

Snapshot: trademark enforcement in Mexico

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Legal framework

Domestic law

What is the primary legislation governing trademarks in your jurisdiction?

The primary legislation governing trademarks in Mexico is the Federal Law for the Protection of Industrial Property (FLPIP), alongside the Regulation of the Industrial Property Law.

International law

Which international trademark agreements has your jurisdiction signed?

The most important international agreements that Mexico is a part of are:

- the Paris Convention for the Protection of Industrial Property;
- the Madrid Protocol; and
- the Nice Agreement.

Regulators

Which government bodies regulate trademark law?

In Mexico, trademark law is regulated by several government bodies; the Mexican Institute of Industrial Property (IMPI) serves as the relevant authority.

If the resolutions result in unfavourable outcomes, the following entities would become involved: the Federal Court for Administrative Affairs, the Federal Circuit Courts and the Supreme Court of Justice.

Registration and use

Ownership of marks

Who may apply for registration?

Any Mexican individual and entity, as well as any foreign individual or entity, may apply.

Scope of trademark

What may and may not be protected and registered as a trademark?

What may be protected and registered

Any signs that can be perceived by the senses capable of being represented in a way that allows determining the clear and precise object of the protection, which distinguishes products or services from others of the same kind or class in the market. This includes traditional visible marks, namely, words, figurative elements, combined design word marks, slogans and colour combinations, as well as holographic signs, three-dimensional shapes, trade names and corporate names.

Non-traditional marks may also be registered: those perceived through other senses, such as sounds, scents, multimedia motion marks, position marks and trade dress marks which are understood as the plurality of operative or image elements, including, among others, size, design, colour, shape arrangement, label, packaging, decoration or any other that, when combined, distinguish goods or services in the market.

Certification Marks are marks that certify the quality, origin, conditions or components characteristics of goods or services distinguished.

What may not be protected and registered

Flavour marks are not accepted for registration because the Mexican Trademark Office has considered that they are not listed in the law as distinctive signs that could be subject of protection without considering that these marks are indeed noticeable through the sense of taste, and it is possible to represent the same in a manner that allows to determine the object of the protection, for example, with a description of the flavour or a formula for obtaining the same. Consequently, the range of possible non-traditional trademarks that can be protected in our country should be broader than the enunciative list included in the law, which should serve as a guide and not as a limiting catalogue.

A list of prohibitions and the only legal source for rejecting a trademark application is established in article 173 of the Federal Law for the Protection of Industrial Property (FLPIP). These prohibitions include:

- marks that could deceive the public about the nature, quality or commercial origin of the goods or services are not eligible for protection;
- words, phrases, denominations or figurative elements that have become usual or generic elements thereof;
- three-dimensional shapes and holograms that are in the public domain;
- denominations of origin, geographical indications and denominations or signs of places characterised by the manufacture of certain products or services;
- names and denominations that are identical or confusingly similar to the titles of literary or artistic works, as well as the reproduction or imitation of the elements of such works;
- identical or similar signs that result in a likelihood of confusion with a well-known trademark in Mexico in consideration of the Mexican Institute of Industrial Property;
- signs identical or confusingly similar to a trademark in process of registration filed previously or to a registered and in force trademark applied to the same or similar products or services. However, consents and coexistence agreements are recognised as valid means to overcome relative grounds objections; and
- descriptive and generic marks, although acquired distinctiveness is a valid means to overcome absolute grounds objections.

Unregistered trademarks

Can trademark rights be established without registration?

Although the most efficient way to protect a trademark under Mexican law is by registration, a trademark can be somewhat protected by factual law principles, if for example said trademark has gained some level of recognition by being used for a significant amount of time or is distinctive enough. Also, well-known trademarks are protected even

if they are not properly registered.

Famous foreign trademarks

Is a famous foreign trademark afforded protection even if not used domestically? If so, must the foreign trademark be famous domestically? What proof is required? What protection is provided?

In Mexico, a famous foreign trademark can be protected even if it is not used domestically; what must be proven is the how well known it is in Mexico.

A trademark is considered famous in Mexico if it is widely known by the majority of the consumer public or recognised in global commerce.

Well-known marks are those that are known by a certain sector of the consumer public or in commercial circles as a consequence of the commercial activities developed and promotion or advertising of the same in Mexico or abroad.

There are two ways to recognise well-known or famous marks:

- litigation process: through a legal action (cancellation or infringement) before the Mexican Institute of Industrial Property (IMPI); and
- administrative declaratory: IMPI can issue an administrative declaratory stating that the mark is famous or well known.

The proof required is evidence demonstrating the mark's reputation, such as market surveys, sales data, advertising and media coverage, as well as the specific public sector or commercial circle's knowledge, commercialisation channels, licences or franchises granted in relation to the mark.

Once obtained, the declaration can be renewed every five years, as long as the conditions still apply.

The benefits of registration

What are the benefits of registration?

The benefits of achieving registration for a trademark are the protection granted to the owner of said registration, which implies the exclusive rights to use the trademark, the possibility to act against a third party using the trademark without authorisation, public notice and validity of the trademark, and protection against imitation, among others.

Filing procedure and documentation

What documentation is needed to file a trademark application? What rules govern the representation of the mark in the application? Is electronic filing available? Are trademark searches available or required before filing? If so, what procedures and fees apply?

The application should include:

- the applicant's full name and complete address;
- a description of the goods or services;
- a sample of the mark in JPEG or GIF format (if it includes any designs) to represent the mark clearly and precisely in the application;
- use in commerce in Mexico. Non-use basis applications are allowed under Mexican law, as use in commerce is not a requirement for obtaining registration. However, if the trademark is already in use in Mexico, it is recommended to provide the full date (day, month and year); and

- convention priority: if convention priority is to be claimed, it is required to provide the country of origin, application number, the date of filing and the exact description of the goods and services.

Electronic filing is available for convenience.

While not mandatory, conducting a trademark search is advisable. It helps to identify potential conflicts and assess the availability and registrability of a mark.

The fees for searches may vary (approximately US\$358.00). The costs involved in filing trademark applications are the following:

- professional filing fees: US\$600.00 per mark and per class; and
- government fees: US\$209.00, per mark and per class.

Registration time frame and cost

How long does it typically take, and how much does it typically cost, to obtain a trademark registration? When does registration formally come into effect? What circumstances would increase the estimated time and cost of filing a trademark application and receiving a registration?

IMPI takes between eight and 10 months to issue the Certificates of Registration unless objections are raised, which can double the time frame. Registration will formally come into effect on the date the Certificate of Registration is issued.

The average costs and rough estimates to file an application are:

- professional fees: around US\$600.00; and
- legal fees: US\$210.00.

If an opposition is filed against an application by a third party, or official actions are issued by the examiner concerning classification issues, or there are objections on absolute (inherent registerability) or relative grounds of refusal (availability), the costs will increase significantly, as these amount from US\$360 to US\$850 for reporting and filing a response or an opposition, depending on the complexity of the case.

Classification system

What classification system is followed, and how does this system differ from the International Classification System as to the goods and services that can be claimed? Are multi-class applications available and what are the estimated cost savings?

Mexico follows a single-class system for trademark applications based on the Nice International Classification System, as IP law does not allow multi-class applications. This approach ensures clarity and specificity. As for cost savings, it simplifies the process and avoids unnecessary fees associated with additional classes.

Examination procedure

What procedure does the trademark office follow when determining whether to grant a registration? Are applications examined for potential conflicts with other trademarks? Are letters of consent accepted to overcome an objection based on a third-party mark? May applicants respond to rejections by the trademark office?

The examiners will make a full study of the trademark to determine if this can achieve registration. These examinations will take into account the classification of the goods and services sought to be covered, the inherent registrability of the trademark (based on descriptiveness or lack of distinctiveness) and availability to avoid potential

conflicts with other registered trademarks.

If the examiner issues an objection based on the above grounds, these can be responded to and overcome.

As of 5 November 2020, letters of consent are expressly allowed to overcome an objection based on a third party's similar, confusingly similar or identical trademark.

Use of a trademark and registration

Does use of a trademark or service mark have to be claimed before registration is granted or issued? Does proof of use have to be submitted? Are foreign registrations granted any rights of priority? If registration is granted without use, is there a time by which use must begin either to maintain the registration or to defeat a third-party challenge on grounds of non-use?

In Mexico, trademark use is not required to secure a mark's registration. The right of exclusivity can only be obtained only through the grant of a trademark registration.

To maintain validity of a registration a declaration of use (DOU) must be filed for all trademark registrations within three months of the third anniversary of the registration date. This rule applies to registrations granted after 10 August 2018. If the trademark owner does not submit a DOU within the aforesaid time frame, the owner will lose registration rights. Note that the DOU is filed under oath without the need to submit evidence of use.

Foreign registrations do not automatically grant rights of priority in Mexico.

Markings

What words or symbols can be used to indicate trademark use or registration? Is marking mandatory? What are the benefits of using and the risks of not using such words or symbols?

The symbols used to indicate that a trademark is registered are ® and ™. These marks are not mandatory to be added to the brand but it is suggested, as they provide awareness of the status of the trademark to the general public.

Appealing a denied application

Is there an appeal process if the application is denied?

In Mexico, if a trademark application is denied, there are several appeal options available:

- Review recourse: a review by IMPI can be requested within 15 working days from the notification of the refusal. This review is handled by a superior administrative officer at IMPI. This is advisable only if the denial was due to a clear mistake. If the denial is based on absolute or relative grounds as per article 173 of the FLPIP, review recourse is not recommended, as the superior court is likely to uphold the refusal.
- Appeal/nullity trial: an appeal may be made to the Federal Court of Administrative Affairs (FCAA) within 30 working days from the notification of the refusal or the review decision. This appeal is reviewed by an administrative body (not a court of law) to determine if IMPI correctly applied the Industrial Property Law (IPL). The appeal is resolved by three administrative magistrates in public hearings, where arguments are submitted in writing. The appellant must prove that IMPI's refusal did not comply with the IPL. The losing party can further appeal to a federal circuit court within 10 working days of the FCAA's decision. The resolution of the circuit court is final. If IMPI loses the appeal, it must comply with the resolution within a short period
- Amparo suit: on constitutional grounds, an amparo before the Federal District Court can be filed. Recent Supreme Court rulings have made amparo suits a viable option for appealing denied applications. These suits must be filed within 15 working days following the notification of the refusal. Amparo suits are highly

technical procedural actions. One benefit is that they are resolved quickly, typically within two to five months, with stays reviewed within two days of filing. Another advantage is the high level of expertise among officers and judges in intellectual property matters.

Third-party opposition

Are applications published for opposition? May a third party oppose an application prior to registration, or seek cancellation of a trademark or service mark after registration? What are the primary bases of such challenges, and what are the procedures? May a brand owner oppose a bad-faith application for its mark in a jurisdiction in which it does not have protection? What is the typical range of costs associated with a third-party opposition or cancellation proceeding?

Once an application is filed before IMPI, it is published for opposition in the Industrial Property Gazette within the next 10 working days, granting any interested party a one-month term as of the publication date to oppose the registration.

The most relevant basis of said oppositions is the similarity to existing registered trademarks or prior rights of the opposing party. Other bases may comprise lack of distinctiveness, false or misleading information, descriptiveness or trademarks that are applied in bad faith, among others.

The procedure for opposition is as follows:

- A new application filed is published for opposition purposes within the next 10 working days following the filing date.
- Any interested party may submit a brief of opposition, within a non-extendable, one-month term of publication of the application.
- The opposition brief shall be accompanied by all documentation supporting the opposition.
- Once the one-month term for opposition expires, IMPI will publish all oppositions filed within the next 10 working days.
- Owners of opposed applications will be served with an office action issued by IMPI containing the results of the official search examination and informing them of the filed oppositions, granting a two-month term that can be automatically extended for a further two months to raise arguments against the eventual objections/citations as well as the alleged grounds of opposition.
- IMPI will grant the parties a common five-day term to file closing arguments, which will begin from the next day as of the notification of the official action opening said term.
- It is important to note that an opposition will not suspend the processing of applications, as IMPI will continue to conduct its official examination of trademark applications on both absolute and relative grounds, in parallel with the opposition proceeding.
- IMPI will then issue a formal decision.

A mark owner can oppose an application based on bad faith, even if their mark is not registered in Mexico.

The average cost for filing an opposition amounts to US\$1,500.00, which includes the legal fees as well as the government fees.

Duration and maintenance of registration

How long does a registration remain in effect and what is required to maintain a registration? Is use of the trademark required for its maintenance? If so, what proof of use is required?

In Mexico, a trademark registration remains in effect for 10 years from the date of grant and can be renewed indefinitely for additional 10-year periods.

To maintain a trademark registration, it is necessary to file a declaration of actual use at two stages, namely:

- a declaration of actual and effective use of the registered mark to be submitted along with each renewal application (every 10 years); and
- a one-time declaration of actual and effective use, which must be submitted within three months after the third anniversary of the date of grant of the registration in Mexico.

There is no need to submit evidence of use for maintenance purposes.

Surrender

What is the procedure for surrendering a trademark registration?

If a trademark owner wishes to surrender (voluntarily cancel) a registration that is in full force, a writ must be filed with IMPI along with a special Power of Attorney for cancellation purposes.

Related IP rights

Can trademarks be protected under other IP rights?

Yes, in Mexico, trademarks can be protected under other intellectual property (IP) rights.

- copyright: certain elements of a trademark, such as logos or designs, can also be protected under copyright law;
- industrial designs: if a trademark includes a unique product design or configuration, it can be protected as an industrial design; and
- trade dress trademarks: the overall look and feel of a product or its packaging, known as trade dress, can also be protected if it is distinctive and non-functional.

These additional protections can provide broader coverage and help prevent unauthorised use of a trademark in various forms.

Trademarks online and domain names

What regime governs the protection of trademarks online and domain names?

The regime that governs the protection of trademarks online is the Industrial Property Law. Domain names are regulated by the Mexican Domain Name Registry (NIC Mexico).

Licensing and assignment

Licences

May a licence be recorded against a mark in the jurisdiction? How? Are there any benefits to doing so or detriments to not doing so? What provisions are typically included in a licensing agreement?

In relation to licences, under the Industrial Property Law (IPL) it is no longer necessary to register a specimen of the trademark licence agreement as a requirement to take legal effects against third parties. The use made by the licensee is to be understood as made by the owner according to the premises of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). However, if clients would still like to make public notice and submit a licence agreement it can be done by including the original or a certified copy of the document plus the request form and fees of recordal before the Mexican Institute of Industrial Property (IMPI).

Typical provisions in a licensing agreement:

- grant of licence: specifies the rights being granted, such as the scope and territory;
- duration: defines the term of the licence;
- royalties and payments: details the financial terms, including royalties and payment schedules;
- quality control: sets standards for the quality of goods or services associated with the trademark;
- termination: outlines the conditions under which the licence can be terminated; and
- dispute resolution: specifies how disputes will be resolved, such as through arbitration or litigation.

Assignment

What can be assigned?

Any trademark pending application or registration can be assigned to a third party, unless there is a chain of trademarks in the name of the same owner, in which case all said applications and registrations must be assigned or a consent letter presented.

Assignment documentation

What documents are required for assignment and what form must they take? What procedures apply?

When recording trademark assignments in Mexico, the following requirements should be met:

- submit a trademark assignment agreement or deed of assignment signed by both parties and identifying all marks assigned;
- submit the original assignment document or a certified copy duly notarised and legalised by means of apostille; and
- submit a power of attorney document in the name of the assignee attesting legal representation is advisable to keep track of any notifications and maintenance deadlines.

The examination procedure begins with the submission of assignment recordal form and annexes to obtain a notice of favourable recordal on behalf of the authority.

Validity of assignment

Must the assignment be recorded for purposes of its validity?

Yes, the assignment deed must be filed with IMPI to be recognised and effective.

Security interests

Are security interests recognised and what form must they take? Must the security interest be recorded for purposes of its validity or enforceability?

In Mexico, security interests related to trademarks are recognised by the Federal Law for the Protection of Industrial Property only for recording purposes.

A security agreement outlining the terms of the security interest is advisable. This agreement should specify the trademarks covered, the creditor (secured party) and the debtor (owner of the trademark).

The security interest must be registered with RUG, which is the national registry for security interests. It should provide details of the involved trademarks, including the registration number, owner's information and the creditor's details. RUG will issue a unique registration number for the security interest.

While RUG registration is essential, recording the security agreement with IMPI should also be considered. IMPI maintains a separate record of security interests related to intellectual property, including trademarks.

Enforcement

Trademark enforcement proceedings

What types of legal or administrative proceedings are available to enforce the rights of a trademark owner against an alleged infringer or dilutive use of a mark, apart from previously discussed opposition and cancellation actions? Are there specialised courts or other tribunals? Is there any provision in the criminal law regarding trademark infringement or an equivalent offence?

The administrative proceedings available to enforce the rights of a trademark owner against an alleged infringer are various, the most relevant being:

- administrative proceedings with the Mexican Institute of Industrial Property (IMPI) by filing a complaint or requesting preliminary measures, such as seizure of goods;
- administrative infringement actions with IMPI to stop the use of an identical or confusingly similar trademark to a prior registered trademark, when used for the same or similar goods or services;
- injunctions by a civil lawsuit with the Federal Civil Courts, as well as a claim for damages;
- criminal proceeding when dealing with a case of counterfeiting or other violations with the Public Prosecutor's Office; and
- customs enforcement with the customs authorities to avoid importation of forfeited goods.

Procedural format and timing

What is the format of the infringement proceeding?

In Mexico, trademark infringement proceedings follow an administrative format before IMPI, and not a court of law.

The procedural format and timing are the following:

- Filing a claim: the process by which an infringement claim may be brought before the IMPI begins with filing of a formal written claim. The IMPI is not a court of law (it is an administrative agency that has jurisdiction over trademark infringement in the first instance).
- Evidence submission: the plaintiff provides relevant documents as evidence. These documents must be submitted in original form or as certified and legalised copies, with Spanish translations if originally drafted in another language, along with the infringement claim.
- Service to alleged infringer: IMPI serves the alleged infringer with the claim.
- Once IMPI admits the claim, it serves notice to the defendant, giving the defendant 10 days to respond and submit supporting evidence.
- Rebuttal and final allegations: the plaintiff has three days to rebut the infringer's exceptions and evidence. Both parties then have a five to 10-day period for final allegations.
- Decision drafting: IMPI drafts its decision based on the evidence submitted. The entire procedure typically takes seven to 12 months, depending on the complexity of the case.

The burden of proof lies with the plaintiff to demonstrate infringement.

Burden of proof

What is the burden of proof to establish infringement or dilution?

The trademark owner (plaintiff) who brings the infringement action has the burden of proof and must provide the following information and evidence:

- ownership of a registered trademark and that the same is in full force;

- similarity between the trademarks and likelihood of confusion; and
- use of the trademark that is allegedly infringing the owner's prior rights.

In case of trademark dilution, the plaintiff must prove that their trademark is famous and is recognised by consumers. The plaintiff also has to prove that a similar mark is being used by the alleged infringer and that said use is causing its trademark to lose distinctiveness.

Standing

Who may seek a remedy for an alleged trademark violation and under what conditions? Who has standing to bring a criminal complaint?

In Mexico, rights holders and authorised licensees can file infringement actions against alleged trademark violations. Criminal liabilities are available for trademark falsification/counterfeit.

Border enforcement and foreign activities

What border enforcement measures are available to halt the import and export of infringing goods? Can activities that take place outside the country of registration support a charge of infringement or dilution?

Mexico has developed different measures to combat the import and export of infringing goods, such as counterfeit and pirated products. The most relevant measures are:

- customs inspections by the Mexican Customs Authority, who can inspect shipments to detect any intellectual property infringement and may temporarily seize counterfeit goods;
- intellectual property rights registration by the owner of a trademark with the Mexican Customs Authority;
- anti-counterfeiting units, who are trained to identify counterfeit and pirated goods; and
- cooperation with other agencies, such as the Federal Consumer Protection Agency and the Attorney General's Office, to coordinate enforcement actions and investigate cases of intellectual property infringement.

However, activities that take place outside the country of registration cannot be used by themselves to support a charge of infringement or dilution, as they help only to support illegal activities conducted in Mexican territory.

Discovery

What discovery or disclosure devices are permitted for obtaining evidence from an adverse party, from third parties, or from parties outside the country?

In Mexico, the parties can use various discovery mechanisms to obtain evidence:

- document requests: parties can request relevant documents from the adverse party;
- inspections: physical inspections of relevant places or objects. The most commonly used method to help prove an infringement is an inspection visit to the premises of the infringer. This is conducted by IMPI inspectors, and usually takes place at the moment of serving notice of the claim or the order imposing a preliminary injunction on the defendant;
- third-party discovery: requests to third parties (eg, suppliers, distributors) for evidence; and
- foreign evidence: evidence from parties outside Mexico can be obtained through international cooperation mechanisms, such as letters rogatory or mutual legal assistance treaties (MLATs).

In administrative declaration proceedings, all kinds of evidence shall be admitted, except testimonial and confessional evidence. Unless the testimony or confession is contained in a documentary, as well as those that are contrary to morality and law.

Timing

What is the typical time frame for an infringement or dilution, or related action, at the preliminary injunction and trial levels, and on appeal?

The time frames for an intellectual property infringement or dilution cases vary, but generally speaking they are:

- preliminary injunctions: once a request is filed, the court takes only between a few weeks to two months to decide on the preliminary injunction, and if granted, the injunction is implemented immediately;
- prosecutions of the infringement proceeding: in the first instance, the time frame varies depending on the complexity of the case, from 12 to 24 months, but it can take longer;
- appeal: filing an appeal to the Federal Court of Appeals usually takes place within 15 to 30 working days, and the process can take from 12 to 18 months until the final decision is issued; and
- amparo (constitutional appeal) suits before the Supreme Court can be filed within 15 working days as of the date on which the refusal is notified, and are finalised in a time frame ranging from two to five months.

Limitation period

What is the limitation period for filing an infringement action?

In Mexico, there is no statute of limitations for bringing a trademark infringement action. However, an action to claim damages caused by infringements to the IPL must take place within two years from the date on which the authority has declared and enforced the infringement.

Litigation costs

What is the typical range of costs associated with an infringement or dilution action, including trial preparation, trial and appeal?

The average cost to request and obtain a preliminary injunction is US\$5,000.

The costs for preparing and filing infringement actions before IMPI or answering the same on behalf of a defendant (based on a single cause of infringement) amount to approximately US\$7,500.

The costs for filing or intervening in a review recourse (appeal) before IMPI against a decision made in infringement proceedings amount to US\$8,000.

Appeals

What avenues of appeal are available?

IMPI's decisions can be appealed before the FCAA. The decision of this administrative court can be appealed before a Circuit Court. It is also possible to appeal through a review recourse before IMPI. However, considering the general criteria to confirm and sustain the validity of IMPI's resolution, this alternative is usually discarded by the party who lost the case.

Defences

What defences are available to a charge of infringement or dilution, or any related action?

The grounds of defence that can be raised are:

- prior use of the same or a confusingly similar trademark in Mexico for the same or closely related goods or services, provided that the third party had used the mark prior to the filing of the application, or prior to the date of first use declared in said application;

- exhaustion of rights, which limits the rights of an intellectual property holder to control the distribution of their protected goods when these have been sold in the market; and
- to challenge the validity of the trademark registration used as grounds for the infringement action in the first place.

Remedies

What remedies are available to a successful party in an action for infringement or dilution, etc? What criminal remedies exist?

Remedies for trademark infringement can be pursued through both administrative and criminal avenues.

- administrative remedies:
 - provisional measures: these include orders to stop infringing conduct (similar to an injunction), withdrawal of infringing goods from the market, seizure of such goods and closure of establishments where infringement occurs;
 - declaration of infringement;
 - fines: IMPI may impose fines on the infringing party;
 - destruction of infringing goods: seized infringing goods can be destroyed; and
 - closure of establishments: infringing businesses may face temporary or definitive closure; and
- criminal remedies:
 - General Prosecutor's Office (FGR): criminal actions can be pursued through the FGR. Penalties may include imprisonment from three to 10 years for serious trademark infringement cases and monetary fines, ranging from 2,000 to 500,000 UMAs (Units of Measurement and Update) for trade-related infringements.

ADR

Are ADR techniques available, commonly used and enforceable? What are the benefits and risks?

ADR is available and increasingly becoming used. It can be enforced, for example, by a mediation agreement where parties voluntarily agree to formalise the agreement through a legal process, where said agreement becomes a binding contract.

The most relevant benefits of ADR are:

- the process usually results in a much lower cost for both parties;
- these reduced costs are in part due to the shorter time frames, which is the second benefit. These methods take less time to resolve disputes;
- confidentiality, since the cases following these methods are not public; and
- ADR includes more collaborative and flexible alternatives .

Update and trends

Key developments of the past year

Are there any emerging trends, notable court rulings, or hot topics in the law of trademark infringement or dilution in your jurisdiction?

Punitive damages provide enhanced compensation to the plaintiff due to the gravity of the wrongful act, with the objective of deterring harmful conduct. Although not explicitly codified in Mexican law, their application has been developed through judicial decisions.

Recently, the Federal Courts issued a ruling excluding punitive damages in cases of purely economic claims, emphasising that such awards are closely linked to the evaluation of moral damages. This decision is consistent with precedents set by the Supreme Court of Justice, which has firmly established that punitive damages are not an independent action but rather a mechanism for ensuring fair compensation for non-economic harm suffered by the victim.

Consequently, both the Supreme Court and other courts have recognised a connection between punitive and moral damages, indicating that punitive damages are not applicable in cases involving solely economic losses.

Coronavirus

What emergency legislation, relief programmes and other initiatives specific to your practice area has your state implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

Law stated date

Correct on

Give the date on which the information above is accurate.

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