluntary license shall be considered a claim and will thus contain all requirements set forth in Article 254 of the Civil Procedure Code. This action shall be heard by the following authorities:

1) In the case of No. 1 of Article 51, the Competition Court, according to the procedure established in Law No. 19,911.

2) In the case of No. 2 of Article 51, the Head of the Department of Industrial Property, according to the procedure for cancellation of patents established in this Law. Moreover, through a founded decision the action may be temporarily granted. This resolution will remain in force while the grounds that motivated the action last or until final decision is issued.

3) In the case of No. 3 of Article 51, the Judge of the Civil Court, according to the rules established in the Civil Procedure Code and according to a summary judgment.

Article 51 bis C. The competent authority must decide on the application of a non-voluntary license according to the merits of the same.

Cases related to situations provided for in Nos. 1, 2 and 3 of Article 51, in which the license is granted, the Competition Court, the Head of the Department or the Civil Court shall decide the duration and scope of the license, which will be limited to the purposes it was granted for. They shall further decide the amount of remuneration to be periodically paid by the licensee to the patent owner. The license granted through this procedure shall be non-exclusive and cannot be assigned, except with that part of the company holding the patent.

Article 51 bis D. A non-voluntary license can be totally or partially ineffective, subject to adequate protection of the legitimate interests of the licensee, when the circumstances originating the non-voluntary license have disappeared and they are not likely to arise again. Upon a motivated request, the Competition Court, the Head of the Department or the Civil Court, previous consultation to the competent authority, accordingly, may examine whether such circumstances still exist.

In cases where the circumstances originating the granting of the non-voluntary license are likely to arise again, the motion to revoke a non-voluntary license will not be accepted. Likewise, at the request of an interested party, the Competition Court, the Head of the Department or the Civil Court, accordingly, can modify the terms of a non-voluntary license when new facts or circumstances justify it, especially when the owner of the patent has granted contractual licenses in more favorable conditions than the ones agreed upon for the beneficiary of the non-voluntary license.

In the proceedings for a request of a non-voluntary license, in the cases foreseen in Nos. 1 to 3 of Article 51, the Department must be heard before a decision is issued.

Article 52. A fine, for fiscal benefit, of 25 to 1000 UTM will be imposed upon:

a) Those who maliciously manufacture, use, offer or introduce into the market, import or are in possession of a patented invention for commercial purposes. This will be so notwithstanding the provision of No. 5 of Article 49.

b) Those who, for commercial purposes, use a non patented object, or whose patent has expired, or has been cancelled and using on such object indications corresponding to a patent or simulating such indications.

- c) Those that maliciously, for commercial purposes, use a patented procedure.
- d) Those that maliciously imitate or use an invention which application is pending, unless the patent is eventually not granted.

Those convicted according to this Article will have to pay the court costs and the damages caused to the owner of the patent.

Tools and elements directly used in the commission of any of the crimes mentioned in this Article and the objects produced illegally will be confiscated. Illegally produced objects will be destroyed. In case of tools or elements used, the competent court will decide their destination, and may order their destruction or their distribution to charity.

Those who reoffend within five years from the date of a fine will be subject to another fine which cannot be less than twice the first one, with a 2,000 UTM cap.

Article 53. Any patented object must indicate in a visible manner, either in the product itself or its container preceded by the expression “Patent of Invention” or the initials “P.I.”, followed by the registration number.

Process patents that due to their nature cannot comply with this obligation are exempted of the above obligation.

The omission of this requirement, will not affect the validity of the patent. However those not complying with this obligation shall not be able to exercise the criminal actions provided for by this Law.

In the case of pending applications of products being manufactured or sold for commercial purposes, this situation must be informed.

PARAGRAPH II

OF THE SUPPLEMENTARY PROTECTION

Article 53 Bis 1. Within six months after the granting of a patent, its holder will be entitled to request a term for Supplementary Protection, as long as there has been an unjustified administrative delay in the granting of the patent and the term for the granting was of over five years from the date of the filing of the application or of three years from the requirement for examination, whichever occurs after. Supplementary protection will only extend for the period proved as unjustified administrative delay.

Article 53 Bis 2. Within six months after the granting of a sanitary registration of a pharmaceutical product protected by a patent, its holder will be entitled to request a term for Supplementary Protection for that part of the patent containing the pharmaceutical product, as long as there has been an unjustified administrative delay in the granting of said registration. Supplementary protection may be requested by those holders which sanitary authorization or registration has been granted after a year from the date of the filing of the application. Supplementary protection will only extend for the period proved as unjustified administrative delay by the administrative organ called to decide said registration.

Article 53 Bis 3. Will not be considered as unjustified delays, those affecting patents or sanitary registration applications arising from:

- a) The opposition or any other judicial remedy or action;
- b) The wait for reports or procedures from national or international organs or agencies required for the procedure of registration of the patent, and
- c) Actions or omissions by the applicant.

Article 53 Bis 4. The request for Supplementary Protection will be filed at the Industrial Property Court, which will decide on the existence of unjustified delays and their extension in a sole instance, according to the procedure established for the resource of appeal. The decision thus declaring it will have as sole effect the extension of the protection term and will not give cause to any responsibility of any kind.

Before the hearings, the Court will order that a formal request be sent to the corresponding organ, so that it issues an opinion within sixty days.

Article 53 Bis 5. The term of the supplementary protection will be object of a side annotation in the corresponding registration, previous payment of a fee of 1 UTM for each year or fraction of it of additional protection. Payment may only be done within the six months previous to the expiration of the original validity term of the patent, without which, the protection established in this title will not be had.

TITLE IV

UTILITY MODELS

Article 54. Will be considered as utility models the instruments, apparatuses, tools, devices and objects or part of them, in which the shape can be claimed, both in their external aspects as well as in their functioning, and as long as it produces a utility, that is, it contributes an, advantage, benefit or technical effect to their function which did not exist before.

Article 55. The provisions of Title III, related to patents of invention are applicable, when appropriate, to utility models, notwithstanding the special regulations contained in the present Title.

Article 56. A utility model will be patentable when it is new and can be of industrial application.

A patent will not be granted when the utility model only has minor or secondary differences which do not contribute any discernible, useful characteristic compared to prior inventions or utility models.

A utility model application can only refer to an individual object, notwithstanding that several elements or aspects of such object can be protected in the same application.

Article 57. Utility models will be granted for a non renewable period of 10 years, from the date of the application.

Article 58. The following documents must be attached to the application for a utility model:

- An abstract of the utility model.
- A description of the utility model.
- Set of claims.
- Drawings of the utility model.

Once the application is filed with the Department, a preliminary examination will be conducted to verify that the documents listed above have been attached.

Article 59. All utility models must display in a visible manner the words “Utility Model” or the initials “M.U.”, followed by the registration number. This indication can be placed on the container, as long as the container is sealed, in such a manner that it is necessary to destroy the container to utilize the product. The omission of this requirement does not affect the validity of the utility model. However, those who do not comply with this obligation shall not be able to exercise the criminal actions provided by this Law.

Article 60. The grounds for cancellation listed in Article 50, are applicable to utility models.

Article 61. A fine, for fiscal benefit, of 25 to 1,000 UTM will be imposed upon:

a) Those who maliciously manufacture, market, import or use, for commercial purposes, a registered utility model, subject to the exception set forth No. 5 of Article 49, which will be equally applicable to utility models.

b) Those that, for commercial purposes, use the corresponding indication of a utility model, whose registration has expired or has been cancelled, and those who, for commercial purposes, simulate an indication when there is no registration.

Those convicted according to this Article will have to pay the court costs and damages caused to the owner of the utility model.

Tools and elements directly used in the commission of any of the crimes mentioned in this Article and the illegally produced objects will be confiscated. The illegally produced objects will be destroyed. A competent court will decide the destination of any tools or elements used and may order their destruction or their distribution to charity.

Those who reoffend within five years from the date of a fine will be subject to another fine which cannot be less than double the previous fine, with a 2,000 UTM cap.

TITLE V

INDUSTRIAL DRAWINGS AND DESIGNS

Article 62. Industrial designs include all three dimensional shapes, whether associated or not with colors, and any industrial or handcrafted article that can be used as a pattern for the manufacture of other units and that can be distinguished from similar patterns, by its shape, geometric configuration, ornamentation or any combination of these, so long as said characteristics give it a unique appearance perceptible by sight, in such a way as to give it a new appearance.

Industrial drawings include all arrangements, collections or combinations of figures, lines or colors developed on a plan or diagram for its incorporation into an industrial product for the purpose of ornamentation and to give said product a new appearance.

Industrial drawings and designs are considered new when they significantly differ from known industrial drawings or designs, or from the combinations of characteristics of known industrial drawings or designs.

Containers may also be protected as industrial designs, as long as they comply with the condition of novelty previously indicated.

Printed fabrics, cloths or any laminated materials may also be protected as industrial drawings, as long as they comply with the condition of novelty previously indicated.

Article 62 bis. The protection granted to industrial drawings and designs established by this Law will be so notwithstanding the protection granted by Law No. 17,336.

Article 62 ter. It cannot be registered as industrial designs or drawings those which appearance is entirely given by technical or functional considerations, without addition of an arbitrary contribution by the designer.

Furthermore, cannot be registered as industrial designs garments of any kind and those consisting of a form which exact reproduction is necessary to allow that the product incorporating the design be assembled mechanically or connected to another product forming part of the whole. This prohibition will not apply to products whose design is of a form destined to allow for the assembly or the multiple connections of the products, or the product's connection within a modular system.

Article 63. The provisions of Title III, related to patents of invention, are applicable, when appropriate, to industrial drawings and designs, notwithstanding the provisions contained in the present Title. The right of priority will be regulated by Article 20 bis of this Law.

The grounds for cancellation listed in Article 50, are applicable to industrial designs and drawings.

Article 64. The following documents must be attached to the application for an industrial design or drawing:

- Application.
- Description of the industrial design or drawing
- Drawing.
- Prototype or model, when appropriate.

Once the application is filed with the Department, a preliminary examination will be conducted to verify that the documents listed above have been attached.

Article 65. The registration of an industrial design or drawing will be granted for a non renewable period of 10 years, from the date of the application.

Article 66. All industrial designs must display in a visible manner the expression “Industrial Drawing” or “Industrial Design” or the initials “D.I.”, followed by the registration number. This indication can be placed on the container, as long as the container is sealed in such a manner that it is necessary to destroy the container to use the product.

The omission of this requirement does not affect the validity of the industrial design or drawing; however, those who do not comply with this obligation shall not be entitled to file criminal actions established in the following Article.

Article 67. A fine, for fiscal benefit, of 25 to 1,000 UTM will be imposed upon:

a) Those who maliciously manufacture, market, import or use, for commercial purposes, a registered industrial drawing or design, subject to the exception set forth in No. 5 of Article 49, which will be equally applicable to industrial designs or drawings.

b) Those who, for commercial purposes, use an indication corresponding to a registered industrial drawing or design, or simulate an indication that does not exist or has expired or been cancelled.

Those condemned according to this Article will have to pay the court costs and damages caused to the owner of the industrial design or drawing.

Tools and elements directly used in the commission of any of the crimes mentioned in this Article and the illegally produced objects will be confiscated. The illegally produced objects will be destroyed. A competent court will decide the destiny of any tools or elements used and may order their destruction or their charitable distribution.

Those who reoffend within five years from the date of a fine will be subject to another fine which cannot be less than double the previous fine, with a 2,000 UTM cap.

TITLE VI

INVENTIONS IN SERVICE

Article 68. The right to apply for registration as well as the eventual industrial property rights in labor and service contracts, for the accomplishment of an inventive or creative activity, will belong exclusively to the employer or the person who ordered the service, except when expressly stated otherwise.

Article 69. The employee that according to its labor contract is not deemed to perform an inventive or creative function will have the right to apply for registration and all eventual industrial property rights arising from these inventions will belong exclusively to the employee.

However, if in order to accomplish the invention, the employee has been evidently benefited from the knowledge acquired within the company, using means provided by the company, the aforementioned rights and faculties belong to the employer and in which case the employer shall confer to the employee an additional retribution to be agreed upon by the parties.

The above shall also apply to the person that obtains an invention by exceeding the task required of him.

Article 70. The right to apply for registration as well as the eventual industrial property rights derived from the inventive and creative activities of persons employed dependently or independently by universities or research institutions included in Decree Law No. 1,263 of 1975, will belong to the latter or to whomever they desire, notwithstanding the by-laws of said institutions that regulate the rights and benefits enjoyed by inventors or creators of that institution.

Article 71. The employees rights established in the preceding Articles cannot be waived prior to the granting of a corresponding patent, utility model, or layout-design or topography of integrated circuits. Any statement or clause to the contrary will not be considered.

Article 72. All controversies related to the enforcement of the provisions of this Title will be heard by the Industrial Property Court, to which reference is made in Title 1, Paragraph 3 of this Law.

TITLE VII

LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS

Article 73. An integrated circuit is a product in its final or intermediate form, destined to perform an electronic function, in which at least one of the elements is active, and some or all of the interconnections form an integrated part of the body or surface of a piece thereof.

Article 74. Will be considered as layout–designs or topographies of integrated circuits the three-dimensional arrangements of their elements, expressed in any form, designed for manufacture.

Article 75. Layout–designs or topographies of integrated circuits are protected by this Law provided that they are original.

Are considered original those that are the result of the intellectual effort of the creator and are not of common knowledge between the creators and manufacturers of layout–designs or topographies of integrated circuits, at the moment of its creation.

A layout-design or topography of integrated circuits which consists of a combination of common elements or interconnections will only be protected if the combination as a whole complies with the conditions indicated in the previous paragraphs.

Article 76. The owner of a layout–design or topography of integrated circuits will have the exclusive right to produce, sell or market in any way the protected object and the right conferred to him.

Consequently, the owner of a layout–design or topography of integrated circuits can prevent any third party, acting without his consent, from:

1) Reproducing the protected layout-design or topography of integrated circuits totally or any part of it for incorporation into an integrated circuit or into any other form, with exception of reproducing any part of it that does not comply with the originality requirement set forth in Article 75 of this Law.

2) Selling or distributing in any way, for commercial purposes, the protected layout-design or topography of integrated circuits, an integrated circuit that incorporates the protected layout-design or topography of integrated circuits, or a product that incorporates an integrated circuit that contains an illegally reproduced layout-design or topography of integrated circuits.

Article 77. The exclusive right of exploitation granted in the preceding Article will not be extended to:

1) The reproduction of a layout–design or topography of integrated circuits in which a layout-design or topography of integrated circuits created by a third party for

private purposes or with the sole objective of evaluation, analysis, and research or teaching has been incorporated.

2) Commercial exploitation, as defined in said Article , of a layout-design or topography of integrated circuits, that otherwise complies with the requirements of Article 75 of this Law, that has been created as a result of analysis and evaluation of a separate protected layout-design or topography of integrated circuits.

3) Commercial exploitation, as defined by said Article, of an integrated circuit that incorporates an illegally reproduced layout-design or topography of integrated circuits or in relation to any object that incorporates such integrated circuit, when the third party that orders or makes such acts did not know or have reasonable motives to know, upon acquiring the integrated circuit or the object, that it was incorporating an illegally reproduced layout-design or topography of integrated circuits.

Notwithstanding the above, once the third party knows or has reason to believe that the layout-design or topography of integrated circuits was illegally reproduced; said third-party will be able to perform any action regarding current inventory or products ordered before that time. In that case, the owner of the protected right will only be able to demand payment of a sum equal to a reasonable royalty for a freely negotiated license of the layout-design or topography of integrated circuits.

The court that is competent to know of infringements regarding layout designs or topographies of integrated circuits will also decide any controversy that arises regarding the determination of the royalty referred to in the preceding paragraph according to the rules established for incidents in the Civil Procedure Code, without testimonial evidence and by means of a decision *ex aequo et bono*.

4) An identical and original layout-design or topography of integrated circuits independently created by a third party.

Article 78. A layout–design or topography of integrated circuits will be protected for a non-renewable period of 10 years starting from the date the application was filed or its first commercial exploitation in any part of the world.

Article 79. The registration of layout designs or topographies of integrated circuits will be made by the Industrial Property Department.

Article 80. The following documents must be attached to the application for a layout–design or topography of integrated circuits:

- Application.
- Description.
- Prototype or model, when appropriate.
- Complementary documents, if there are any.

Once the application is filed with the Department, a preliminary examination will be conducted to verify that the requested documents have been attached.

Article 81. The application can be filed before the commercial exploitation of the layout–design or topography of integrated circuits has begun or within two years of the date of the exploitation. In the latter case, the applicant must include with the application, an affidavit identifying the date of the first commercial exploitation.

The prosecution of the application, as well as its publication and resolution, will be regulated by the provisions established in the Complementary Regulations to this Law.

Article 82. Cancellation of a layout-design or topography of integrated circuits will proceed for any of the following reasons:

- a) When the person obtaining the layout-design or topography of integrated circuits is neither the creator nor the assignee;
- b) When the granting has been based on an examiners reports which is erroneous or evidently deficient;
- c) When the registration has been granted in violation of the requirements established in Article 75;
- d) When the commercial exploitation of the layout-design or topography of integrated circuits commenced more than two years prior to the filing of the application.

Article 83. The provisions of Titles III and VI, relating respectively to patents of invention and inventions in service, are applicable to layout–designs or topographies of integrated circuits when appropriate, notwithstanding the provisions contained in the present Title.

Article 84. Layout–designs or topographies of integrated circuits must display in a visible manner an encircled capital letter “T”. This indication can be placed on the container, as long as the container is sealed, in such a manner that it is necessary to destroy the container to utilize the product. The omission of this requirement will not affect the validity of the layout–design or topography of integrated circuits, however; those who do not comply with this obligation shall not be entitled to the criminal actions provided by this Law.

Article 85. A fine, for fiscal benefit, of 25 to 1,000 UTM will be imposed upon:

- a) Those who maliciously manufacture, market, import or use, for commercial purposes, a registered layout–design or topography of integrated circuits, subject to the exception set forth in No. 5 of Article 49, which will be equally applicable to layout–designs.
- b) Those who, for commercial purposes, and without the right to do so, use the corresponding indication of a registered layout–design or topography of integrated circuits whose registration has expired or been cancelled, and those who, for the same purposes, simulate an indication when there is no registration.

Those condemned according to this Article will have to pay the court costs and damages caused to the owner of the layout–design or topography of integrated circuits.

Tools and elements directly used in the commission of any of the crimes mentioned in this Article and the illegally produced objects will be confiscated. The illegally produced objects will be destroyed. A competent court will decide the destination of any tools or elements used and may order their destruction or their distribution to charity.

Those who reoffend within five years from the date of the fine will be subject to another fine which cannot be less than double of the previous fine, with a 2,000 UTM cap.

TITLE VIII

TRADE SECRETS AND INFORMATION DISCLOSED TO THE AUTHORITY TO OBTAIN HEALTH REGISTRATIONS OR AUTHORIZATIONS.

PARAGRAPH 1

TRADE SECRETS

Article 86. It is considered as a trade secret all knowledge of industrial products or procedures that, by being kept secret, gives the possessor thereof a competitive advantage, enhancement or breakthrough.

Article 87. The illegitimate acquisition of a trade secret, the disclosure or exploitation thereof without authorization from the holder and the disclosure or exploitation of trade secrets to which there has been legitimate access but under a confidentiality obligation, shall constitute a violation of the trade secret, provided the violation of the secret has been in the intent to obtain advantage for one’s own benefit or that of a third party or to injure the holder thereof.

Article 88. Notwithstanding the corresponding criminal liability, the rules in Title X relative to the observance of industrial property rights shall be applicable to the violation of a trade secret.

PARAGRAPH 2

INFORMATION DISCLOSED TO THE AUTHORITY TO OBTAIN HEALTH REGISTRATIONS OR AUTHORIZATIONS

Article 89. When the *Instituto de Salud Pública* (ISP – Public Health Agency) or *Servicio Agrícola y Ganadero* (SAG – Agricultural and Livestock Protection Agency) require the submission of undisclosed information, proof data or other information,

concerning the safety and efficacy of a pharmaceutical or agricultural chemical product which utilizes a new chemical entity, that has not been previously approved by the competent authority, such information or data shall be considered confidential pursuant to the regulations in force.

The nature of non-disclosure is deemed satisfied if the data has been subject to reasonable measures to keep it undisclosed and they are not generally known to or easily accessible by persons within the circles in which the type of information in question is normally used.

The competent authority may not disclose nor utilize such data to grant a health registration or authorization to someone who does not have the permission of the holder thereof, for a period of five years for pharmaceutical products and 10 years for agricultural chemical products, as from the first health registration or authorization granted by the ISP or the SAG, as the case may be.

In order to have protection under this Article, the nature of non-disclosure of such entity or data shall be expressly stipulated in the health registration or authorization application.

Article 90. It is considered a new chemical entity the active principle that has not been included previously in health registrations or authorizations granted by the ISP or by the SAG, as the case may be, or that has not been commercialized in the national territory prior to the health registration or authorization.

For purposes of this paragraph, it is considered as active principle a substance having one or more pharmacological effects or agricultural chemical uses, whatever its form, expression or disposition, including its salts and complexes. In no case shall the following be considered a new chemical substance:

1. Therapeutic uses or indications other than those authorized in other prior health registrations or authorizations of the same chemical substance.
2. Changes in the method of administration or forms of dosage from those authorized in other prior health registrations or authorizations of the same chemical substance.
3. Changes in authorized or registered pharmaceutical forms, formulations or combinations of chemical substances.
4. The salts, complexes, crystalline forms or such chemical structures that are based on a chemical substance that has a prior health registration or authorization.

Article 91. Protection under this paragraph shall not apply when:

- (a) The holder of the information or proof data indicated in Article 89 has incurred in conducts or practices declared contrary to fair competition in direct relation to the use or exploitation of such information, according to a final and binding decision of the Competition Court.

(b) For justified reasons of public health, national security, non-commercial public use, national emergency or other extremely urgent circumstances declared so by the competent authority; the protection set forth in Article 89 can be terminated.

(c) The pharmaceutical or agricultural chemical product is the subject of an obligatory license pursuant to the stipulations in this Law.

(d) The pharmaceutical or agricultural chemical product has not been commercialized within the national territory by the end of a 12 month period calculated from the date of the health registration or authorization given in Chile.

(e) The application for registration or sanitary authorization of the pharmaceutical product or agricultural chemical that is filed in Chile after twelve months of obtaining the first registration or sanitary registration abroad.

TITLE IX

GEOGRAPHICAL INDICATIONS AND APPELLATIONS OF ORIGIN

Article 92. This Law acknowledges and protects geographical indications and appellations of origin in accordance to the following provisions:

(a) It is considered a geographical indication, an indication identifying a product as original from a country, or a region or locality in the national territory where a given quality, reputation or other characteristics of the product is essentially attributable to its geographical origin.

(b) It is considered an appellation of origin, a designation identifying a product as original from the country or from a region or locality in the national territory where a given quality, reputation or other characteristics of the product is essentially attributable to its geographical origin, and taking into consideration other natural or human factors that have an impact on the characteristics of the product.

Article 93. Geographical indications and appellations of origin shall be governed by this Law and by the specific use regulations that are approved. The foregoing shall be understood to be notwithstanding the provisions regulating appellations of origin for *Pisco*, *Pajarete* and *Vino Asoleado*³ and those referring to zoning of wine-growing, where the specific rules contained in Law No. 18,455 shall prevail in respect thereof.

Geographical indications and appellations of origin cannot be subject of appropriation or lien that limits or prevents the use thereof by applicants who meet the requirements established in this Law and in the regulations of use of the indication or appellation.

³ Fortified wines produced in different areas of Chile.

Article 94. The recognition of a geographical indication or appellation of origin shall be made by the Department by its inclusion in a Registry of Geographical Indications and Appellations of Origin kept for that purpose.

Any person or legal entity can request the registration of a geographical indication or appellation of origin provided he represents a significant group of producers, manufacturers or artisans, regardless of the legal form, whose lands, or establishments of extraction, production, processing and elaboration are within the delimited zone established by the geographical indication or appellation of origin requested and who comply with the other requirements indicated in this Law. National, regional, provincial or local authorities may request the recognition of a geographical indication or appellation of origin when the geographical indications or appellation of origin are located inside the territories within their corresponding jurisdiction.

Article 95. May not be recognized as geographical indications or denominations of origin the following signs or expressions:

(a) Those that do not conform to the definitions contained in Article 92 of this Law.

(b) Those that are contrary to moral codes, norms of good behavior and public order.

(c) Those that may induce to error or confusion in the consuming public regarding the precedence of the Geographical Indication or Denomination of Origin or of the attributes of the products that they wish to protect.

(d) Those that are common or generic indications to protect the product in question, being understood as such those considered as such by those with knowledge of the matter or the public in general, save they have been recognized as Geographical Indications or Denominations of Origin by virtue of international treaties ratified by Chile.

Article 96. Foreign geographical indications and appellations of origin may be registered in Chile in accordance with the regulations of this Law. They may not be protected or their protection will forfeit, if they have it, when they are no longer protected or have fallen into disuse in their country of origin.

In particular, foreign geographical indications and appellations of origin identifying wines and spirits in relation to products and services that have been used continuously, in good faith, by nationals or residents in their national territory to identify those same products or services or other related ones in Chile prior to April 15, 1994 or, for at least 10 years prior to that date, shall not be subject to the protection established in this Law unless there is stipulation on the contrary in an international treaty ratified by Chile.

Article 96 bis A. If by application of the regulations established in this Law or in international treaties ratified by Chile, the Department reaches the conviction that is possible the coexistence between trademarks and geographical indications or

denominations of origin, or of said indications and denominations between themselves, in the final decision will determine the conditions in which must be used the Geographical Indications, Denominations of Origin or Trademarks, so to prevent the induction to error or confusion in the consuming public. When one or more of the products in question are agricultural and forestry products or agro-industrial products, in order to reach conviction, the Department will have to request a report to the Ministry of Agriculture.

In any case, the conditions of use will be part of the pertinent registration.

Non compliance of the conditions of use will deprive the holder of the faculties to exercise the actions established in this Law.

Article 97. The application for recognition of a geographical indication or appellation of origin shall state:

(a) The name, address, taxpayer identification number, if applicable, and activity of the applicant related to the indication or appellation requested.

(b) The geographical indication or appellation of origin.

(c) The geographical area of production, extraction, processing or elaboration of the product that will be distinguished by the indication or appellation, delimiting it to the geographic characters and political-administrative division of the country.

(d) A detailed description of the product or products that will be distinguished by the indication or appellation requested as well as the essential characteristics or qualities thereof.

(e) A technical study prepared by a competent professional that provides information in the sense that the characteristics or qualities attributed to the product is fundamentally or exclusively imputable to its geographical origin.

(f) A project with the specific regulations of use and control of the requested indication or appellation.

Article 98. Applications for Chilean geographical indications or appellations of origin relative to forestry, agricultural and livestock goods and agro industrial goods shall also require an approbatory report by the Ministry of Agriculture for the registration thereof stating their compliance with the requirements of Article 97. A report issued by the Ministry of Agriculture shall be required for foreign geographical indications and appellations of origin related to such products.

Such report shall be issued within 120 days from the date of request for the same by the Head of the Department.

Article 99. The resolution granting the registration of a geographical indication or appellation of origin shall state:

(a) The acknowledgement of the geographical indication or appellation of origin.

(b) The delimited geographical zone of production, extraction, processing or elaboration in which the producers, manufacturers or artisans thereof have the right to use the indication or appellation.

(c) The products to which the geographical indication or appellation of origin shall apply and the essential qualities or characteristics that they must have.

(d) The qualification, according to the merits of the information furnished, as a geographical indication or appellation of origin.

Such resolution shall also approve and order the registration of the specific regulations of use and control of the acknowledged geographical indication or appellation of origin.

Article 100. The registration of a geographical indication or appellation of origin shall be indefinite.

The registration may be modified at any time when any of the circumstances established in Article 97 changes. The modification shall be subject to the registration procedure, to the extent pertinent.

Article 101. Any interested party may claim for the cancellation of the registration of the geographical indication or appellation of origin if any of the prohibitions established in this Law have been infringed.

Article 102. To the extent applicable, the rules in Titles I and II and the trademark regulations shall apply to the examination, publication, registration and cancellation procedures for geographical indications and appellations of origin discussed in this Title.

Article 103. All producers, manufacturers or artisans, who conduct their activity inside the delimited geographical zone, including those who are not among those who requested the initial acknowledgement, shall be entitled to use the geographical indication or appellation of origin in relation to the products indicated in the registration provided they comply with the provisions regulating the use thereof. Only they may use the expression “Geographical Indication” or “Appellation of Origin” or the initials “I.G.” or “D.O.” respectively, in the identification of the product. These indications may be placed on the container provided the container is sealed, in such a manner that it is necessary to destroy the container to use the product.

Article 104. The civil actions related to the right to use a registered geographical indication or appellation of origin and those seeking to prevent the illegal use thereof shall be brought before the ordinary courts of justice pursuant to the rules established in Title X, relative to the Observance.

The civil actions established in the preceding paragraph regarding registered geographical indications or appellations of origin that identify wines and spirits can be

exercised when a geographical indication or appellation of origin is used without the right to do so or is translated or when it is accompanied by words such as “class,” “type,” “style,” “imitation,” or other like expressions, even when the true origin of the good is indicated.

Article 105. A fine, for fiscal benefit, of 25 to 1,000 UTM will be imposed upon:

(a) Those that maliciously designate a product of the same type protected by a registered geographical indication or appellation of origin without the right to do so.

(b) Those who use, for commercial purposes, the indications corresponding to a geographical indication or appellation of origin that is not registered, has lapsed or has been cancelled or that simulates them.

(c) Those who make use, for commercial purposes, of containers or packages that bear a registered geographical indication or appellation of origin without the right to use it and without having it previously erased, unless the marked package is intended to contain different goods unrelated to those protected by the geographical indication or appellation of origin.

Those convicted pursuant to this Article shall be obligated to pay the court costs and damages caused to the legitimate users of the geographical indication or appellation of origin.

The utensils and elements used directly in the commission of any of the offences mentioned in this Article and the objects with forged geographical indications or appellations of origin shall be seized. Objects with the forged geographical indication or appellation of origin shall be destroyed. The competent judge shall have the authority to decide on the destination of the utensils or elements used and may order the destruction or distribution thereof to charity.

Those who reoffend within five years from the date of a fine will be subject to another fine which cannot be less than double the previous fine, with a 2,000 UTM cap.

TITLE X

OBSERVANCE OF INDUSTRIAL PROPERTY RIGHTS

PARAGRAPH 1

CIVIL ACTIONS

Article 106. The holder which industrial property right has been infringed may file a civil suit seeking:

- a) The ceasing of the acts infringing the protected right.
- b) An indemnity for damages.

c) The adoption of the necessary measures to avoid the continuation of the infraction.

d) The publication of the decision, at the expense of the party convicted, by means of inserts in the newspaper at the choice of the plaintiff. This measure shall apply when the decision so expressly determines.

Article 107. The civil actions established in Article 106 shall be matter of a summary judgment and anyone who has an interest in filing a civil action may file it, notwithstanding any criminal action that may be commenced.

Article 108. Damages may be determined, at the plaintiff's choice, according to the general rules or according to one of the following rules:

a) The profits that the holder would have cease to earn as a consequence of the infringement;

b) The profits that the infringer would have earned as a consequence of the violation; or

c) The price that the infringer would have paid to the holder of the right for the granting of a license, taking into account the commercial value of the infringed right and contractual licenses that have already been granted.

Article 109. Notwithstanding the other actions established in this Title, persons who have commercialized goods that infringe an industrial property right shall not be liable for damages unless those same persons have manufactured or produced them or have commercialized them knowing that they were committing an infringement of an industrial property right.

Article 110. The judge knowing the matter shall be empowered to order in the decision that the infringer provides the information he has on the persons who have participated in the production or elaboration of the goods or procedures involved in the infringement and regarding the distribution channels of those goods.

Article 111. The judge shall appreciate evidence in these cases according to rules of sound judgment.

PARAGRAPH 2

PROVISIONAL REMEDIES

Article 112. Provisional remedies shall apply in all matters that relate to infringements of industrial property rights.

Notwithstanding other provisional remedies, the court may decree the following:

- a) The immediate ceasing of the acts constituting the alleged infringement.
- b) The injunction of the products involved in the alleged infringement and the materials and means that served principally to commit it. The injunction of containers, packaging, labels, printed matter or advertising that contain the sign involved in the alleged infringement may also be decreed in the case of distinctive signs;
- c) The appointment of one or more receivers.
- d) The prohibition to advertise or promote the products involved in the alleged infraction in any way; and
- e) The withholding in a credit establishment or by a third party of the products, moneys or valuables arising from the sale or commercialization of such products in any way.

PARAGRAPH 3

PRELIMINARY REMEDIES

Article 113. The provisional remedies indicated in paragraph 2 of Title X of this Law and the remedies contained in Titles IV and V of the Second Book of the Civil Procedure Code may be petitioned as preliminary remedies.

TITLE XI

FINAL ARTICLE

TRANSITORY ARTICLES

Article 1. Appeals pending before the Industrial Property Arbitrators Court, will pass to, be heard and decided, by the Industrial Property Court referred to in Paragraph 3 of Title 1 of this Law that modifies the Industrial Property Law No. 19,039, once it is enacted.

During the period between the publication and the enactment of this Law and its publication, the President of the Republic must designate the members of the Industrial Property Court, according to the provisions set forth in Article 17 bis C of this Law.

As of the date of enactment of this Law, the members of the Industrial Property Arbitrators Court will cease in their functions.

Article 2. Notwithstanding the provisions in the first paragraph of the above Article, the applications to register a trademark, patents of invention, utility model and industrial designs filed prior to the enactment of this Law, will be prosecuted according to the Law in force at the time of the filing.

Provisional patents filed prior to the enactment of this Law will be prosecuted according to the Law in force at the time and will be granted according to the provisions in force at the time of the respective filing.

Nevertheless, within 120 days from the date of entry in to force of this Law, the applicants of trademarks, patent of invention without pending oppositions, utility models or industrial designs, can file a new application according to the provisions of this Law, which will maintain the priority of the original application.

Within the same term above, the holders of a patent of invention without pending opposition or industrial design, or its assignees, that consider that their invention or industrial design corresponds to a layout-design or topography of integrated circuits according to Title VII of this Law may file a new application abiding to the provisions of this Law and maintain the priority of the original application.

Article 3. The renewal application for a registered trademark prior to the date of enactment of this Law, for products and services in one or more classes of the International Classification of Products and Services, must indicate the specific and determined products or services, and specify the class or classes of the International Classification of Products and Services they pertain.

When, consequent to a modification of the International Classification of Products and Services, a good or service changes of class, when filing an application for renewal of a registered trademark, the protection of all goods or services covered by the original registration may be maintained, even though this implies obtaining additional protection in one or more classes.

Article 4. The applications of trademarks, patents of inventions without pending oppositions, utility models or industrial designs and layout-design or topography of integrated circuits, filed after the enactment of this Law shall abide by the provisions of payment of fees in Article 18 of this Law.

With regards to applications filed prior to the enactment of this Law and accepted once the Law is in force, the applicable fee will be the one in force at the time of the filing of application.

Trademark renewal applications filed after the enactment of this Law, for registrations already granted, must abide by the provisions of payment of fees set forth in No. 4 of Article 18 of this Law.

Article 5. The patent of inventions granted as of January 1, 2000 until the enactment of this Law, will be protected for a 20 year period, non-renewable, as from the date of filing of the application, unless the time of protection calculated in such a way, is inferior to the time of protection conferred by the Law No. 19,039.

Article 6. Within 6 months from the date of publication of this Law, the President of the Republic must issue its Complementary Regulations.

Article 7. This Law shall enter into full force on the day the abovementioned Complementary Regulations are published in the Official Gazette.

Article 8. Within a year from the date of publication of this Law, the President of the Republic, by one or more Legislative Decrees, will establish the revised, coordinated and systemized text of Law No. 19.039.

Article 9. The greater fiscal expense that the Industrial Property Court may demand will be financed from the budget of Under-Secretariat of Economy, with charge to subtitle 21, item 03, allocation 001.