

Legal Extranet

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Colombia



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General Legal Overview:

There is no specific code, law or regulation for advertising in Colombia. Advertising is regulated by a non-binding Ethical Code issued by the National Commission of Self-Regulatory Advertising (CONARP), which is the unique independent self-regulatory private body which provides an alternative, low-cost and easily accessible means of resolving advertising disputes.

However, advertising-related norms are found in several laws such as Consumer Protection Law, Unfair Competition Law, Law about Television and Radio, and Internet Law.

The Constitution states that consumer's rights and fair competition are rights that must be protected and guaranteed by the Government. (Arts. ,)

As a Member Country to the Andean Community (CAN), Colombia is subject to any andean ruling - DECISION - regulating the intellectual property regime.

Basic Guide to Intellectual Property rights in the Territory:

1. Industrial Property

Colombia is currently subject to DECISION 486 which contains the Andean Common Intellectual Property Regime.

Trademarks are any distinctive sign (words or a combination of words; pictures, figures, symbols, graphic elements, logotypes, monograms, portraits, labels, and emblems; sounds and smells; letters and numbers; a color demarcated to give it a specific shape, or a combination of colors; the shape of a product its packaging or wrappings; or any such combination of the preceding signs or means) that is capable of distinguishing goods and services on the market. Signs that are capable of graphic representation are also eligible for registration as trademarks. They have to be registered in order to get the right and no prior use in commerce is required to get the register. Registration of a trademark is granted for a 10-year term counted from the grant date and may be renewed for successive 10-year periods.

Colombia grants patents for inventions, whether goods or processes, in all areas of technology, that are new, involve an inventive step, and are industrially applicable. Patents have a 20 year term protection counted from the filing date of the corresponding application. Utility models are protected by patents..

Any particular appearance of a product that results from any arrangement of lines or combination of colors, or any two-dimensional or three-dimensional outward shape, line, outline, form, texture, or material, without the intended use or purpose of the said product being thereby changed, is considered an industrial design. Registration of an industrial design grants protection for a 10-year term, counted from the filing of the application.

A trade name is understood to mean any sign that identifies an economic activity, a business, or a commercial establishment. Exclusive right to a trade name is acquired through use by a legal person for the first time in commercial activities and ends when the use of the name or activities of the business or establishment using that trade name cease to exist. The owner of a trade name may deposit the name with the Superintendency of Industry and Commerce (SIC) for declaration purposes only. Registration of a trade name is granted for a 10-year term counted from the date of deposit and may be renewed for successive ten-year periods.

Besides, Law 813 dated July 2, 2003, that ammended the Criminal Code in force added an article regarding Trademark Forgery. This regulation states that anyone who forges trademarks, signs or signatures used officially to certify weight, measure, quality, quantity, value or content, or apply them to different object or good from the one that was destined, will incur in prison of one (1) to five (5) years and a fine of one (1) to twenty (20) monthly legal most minimum salaries in force.

2. Copyrights

The provisions of the Andean Decision No. 351 of 1993 and Law 44 of the same year contain the Copyright and Neighboring Rights regulations to protect the authors of and other owners of rights in intellectual works in the literary, artistic or scientific field. The author owns the right by the simple fact of the creation, according to that copyrights do not have to be registered in order to obtain the right (like trademarks).

When the author is an individual the creation will be protected as a right for all his/her life and 80 years more after his/her dead, and if the author is a company the time of protection will be 50 years.

3. Unfair competition

The Colombian regulatory framework in force on free competition includes the following: (i) Constitution of 1991, Articles 333 -Economic liberty and private initiative- and 334 -State Intervention in the economy-; (ii) Decree Law No. 2153 of 1992, which restructured the Superintendency of Industry and Commerce; (iii) Decree No. 1302 of 1964, which regulated Law 155/59 on restrictive trade practices. (iv) Law No. 155/59 on restrictive trade practices. Article 4 of this Law was amended by Article 118 of Decree 2666 of 2000; (v) Law 256 de 1996 which regulates unfair competition matters; and (v) Decision 285 of the Commission of the Cartagena Agreement which contains Rules for Prevention or Correction of Distortion in Competition Caused by Practices that Restrict Free Competition.

ANDA:Asociación Nacional de Anunciantes
Calle 98 No. 9-03 Oficina 606 Bogotá D.C., Colombia

CONARP: Comisión Nacional de Autorregulación Publicitaria
Calle 95 No. 13-55 Oficina 308 Bogotá D.C., Colombia

COMISION NACIONAL DE TELEVISION
Address Calle 72 No. 12-77 Phone number (571) 376 3333 Bogot=D.C., Colombia
Web link: www.cntv.gov.co

SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO
Address Carrera 13 No. 27-00 Phone number (571) 382 0840 Bogot=D.C., Colombia
Web link: www.sic.gov.co

Information supplied by:

[Duarte, Garcia & Associates - DG&A](#)

[Luisa Fernanda Gomez](#)

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