



The Legal 500 & The In-House Lawyer
Comparative Legal Guide
Peru: Intellectual Property (3rd Edition)

This country-specific Q&A provides an overview to intellectual property laws and regulations that may occur in Peru.

This Q&A is part of the global guide to Intellectual Property. For a full list of jurisdictional Q&As visit <http://www.inhouselawyer.co.uk/practice-areas/intellectual-property-third-edition/>



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1. What different types of intellectual property rights exist in your jurisdiction to protect: (a) Inventions; (b) Brands; (c) Other creations, technology and proprietary interests

(a) Inventions (e.g. patents, supplementary protection certificates, rights in confidential information and/or know-how);

(b) Brands (e.g. trademarks, cause of action in passing off, rights to prevent unfair competition, association marks, certification marks, hallmarks, designations of origin, geographical indications, traditional speciality guarantees);

(c) Other creations, technology and proprietary interests (e.g. copyright, design rights, semiconductor topography rights, plant varieties, database rights, rights in confidential information and/or know-how).

According to the Peruvian national legislation, we have the following intellectual property rights:

- The Decision 486 and Legislative Decree No. 1075 indicates as industrial property rights: patents, protection certificates, utility model patents, industrial designs, business secrets, circuit layout designs integrated, trademarks of products and services, collective marks, certification marks, trade names, commercial slogans and designations of origin.
- The Decision 351 and Legislative Decree 822 regulates matters concerning copyright, recognizing the moral and patrimonial rights for authors and owners of the different types of works.

2. What is the duration of each of these intellectual property rights? What procedures exist to extend the life of registered rights in appropriate circumstances?

- Patents of invention have a term of 20 years that cannot be renewed from the presentation of their application in the competent national office.
- Patents of utility models and registers of industrial designs have a term of 10 non-renewable years.
- Layout designs of integrated circuits will have a duration of 10 years counted from the oldest of the following dates: i) the last day of the year in which the first commercial exploitation of the scheme of drawn anywhere in the world, or ii) the date on which the application for registration was submitted to the competent national office of the respective Member Country. The protection of a registered layout design will expire in any case upon the expiration of a period of 15 years from the last day of the year in which the

scheme was created.

- The certificates of protection have a term of one year, and can be renewed every year in a term of 10 years.
- In the case of trademarks of products or services, collective, certification, trade names and slogans, appellations of origin and geographical indications, they will have a term of 10 years renewable for equal periods.
- Regarding copyright, the moral rights are perpetual. As for the economic rights, these last the whole life of the author plus 70 years. After that, they fall into the public domain.

3. Who is the first owner of each of these intellectual property rights and is this different for rights created in the course of employment or under a commission?

(a) Inventions: The first owner is the inventor.

(b) Trademarks: The first owner is the first person who registers them.

(c) Copyright: The first owner is the creator.

Regarding inventions, industrial designs and circuit layout designs integrated, developed during an employment relationship or commission, we have the following rules:

- If the object of the employment relationship considers it as a whole or part of its function, the realization of inventive activities, industrial designs or circuit layout integrated designs, the ownership belongs to the employer.

However, the employer must include a monetary compensation to the worker, if the worker's personal contribution, the economic value or the importance of such invention, industrial design or scheme of integrated circuit design, exceeds the explicit or implicit objectives of the relationship.

- If the worker performs an invention, industrial design or integrated circuit layout scheme concerning to his professional activity and through the use of resources or information provided by the employer, the employer will be entitled to assume the ownership or to reserve a right to use them, within the period of 90 days counted from the moment he became aware of the existence of the invention, industrial design or integrated circuit layout design. When the employer assumes the ownership of them or reserves a right to use them, the worker shall be entitled to a compensation.
- When the circumstances provided in the two paragraphs above do not apply, the ownership shall belong exclusively to the inventor or designer thereof.

4. Which of the intellectual property rights described above are registered rights?

Registered intellectual property rights described in section A are patents, utility models, industrial designs and distinctive signs. However, regarding trade names, its registry is optional since the protection depends on the use of the sign. In copyright, it is also optional since the ownership of the work is gained with its creation.

5. Who can apply for registration of these intellectual property rights and, briefly, what is the procedure for registration?

Either natural or legal persons may be liable for industrial property rights. In terms of copyright, only natural persons may be those who create intellectual works.

Regarding the procedure, in the case of industrial property, it will be necessary to submit an application to the competent authority, in this case it would be the INDECOPI, who will review the application by registering or patenting or denying it, depending on the right, and it will be the same entity who issues a certificate stating who is the owner of the required right.

Regarding the terms of duration and stages for the procedure of the application, we have the following for trademark registration in our country:

- Examination of form: The application is presented before INDECOPI and the documents are checked that they meet all requirements.
- Publication: If there are no formal observations, the Peruvian Trademark Office will publish a summary of the application in the Electronic Gazette in an approximate of 10 business days.
- Opposition: Once the application is published, third parties are given a period of 30 working days to appeal by filing an opposition. The deadline for the applicant to respond to the mentioned opposition is also 30 working days, counted from the next day that they are notified with the notice of opposition.
- Resolution: In case there is no opposition, the office will proceed to perform the registration exam and issue a resolution, either granting or denying the registration of the trademark. Likewise, if oppositions have been filed, the office will express its position regarding them; as well as, on the granting or refusal of the trademark registration in the same resolution.

6. How long does the registration procedure usually take?

The registration procedure usually takes the following time:

- For a patent of invention: between 3 to 4 years.
- For a utility model patent: between 2 to 3 years.
- For an industrial design: between 6 months to 1 year.
- For a trademark: between 4 to 6 months.
- For a copyright: between 4 to 6 months

7. Do third parties have the right to take part in or comment on the registration process?

Yes, during the registration procedure at the stage of publication, if a third party

observes that what is pretended to be registered may affect their intellectual property rights, they may file an opposition to the application requiring that the trademark or patent, be not granted.

8. What (if any) steps can the applicant take if registration is refused?

If a registration request is denied, the Peruvian Intellectual Property Office grants you 15 working days so that with factual and legal arguments, you can appeal to the resolution in the first instance. A new resolution confirming or revoking will be issued within 120 working days. If said resolution is also denied, it can be appealed by the courts as the second and final instance, which will be pronounced within a period of 6 months, confirming or revoking.

9. What are the current application and renewal fees for each of these intellectual property rights?

Modality	Registration Request Fee	Renewal fee
Patent of invention	720 PEN	140 PEN
Utility model patent	360 PEN	Does not apply
Industrial design	360 PEN	Does not apply
Trademark	535 PEN	314 PEN
Copyright	196 PEN	Does not apply

10. What are the consequences of a failure to pay any renewal fees and what (if any) steps can be taken to remedy a failure to pay renewal fees?

The direct consequence of a failure to pay any renewal fees is the expiration of the registration. The only step left, in order to remedy the lack of payment of the renewal fee, is to appeal within the 15 working days of issuing the expiration resolution, explaining the reasons for the omission of renewal.

11. **What are the requirements to assign ownership of each of the intellectual property rights described in section A?**

(a) Inventions:

Patents, industrial designs, utility models:

A patent, industrial design or utility model granted or in the process of being granted may be assigned or transferred by succession.

Any assignment of a patent, industrial design or utility model must be registered with the competent national office. The lack of registration will cause the transfer to be ineffective against third parties.

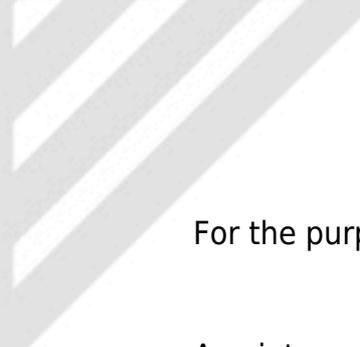
For the purpose of registration, the transfer must be in writing.

Any interested person may request the registration of a transfer.

(b) Trademarks:

A trademark registration granted or in the process of registration may be assigned or transferred by succession, with or without the company to which it belongs.

Any assignment of the trademark registration must be registered with the competent national office. The failure to register will result in the transfer not being effective against third parties.



For the purpose of registration, the transfer must be in writing.

Any interested person may request the registration of a transfer. However, the competent national office may refuse such registration, if the transfer involves a risk of confusion.

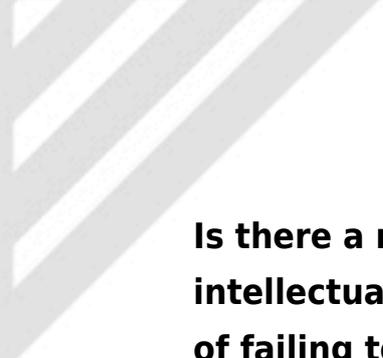
(c) Copyright

The economic right can be transferred by mandate or legal presumption, by cession between alive or transmission mortis causa, by any of the means allowed by law.

Any assignment between living parties is presumed to be made for consideration, unless there is an express agreement to the contrary, and reverts to the transferor when the right of the transferee is extinguished.

The assignment is limited to the right or rights assigned, and the time and territorial scope agreed upon contractually. Each one of the modalities of use of the works is independent of the others and, consequently, the assignment on each form of use must be stated in an express and written form, being reserved to the author all rights that have not been explicitly assigned.

If the territorial scope had not been expressed, it will be considered as the country of its granting; and if the mode of exploitation is not specifically specified, the transferee may only exploit the work in the manner that is necessarily deduced from the contract itself and is indispensable to fulfil the purpose of the contract.



Is there a requirement to register an assignment of any of these intellectual property rights and, if so, what is the consequence of failing to register?

12. (a) Inventions: Patents, industrial designs, utility models:

Assignment of registered elements:

It is required to file copy of the contract or written agreement with certain date and signatures duly legalized, in which the translating act of domain is recorded, which must specify the following:

- Names or business name of the contractors
- Register of the items matter of transfer.
- Delimitation of the territory
- Mention of the exclusive nature of the license to be the case
- Term of validity of the license
- Number and validity of the certificate or certificates in which it is registered.

In the case of a change of ownership and this result of a contract, it will be sufficient to accompany:

- Copy of the contract certified by a notary public or any other competent public authority, certifying that said document is in conformity with the original contract.
- An extract of the contract that shows the change of ownership, which must be certified by a public notary or any other competent public authority.

(b) Trademarks:

The trademarks have the following requirements:

- Must be in written form mentioning the trademark, class, goods and/or services, certificate number and/or file number.
- Data of the company that will sell (assignor), as well as, name of the company, address, country and legal representative.
- Data of the company who will purchase the trademark (assignee) as well as, name of the company, address, country and legal representative.
- If the document is made abroad it must be notarized and legalized before the Peruvian Consulate or apostilled.

Furthermore, kindly be informed that in case the owner of the trademark is a person (not a company) and is married we have two possibilities:

1. The husband/wife must sign the assignment.
2. File an affidavit where the owner of the trademark declares that the trademark has been registered before his marriage.

(c) Copyrights

1. Fill out a format, recording the following information:

- Data of the applicant, number of Single Taxpayers' Register, if applicable, and address (Note 18) in which the notifications will be made.
- Type of act or contract to be registered.
- Object and duration of the act or contract.
- In the case of contract, indicate the data of the parties involved.

2. Copy of the documents accrediting the Assignment of Rights or the Contract of transfer of copyright or related rights.

3. In the documents of Assignment of Rights or Assignment's Contract, to specify clearly the transferred rights, the territory, if the act is onerous or free.

4. If applicable:

- Copy of the documents that prove the existence of the applicant legal entity.
- The powers that were to be necessary.
- In the case of documents prepared in a foreign language, they must be translated into Spanish.

13. **What are the requirements to licence a third party to use each of the intellectual property rights described in section A?**

(a) Inventions:

Patents, industrial designs, utility models:

The owner of a patent, industrial design or utility model granted or in the process of being granted may give license to one or more third parties for the exploitation of the respective invention.

Any operating license must be registered with the competent national office of a granted patent, industrial designs or utility models. Failure to register will cause the license not to be effects against third parties.

For the purpose of registration, the license must be in writing.

Any interested person may request the registration of a license.

In case of any change regarding the name or address of the owner of the patent, industrial design or utility model during the term of the license agreement, the owner of the registration must inform it to the competent national office. Otherwise, any notification made in accordance with the data appearing in the registry, will be considered valid.

(b) Trademarks:

The owner of a trademark registered or in the process of registration may give license to one or more third parties for the exploitation of the respective trademark.

Any license to use the trademark must be registered before the competent national office.

The lack of registration will cause the license to have no effect against third parties. For the purposes of registration, the license must be in writing.

Any interested person may request the registration of a license.

(c) Copyrights

The holder of economic rights may also grant to third parties a simple, non-exclusive and non-transferable use license, which shall be governed by the stipulations of the respective contract and those pertaining to the assignment of rights, as long as they are applicable.

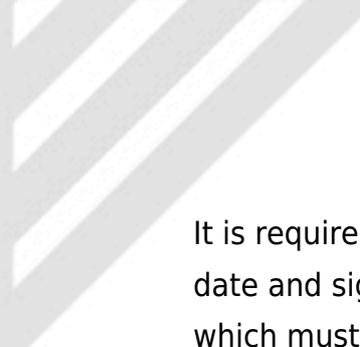
The contracts of license of use, and any other authorization granted by the right holder, must be made in writing, except in the cases in which the law presumes the assignment between alive of such rights.

14. **Is there a requirement to register a licence of any of these intellectual property rights and, if so, what is the consequence of failing to register?**

(a) Inventions:

Patents, industrial designs, utility models:

License of registered elements:



It is required to file a copy of the contract or written agreement with certain date and signatures duly legalized, in which the exploitation licence is recorded, which must specify the following:

- Names or company name of the contractors
- Register of the items matter of license.
- Delimitation of the territory comprising the license
- Mention of the exclusive nature of the license to be the case
- Term of validity of the license
- Number and validity of the certificate or certificates in which it is registered.

If there is no express indication of the list of claims, it will be presumed that the license is for all of them.

If there is no indication of the delimitation of the territory, it shall be presumed to cover the entire national territory.

If the period of validity has not been indicated, it will be presumed that it coincides with the term of the registered element.

(b) Trademarks:

- Document, indicating the trademark, class, certificate or file number. The document must contain the information of both the licensor and the licensee, as well as the name of the company / name of the person, identification and position of the person in the company.
- The license document must have the signature of the licensor and the licensee, and be sent with the corresponding legalization and apostille.

Likewise, in case the owner of the trademark is a Natural Person, an Affidavit of own good of free disposition, signed in original, or consent of the spouse, if applicable, must be attached to the Use Licenses.

(c) Copyrights

1. Fill out a format, recording the following information:

- Data of the applicant, number of Single Taxpayers' Register, if applicable, and address in which the notifications will be made
- Type of act or contract to be registered
- Object and duration of the act or contract.
- In the case of contract, indicate the data of the parties involved.

2. Copy of the documents accrediting the License

3. If applicable:

- Copy of the documents that prove the existence of the applicant legal entity.
- The powers that were necessary.
- In the case of documents prepared in a foreign language, they must be translated into Spanish.

15. **Are exclusive and non-exclusive licensees given different rights in respect of the enforcement of the licensed IP, and if so, how do those rights differ?**

There are no different given for exclusive and non-exclusive licensees.

16. **Are there criminal sanctions for infringement of any intellectual property rights, and if so, what are they and how are they invoked?**

Yes, there are criminal sanctions for the infringement of intellectual property



rights. Our Penal Code establishes a punishment of imprisonment of between 2 to 5 years, along with 60 to 365 days-fine and disqualification, depending on the gravity of the offence and the economic damage in the following cases:

- a.) A product protected by a patent of invention or a manufactured product through the use of a procedure protected by a patent of invention obtained in the country;
- b.) A product protected by a utility model obtained in the country;
- c.) A product protected by an industrial design registered in the country;
- d.) A registered plant variety in the country, as well as its reproduction material, propagation or multiplication;
- e.) A layout design (typography) registered in the country, a semiconductor circuit that incorporates said layout design (topography) or an article that incorporates such semiconductor circuit;
- f.) A product or service that uses an unregistered mark identical or similar to a trademark already registered in the country.

Likewise, in cases of crimes against copyright and related rights, a penalty of imprisonment of 2 to 4 years, and 10 to 60 days-fine may be requested against anyone who, although is authorized to publish a work, does it in the following ways:

- a.) Fails to mention in the copies the name of the author, translator, adapter, compiler or arranger.

b.) Stamps the name of the author with additions or deletions that affect the author's reputation as such, or in another case, the translator, adapter, compiler or arranger.

c.) Publishes the work with abbreviations, additions, deletions, or any other modification, without the consent of the right holder.

d.) Publishes several works separately, when the authorization has been granted to publish them together; or publishes them together, when he or she has only been authorized the publication of them separately.

17. **What other enforcement options are available in your jurisdiction for each of the intellectual property rights described in section A? For example, civil court proceedings, intellectual property office proceedings, administrative proceedings, alternative dispute resolution.**

If any disagreements or disputes arise between the applicant and INDECOPI, when requesting the registry of intellectual property rights, the parties have the chance to appeal the resolution issued by them. This generates a second resolution by the administrative court of our Peruvian Trademark Office (PTO) that will either confirm or deny its previous pronouncement.

After the administrative procedure in our PTO has been exhausted, we also have the option to initiate a judicial action before the Contentious Administrative Court and request the nullity of the final resolution.

18. **What is the length and cost of such procedures?**

The costs for filing a law suit before the judicial court are relatively low in Peru regarding the official court fees; nevertheless, the professional fees will depend on each firm whereas it will usually include all expenses such as the official actions, additional writs and oral reports that must be presented in a first instance. This decision can be appealed into a second instance for the reviewing of a higher court formed by three judges.

Lastly, if the applicant believes that both resolutions do not meet with the correct application of the norms established to review the case presented, he or she can submit a cassation demand and only appeal eminently legal issues by describing with precision and clarity the norm that was infringed. This appeal is presented before a jury of five judges.

19. **Where court action is available, please provide details of which court(s) have jurisdiction, how to start proceedings, the basics of the procedure, the time to trial, the format of the trial, the time to judgment and award of relief and whether any appeal is available.**

The competent court to see these cases is the Contentious-Administrative court. These procedures do not have an exact term of duration due to the judicial courts' workload and the complexity of each case. However, they can last an approximate of 10 months minimum, per instance, to review the evidence and perform the Oral Hearing where each party will have the opportunity to express their main arguments to their favour. After the oral hearing is done, the court must emit a final resolution which can take up to 2 to 3 months long.

In the case of the cassation, this lawsuit is filed before the Supreme Court, specifically, the Constitutional and Social Transitional Law chamber. This



process can take even longer due to the fact that each stage of the process is reviewed by more judges.

20. **What customs procedures are available to stop the import and/or export of infringing goods?**

In order to stop the import and/or export of infringing goods, the holder of an intellectual property right, can willingly register it, as well as in the customs office, in order to apply border measures.

21. **Are any non-court enforcement options or dispute resolution mechanisms mandatory in respect of intellectual property disputes in any circumstances? If so, please provide details.**

All the non-court enforcement options or dispute resolution mechanisms are optional for intellectual property controversies.

22. **What options are available to settle intellectual property disputes in your jurisdiction?**

Administrative and judicial procedures, private agreements between parties, like coexistence agreements for trademarks, conciliations and arbitrations.

23. **What is required to establish infringement of each of the intellectual property rights described in section A? What**

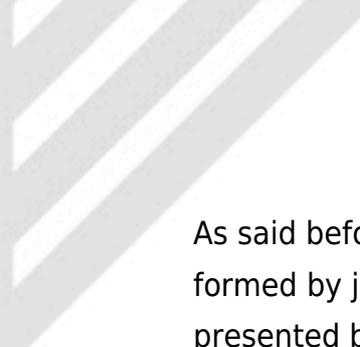
evidence is necessary in this context?

To establish an infringement action of the intellectual property rights, we will need to prove that the infringer has the intention to cause confusion and/or bad faith, for which it will be necessary, the following documents (required documents):

- Invoices, with certain date.
- Sale ballots, with certain date.
- Advertisements with certain date.
- Bill of landing, with certain date.
- Sales volumes, with certain date.
- Certificates of trademarks, patents, industrial designs, etc., registered in the Andean Community and/or other countries worldwide.
- Prints of websites with certain date.
- Distribution contracts and/or any other type of contract stating any commercial linking between the holder of the intellectual property rights and the infringer.
- The volume of orders from persons interested in obtaining a franchise or license of the intellectual property rights in a particular territory.

24. **How does the court acquire any necessary information (fact or technical) and in what circumstances does it do so? In particular - a) Is there a technical judge, a judge with technical experience, a court appointed expert, an expert agreed by the parties, and/or parties' expert witness evidence? b) What mechanisms are available for compelling the obtaining and protecting of evidence? Is disclosure or discovery available?**

a) Is there a technical judge, a judge with technical experience, a court appointed expert, an expert agreed by the parties, and/or parties' expert witness evidence?



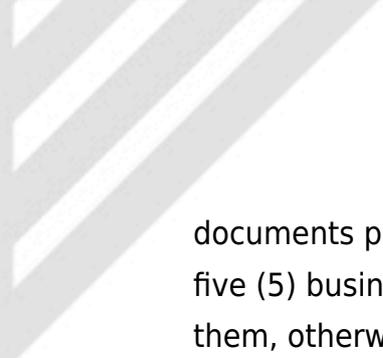
As said before, the appointed court is the Contentious-Administrative which is formed by judges with technical experience. These judges review the evidence presented by each party, including the administrative file handled by INDECOPI and, in some cases, they transfer the file to the Court of Justice of the Andean Community for a prejudicial interpretation of the case, serving as an important precedent to take into account when emitting the final decision.

b) What mechanisms are available for compelling the obtaining and protecting of evidence? Is disclosure or discovery available?

Our national legislation contains as an administrative principle, the right of free access to public information, which consists of the power that we have to request without expression of cause the information that we require and receive it from any entity, within the legal term. This disposition can also be applied between entities, from the administered to the public entity, and the other way around. Meaning that our trademark authority (INDECOPI) or judicial authorities (Contentious Administrative Court and others) can also obtain evidence by obliging a party to present information that is considered necessary in order to continue with the evaluation of the case in process, under risk of receiving penalty fines for contempt or leaving the process without effect.

However, when one submits an evidence that can serve as supporting documents but its public knowledge can harm or negatively affect, he/ she who presents that information, either because of a contractual clause, protection of know-how, risk of affecting a personal or familiar intimacy or industrial and business secret, can request through a separate or in the same writ, its confidentiality along with the arguments and other documentation that prove its confidential or delicate quality. After that, the competent authority will evaluate the request and communicate its decision of reservation either by the Commission, Office or respective Court.

In those cases in which the Administrative Authority resolves not to declare the



documents presented confidential, the applicant will be required that, within five (5) business days, inform if they want such documents to be returned to them, otherwise, they will be included in the public file with the same treatment as any other document included in said file.

25. **How is information and evidence submitted to the court scrutinised? For example, is cross-examination available and if so, how frequently is it employed in practice?**

Cross examination is available, only by request of the party.

26. **What defences to infringement are available?**

We can request the following measures in case we file the infringement action:

- Stop the violation of your intellectual property rights.
- Remove all products and packaging related to the infringement from the market.
- Avoid the import or export of products or related materials.
- Compensation for the owner of the brand through the settlement of costs, at the end of the procedure.
- Order the cessation of the use of the domain name
- Fine, the amount of said fine will be directed to the Peruvian Trademark Office.
- Compensation for damages and losses, later in judicial proceedings.

27. **Who can challenge each of the intellectual property rights described above?**

Any interested party through an opposition, an action claiming ownership, an

application for declaration of invalidity of registration or a cancellation of registration in case of trademarks. Even the Peruvian Intellectual Property Authority ex officio may decree the invalidity of registration; and regarding trademarks, also the cancellation of registration (in case of vulgarization).

28. **When may a challenge to these intellectual property rights be made (e.g. during any registration process or at any time during the subsistence of the right)?**

(a) Patents:

The opposition, within a period of 60 days following the publication date in the Official Gazette. *The action claiming ownership*, within a period of 4 years following the date of grant of the rights or 2 years after the date of the first exploitation or use, whichever period expires earlier; or at any time during the subsistence of the right in case of bad faith. *The invalidity of registration*, within a period of 5 years after the patent grant date or 2 years following the date on which the person to whom that right belongs learned about the use of the invention, whichever period expires first.

(b) Trademarks:

The opposition, within a period of 30 days following the publication date in the Official Gazette. *The cancellation*, lack of use during 3 years before the start of the cancellation proceeding. *The action claiming ownership*, within a period of 4 years following the date of grant of the rights or 2 years after the date of the first exploitation or use, whichever period expires earlier; or at any time during the subsistence of the right in case of bad faith. *The invalidity of registration*, the absolute invalidity of registration, at any time during the subsistence of the right; the relative invalidity of registration, within a period of 5 years following the grant date.

(c) Copyright:

The invalidity of registration: At any time during the subsistence of the right.

29. **Briefly, what is the forum and the procedure for challenging each of these intellectual property rights and what are the grounds for a finding of invalidity of each of these intellectual property rights?**

The forum is the National Institute for the Defence of Competition and Intellectual Property (INDECOPI).

The procedure is related to prove a better right within the mentioned period in question 27.

The grounds for a finding of invalidity, listed below:

(a) Patents:

- The subject matter of the patent is not an invention.
- The invention fails to comply with the requirements for patentability.
- The patent fails to disclose the invention.
- The claims included in the patent are not fully substantiated by the description provided
- The use of the patent granted has been broader than what was indicated in the original application and requires having to extend its scope of protection.
- The products or processes in respect of which the patent is being filed have been obtained and developed on the basis of genetic resources or their byproducts originating in one of the Member Countries, if the applicant failed to submit a copy of the contract for access to that genetic material
- When pertinent, the products or processes in respect of which the patent is being filed

have been obtained and developed on the basis of genetic resources or their byproducts originating in one of the Andean Member Countries, if the applicant failed to submit a copy of the contract for access to that genetic material.

- When pertinent, the products or processes whose protection is being requested have been obtained or developed on the basis of traditional knowledge belonging to indigenous, African American, or local communities in the Andean Member Countries, if the applicant has failed to submit a copy of the document certifying the existence of a license or authorization for use of that knowledge originating in any one of the Andean Member Countries.
- There are grounds for absolute invalidation according to Peruvian legislation covering administrative acts.

(b) Trademarks:

- The trademark was granted without meeting the absolute requirements to be registered (lacking in distinguishable characteristics; consists solely of the everyday shape of goods or their packaging, or of shapes or characteristics dictated by the nature or particular function of the product or service in question; consists solely of a sign or statement that may serve in commerce to describe the goods or services for which they are to be used; consists exclusively of a sign or statement that is the common or technical name of the product or service concerned; etc.).
- The trademark was granted in violation of the Intellectual Property Right of a third party.

(c) Copyright:

- The registration has been granted in contravention of any of the provisions contained in the Copyright law.
- The registration was granted based on false or inaccurate data in its application, as long as they are essential.
- The registration has been granted on the basis of documents previously declared false or inaccurate by competent authority, as long as they are essential.

30. Are there any other methods to remove or limit the effect of any of the intellectual property rights described in section A, for

example, declaratory relief or licences of right?

Yes, in patents: the lack of annual maintenance payment and the compulsory licenses: from 3 years following the patent grant or 4 years following the application for the patent (whichever is longer), the Peruvian Trademark Office may grant a compulsory license if the patent had not been exploited, or if the exploitation of the invention had been suspended for more than 1 year.

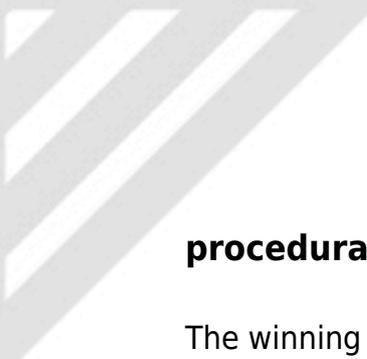
31. What remedies (both interim and final) are available for infringement of each of the intellectual property rights described in section A?

The IP right holder may request to the Peruvian Intellectual Property Office the following:

- Cessation of all acts that constitute the infringement.
- Withdrawal from commercial channels of all products resulting from the infringement, including materials or implements.
- Prohibition against the importation or exportation of the products, or their materials or implements.
- Destruction of the products or their materials or implements, or the temporary or definitive closure of the business belonging to the accused.
- Publication of the guilty verdict and notification of interested parties at the infringer's expense.

They are able to sue for compensation for damages before the Civil Court.

32. What are the costs of enforcement proceedings and is any kind of costs recovery available for successful parties? Is there a



procedural mechanism enabling or requiring security for costs?

The winning party may recover expenses incurred in the official fees and attorney fees, if they are dully verified.