1. IPR in Chile for SMEs: BACKGROUND
   A. Intellectual Property Rights for SMEs: Why is this relevant to you?

   Intellectual Property (IP) is a set of legal rules that regulate the exclusive rights related to innovative and creative activity and to commercial activity. IP is usually divided into two branches: Industrial Property, which relates to inventions, designs or signs used in commerce; and Copyright, which relates mainly to literary and artistic works.

   As exclusive rights, Intellectual Property Rights (IPRs) confer a temporary monopoly to the right holders, granting them exclusivity on the use and exploitation of their intellectual creations and also the right to prevent any unauthorized use by third parties.

   Nowadays, IPR have become a key factor for innovative SMEs seeking to internationalise. IPR will provide market exclusivity, allow to recoup the investment made in R&D, facilitate licence and transfer agreements negotiations related to IPRs allowing them to access third parties technologies. SMEs that are interested and concerned about their intangible assets generally have the chance to find new investors, build a better enterprise image, access new markets and thus increase their value. The IPR system also enables rightholders in the artistic and cultural sphere (such as authors, performers, producers, broadcasters, etc) to improve their visibility and protect their moral and economic interests.

   The following IP rights are further developed throughout this factsheet, focusing on Chilean features: Copyright, Patents, Industrial Designs, Trademarks, Geographical Indications and Appellations of Origin, and Plant Varieties.
**How does Chile's IP legal framework compare to INTERNATIONAL STANDARDS?**

Chile has a reasonable standard of IP protection at all levels as far as legislation is concerned. In the last decade, Chile has developed a cohesive IP protection system, as a result of permanent actions from different Chilean governments to strengthen and boost the national innovation system.

The country has specific regulations for the protection of patents, trademarks, geographical indications and appellations of origin, trade secrets, copyright and related rights, domain names and plant varieties.

The aforementioned regulations are framed within different international treaties ratified by Chile: Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS); the Paris Convention for the Protection of Industrial Property (CUP); the Trademark Law Treaty (TLT); the Patent Cooperation Treaty (PCT); the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure; the International Union for the Protection of New Varieties of Plants (UPOV 78 Convention); and the Strasbourg Agreement Concerning the International Patent Classification. In addition, Chile applies the Nice and Locarno classification for Trademarks and Industrial Designs, respectively, although the country has not ratified these international agreements.

Regarding international treaties on copyright and related rights, Chile is a party to the Inter-American Convention on the Rights of the Author in Literary, Scientific and Artistic Works, the Universal Copyright Convention, the Berne Convention on Protection of Literary and Artistic Works, the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, the Convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of their phonograms and the so-called WIPO internet Treaties, WCT and WPPT.

**2. IP Rights in Chile: THE BASICS**

**A. Copyright and related rights**

**What are Copyright and Related Rights?**

Copyright protects intellectual works, both original and derivative works (such as adaptations, translations, compilations, etc) whatever their genre, form of expression, or merit. Copyright is a legal term used to describe the rights (moral and economic) that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture and films, to computer programs, databases, advertisements, maps and technical drawings. Related rights, on the other hand, refer to the rights enjoyed by performers, record producers and broadcasters for their participation in and around the creative work.

And in CHILE: What you need to know

Although intellectual works benefit from an automatic Copyright protection from the moment of their creation, in Chile, there is an optional administrative procedure that is useful as proof of the originality of the creative work. The registration, which is carried out in Chile by the Intellectual Rights Department (DDI), grants the creator a legal presumption of ownership (evidence to the contrary is admissible).

The author is the person who appears as such when the work is disclosed, i.e. his/her name, pseudonym, signature or a sign that usually identifies him/her must be indicated; or the person who, according to the respective registration, owns the registered copy. In case the work is reproduced as a whole or in part, written permission of the copyright holder is needed, unless any legal exception applies. Ordinary Courts of Justice are responsible to hear about infringements and copyright breaches, as well as providing remedies.

If a work has not been registered, it is recommended to include the following indication for practical purposes: “all rights reserved” or “total or partial reproduction forbidden”. Additionally, the sign © together with the name of the copyright holder and the year of the first publication of the work can be included (except for CDs and cassettes).

**HOW LONG does legal protection last?**

Copyright grants protection in Chile for the lifetime of the author plus 70 years after his/her death.

As for computer programs, if the right holder is a legal person, the duration of the rights will be of 70 years from the first publication.

**HOW do I register?**

In Chile, the registration of a work is carried out before the Intellectual Rights Department of the Directorate of Libraries, Archives and Museums, under the Ministry of Education (DIBAM). The procedure is simple and cheap.

**Required information and documents**

Registration requires the filling out of the appropriate registration forms for each work, to enclose the required documents in each case and to pay the corresponding fees.

Registration can be done online (via the website of the DDI), in person at the offices located in Santiago, or by post (Herrera 360, Santiago de Chile).

**WHO can register?**

Any natural person who is the author of the work or any legal person holding the rights can do the registration, either personally or duly represented.

---

**TIPS and WATCH OUTS**

In the case of computer programs, the holder of the copyright will be the natural or legal person whose workers produced the aforesaid program while carrying out his/her work duties, unless otherwise stipulated in writing.
Which LANGUAGES can I use?
The application form and other required documents must be submitted in Spanish.

How much does registration COST?
Fees are as follows:
• Engineering, architectural and computer programme projects: € 21
• Cinematographic works: € 24
• Any other legal registration (books, paintings, writings and so on): € 6

Payment should be made at the DDI offices (Herrera 360, Santiago de Chile) or by deposit on to the current account in the Banco Estado No. 9002383 for the Directorate of Libraries, Archives and Museums (DIBAM). If payment is made via an electronic transfer, the same current account may be used indicating the RUT (Rol Único Tributario) number of the institution, which for the case of DIBAM is 60.905.000-4.

The requirements for each registration and further information can be found on www.propiedadintelectual.cl.

B. Patent
Chilean law recognises different kind of patents:

Invention Patents
An Invention patent is an exclusive right granted by the State in order to protect an invention. An invention is a solution for a technical problem. It can be a product, a procedure or be related to it.

Invention Patents in CHILE: what you need to know
An invention needs to fulfill the following requirements and conditions of patentability:
• Novelty. The invention must not be part of the state of the art. The state of the art comprises everything made available to the public by means of a publication, a sale or commercialisation before the filing date of the patent application in any country. In Chile, the dissemination of an invention made within 6 months before the filing date of the application is not taken into consideration to determine the novelty of an invention, provided that this dissemination has been produced as a direct or indirect consequence of:
  - Models, essays and the construction of mechanisms or devices necessary for inventions under study.
  - Inventions exhibited by the applicant or creator at official or officially recognised exhibitions.
  - Abuses or unfair practices by the applicant or the creator.
• Inventive step (non-obviousness). This requirement will be met if the proposed solution is not considered obvious, taking into account the state of the art, by a concerned field expert (a third party expert in the specific field of the invention).
• Industrial applicability. The invention must have practical use and be capable of some kind of industrial application by means of an appliance or device, a product, a material or substance, or a new process or method.

Any patented object must bear an indication of the patent number, either on the product itself or on the container, as well as the mention ‘Patente de Invención’ or the letters ‘P.I.’ and the registration number before the patent number.

Inventions derived from Genetic Resources related or not to Traditional Knowledge may be patented or protected through IPR, provided that the genetic material has been acquired in accordance with the Chilean legal Framework.

HOW LONG does legal protection last?
Patent protection lasts for 20 years, calculated from the filing date of the application.

Protection starts from the filing date and is subject to the final granting of the right. During such period the indication ‘Patente en trámite’ (Pending Patent) must be clearly indicated.

Utility model
WHAT is a utility model?
It is an exclusive right granted by the State to protect instruments, apparatus, tools, devices and objects or parts of them. They must be innovative, in both their external appearance and working system, and have practical use, i.e. they have to provide a new benefit, or advantage or a technical effect to the function of the object that did not previously exist.

Examples: Some Utility models registered in Chile are, for example, fruit-sorting hods; coin counters and containers; flowerpot stands for vertical crops; handles for food packaging; stationary bikes, etc.

Utility models in Chile: What you need to know
Just as patents, utility models need to fulfill the requirements of Novelty and Industrial Applicability (the requirement of inventive step is excluded), and only refers to objects, not methods.

All utility models must clearly indicate “Modelo de Utilidad” (Utility Model) or ‘MU’, and their registration number. These indications can be written on the container, provided that the packaging is sealed when the product is purchased in a way that the packaging must be destroyed to access the product.
**HOW LONG does legal protection last?**

Protection lasts for 10 years from the filing date of the application.

**Industrial Design**

**WHAT is an Industrial Design?**

Chilean Law distinguishes between two different types of industrial designs:

**Three-dimensional Industrial Design:** It is an exclusive right granted by the State in order to protect any three-dimensional shape and any industrial or handcrafted product that could serve as a model for the manufacture of other items. They have to differ from similar items intended to perform the same function, either because of their shape, geometric configuration or a combination of both, provided that they provide a special feature that must be visually noticeable and gives it a new appearance.

Clothing are explicitly excluded from industrial design protection (clothes, shoes, trousers, hats).

Examples: Some Industrial Designs registered in Chile are particular shapes of everyday products such as pens, tape dispensers or toothbrushes.

**Bi-dimensional Industrial Design:** It is an exclusive right granted by the State in order to protect any layout, arrangement or combination of shapes, lines or colours set in a plan for the integration into an industrial product for ornamentation purposes. These features must provide the said product with a new appearance.

An example of industrial design registered in Chile is a wave pattern used for the manufacturing of diving clothing or similar clothing.

**Industrial Design in Chile: What you need to know**

Chilean law requires that both three-dimensional and bi-dimensional industrial designs fulfill only the Novelty requirement.

Any industrial design must clearly indicate ‘Diseño Industrial’ (Industrial Design) and the registration number.

These indications can be written on the container, provided that the packaging is sealed when the product is purchased in a way that the packaging must be destroyed to access the product.

**HOW LONG does legal protection last?**

The term of protection for both types of industrial designs is 10 years from the filing date.

**Lay-out designs or topographies of integrated circuits**

**WHAT is a Lay-out designs (topographies) of integrated circuits?**

This is an exclusive right granted by the State in order to protect Lay-out designs or topographies of integrated circuits, in other words, the three-dimensional disposition, however expressed, of the elements designed for the manufacture. The layout and order is designed according to the electronic function that the integrated circuit is intended to perform.

An integrated circuit is a device in which some elements with electronic functions, such as transistors, resistors, capacitors, diodes and so on, installed on a common physical base and provided that these components are connected in such a way that the integrated circuit can control the electric current, therefore, the circuit can rectify and amplify it.

The integrated circuits need a special layout and order according to the function they are intended to perform. In other words, a design of the elements the integrated circuit is composed of (i.e. the lay-out design of integrated circuits) must be done.

**What you need to know**

Chilean law requires the originality of the lay-out in order to protect it.

**HOW LONG does legal protection last?**

Lay-out designs or topographies of integrated circuits protection lasts for 10 years (non-renewable), calculated from the filing date of the application or from the first commercial use in anywhere in the world.

The owner of the Lay-out designs or topographies of integrated circuits will benefit from the exclusive right to manufacture, sell or commercialise the protected object in any form. The owner also has the right to prevent third parties from using or exploiting it, with legal constraints.

Any Lay-out designs or topographies of integrated circuits must have a noticeable and encircled letter “T” in capital. If this is omitted, the owner of the product will not be entitled to the enforcement of his/her rights by means of the legal actions described in the following section.

**Required information and documents for industrial designs and drawings**

Patent applications must include an application form, specifications of the invention, a set of claims and drawings (if appropriate).

In the application form, the applicant must submit his/her identification data.

The abstract or technical data sheet must include the details that distinguish the inventor and the applicant, and the subject matter covered by the invention – the technical problem it is aiming to solve and the basic component parts. The abstract should not exceed 1600 characters.

The specifications of the invention must provide precise and detailed information about the invention and the relevant state of the art. It has to include a description of the existing knowledge in the prior art, designs or shapes of the invention and the preferred embodiment (applicability example).
WHO can register?

Any natural or legal person, either national or foreign, can apply for the registration of his/her invention, model or lay-out design. Any natural or legal person living abroad should designate a legal representative in Chile. Any power related to industrial property will be granted by means of a private deed, either Chilean or foreign.

Applicants residing in Chile could optionally record the instrument before a public notary. Foreign applicants can either mandate before the Chilean consul of their country of origin without further formalities or undergo a process of legalisation or apostille authentication.

Which LANGUAGE can I use?

The application form and required documents must be in Spanish. Where priority has been claimed, the corresponding certificate issued by the competent authority of the country of origin must be filed (and duly translated into Spanish) within 90 days.

How much does it COST?

Fees are set depending on a monthly variable rate (available at INAPI’s website. The official current cost for a patent in Chile is €257 for the first 10 years of right granted, of which €64 are paid upon presentation of the application and €193 upon acceptance of the same by INAPI. If the initial fee is not paid, the application will not be processed by INAPI. Finally, the other €257 for the second decade must be paid before the expiration of the first decade.

The cost of publication (€53), the fees of expert examiners and individual representatives (for the fees of lawyers and experts, quotes should be requested) should be added.

- Patents: €688
- Utility Models: €525
- Industrial Designs and Lay-out designs (Topographies) of Integrated circuits: €437

HOW LONG does the patent registration procedure last?

The patent registration procedure, either at national or international level, is subject to absolute and non-extendable time limits, all the required documents have been submitted and if the application complies with minimum formal requirements to continue processing. The duration of the procedure can also vary according to the degree of complexity of the case. In Chile, the average length of the full registration proceeding for an invention patent stands between 3 to 6 years.

If the PCT’s procedural system is used, the national phase begins, as a general rule, on the 30th month following the international application. The national phase consists in national registration proceedings before each competent authority in the designated countries and the payment of the corresponding fees.

C. Trademarks

WHAT are trademarks?

Any sign capable of graphical representation that serves to distinguish goods, services or industrial or commercial establishments in the market. This sign could be a word, including personal names, letters, numbers; figurative elements (images, graphs, symbols, combinations of colours); sounds; and any combination of such signs.

Trademarks in CHILE: What you need to know

Only signs that can be represented graphically, including sound marks (musical score), can be registered as trademarks and three-dimensional marks as well as those signs under grounds non-registrability cannot be registered. Slogans are subject to registration only when linked to a previous trademark registration. To obtain a trademark registration, the mark must have a “great level of distinctiveness” in relation to the corresponding service or product.

The trademark should serve to differentiate it and therefore cannot be descriptive or generic with regards to the goods and services it is intended to protect (as “Shoes” brand “Shoe” or “liquid soap” brand “shower gel”).

Before filing a trademark registration form, it is advisable to conduct a previous trademark search on INAPI’s online database, which is updated daily, in order to check whether the sign that you want to register is not similar to other applications or previous registrations for similar products or services. Conducting a previous search will speed up the registration process since it will reduce the risk of INAPI’s observations and third-party oppositions.
TIPS and WATCH OUTS

Marks or signs that CANNOT be registered:

1. Generic, smell or three-dimensional mark, the colour of the products and packages and simple colours.
2. Descriptive marks (words widely used in trade to describe the protected good or service).
3. Signs that are of such a nature as to deceive the public, for instance as to the nature, quality or geographical origin of the goods or service.
4. Signs that are graphically or phonetically similar, or are the same or similar to others registered abroad which are already well-known in Chile.
5. Signs that are confusingly similar to previously registered signs, taking into account the similarity between signs and between goods and services.
6. Signs that are contrary to public order.
7. Any international or governamental flag, emblem, insignia or official signs, as well as official signs and hallmarks indicating control and warranty adopted by a State, and signs that reproduce or imitate medals, diplomas or distinctions given in national or foreign exhibitions.
8. Scientific or technical names (e.g. of plant varieties) or common names recommended by the WHO or names that indicate therapeutic action.
9. Personal names, pseudonyms or image, except with the consent from that person or from his/her heirs and names of historical persons 50 years after his/her death, provided that his/her honour is not affected.

How do I REGISTER?

Trademark registrations applications can be processed online via www.inapi.cl or presented in INAPI's offices in Santiago de Chile.

HOW LONG does the trademark registration procedure last?

The time that a trademark registration procedure takes depends on whether INAPI submits any remarks or oppositions are brought to court by third parties. The average period varies between 4 months and 2 years approximately.

INAPI is entitled to submit legal or procedural observations and has the authority to refuse a registration on any legal grounds, even without the owner of a confusingly similar trademark having submitted his/her observations (identical or similar applications or registrations).

Third parties can file an opposition against the registration within 30 days from the application’s publication in the Official Journal of Chile.

Required information and documents for trademark registration

Information and registration forms are available at www.inapi.cl

INAPI has published some Procedure guidelines for trademark registration, which include examples of good practice and advice for users.

The registration form must be submitted in a form that can be downloaded (for free) or obtained at INAPI's offices. The applicant should file at least his/her personal details, information about their legal representation, the type of mark (word, figurative, complex, sound, product or service, or establishment mark) and the trademark name. The appropriate label, whether figurative or complex, must also be attached. It is possible to apply for a unique or multiple class registration.

WHO can register?

Any natural or legal person, either national or foreign, can apply for the registration of his/her trademark.

Any natural or legal person living abroad should designate a legal representative in Chile.

Any power of attorney related to industrial property will be granted by means of a private deed, either Chilean or foreign. Optionally, applicants residing in Chile may choose between a certified document or a private deed signed by a notary. Foreign mandates may alternatively be given to the corresponding Chilean consul without further formalities, or undergo a process of legalisation.

The power granted abroad must be signed and written in Spanish. If it is issued in another language, a simple translation must be attached.

In the event of opposition or any other contentious proceedings, local legal representation is mandatory.

Which LANGUAGES can I use?

The application form and required documents must be in Spanish.

Where priority has been claimed, the corresponding certificate issued by the competent authority of the country of origin must be filed (and duly translated into Spanish) within 90 days.

How much does it COST?

The registration costs for trademarks are as follows:

- Filing cost: € 60
- Publication: ranges from €26 to €128
- Registration: €121

Take into account that this is the cost for a single class registration. If you desire to protect your Trademark for different product's classes, you will have to pay for each and every additional class.
HOW LONG does legal protection last?

Protection lasts for 10 years from the registration granting date, and can be renewed indefinitely every ten years. Unlike in Europe, there is no general obligation to use the trademark hence according to Chilean Law lack of use is not an accepted ground for invalidity.

In Chile, trademark renewals may be conducted online.

D. Geographical indications and appellations of origin

What are GEOGRAPHICAL INDICATIONS (GI) and APPEALATIONS OF ORIGIN (AO)?

A GI is a name or sign used on certain products, with the aim to identify their specific geographical location or origin (e.g. a town, region, or country). The GI indicates that the product possesses certain qualities, is made according to specific methods, or enjoys a certain reputation, due to its geographical origin.

An AO is a special kind of GI generally consisting of a geographical name or a traditional designation used on products, which have a specific quality or characteristics that are essentially due to the geographical environment in which they are produced. Products certified with AOs bear a qualitative and stronger connection between the product and the place of origin determined by a set of natural factors (such as soil and climate) and by a set of human factors (knowhow, production processes, among others).

How do I REGISTER?

GI and AO registration applications must be filed in person before INAPI’s offices.

WHO can register?

Any natural or legal person can apply for a GI or AO provided that he/she represents a significant group of producers, manufacturers or artisans based on a determined area for the GI or AO.

Foreign GI and DO can be registered in Chile, provided that they have not fallen into disuse in their country of origin. Wines and spirit drinks cannot be registered as foreign GI or AO in Chile. These indications of origin are part of a parallel normative system not subject to registration but regulated by law and international treaties (such as EU-Chile Agreement). Wine is regulated under the Alcohol Act, which empowers the President of the Republic to establish wine-growing areas and authorise the use of wine AO.

Required information and documents for GI and AO

The application form can be downloaded for free or obtained at INAPI’s offices. The kind of product or services to be covered must be clearly and precisely described. The following documents should also be attached to the registration form:

- Technical study from a relevant qualified expert, which includes evidence that proves that the characteristics and features of the product are due exclusively or essentially to its geographic origin.
- Map of the geographical production, extraction, processing, growing or manufacturing area of the product.
- Project of use and control regulations.

In the case of AOs, natural and human factors influencing the quality, characteristics or reputation of the product must be outlined in addition to the above documents.

HOW LONG does legal protection last?

Geographical indication or appellation of origin protection is unlimited in time.

E. Trade secret and undisclosed information

What is a Trade Secret in Chile?

A trade secret is any confidential information about products or an industrial process that provides an enterprise with improvement, progress or a competitive advantage. It is an alternative way of preserving the company’s relevant information without disclosing it, as happens with patents, and is particularly useful in cases where the patentability requirements cannot be met. Trade Secrets are closely related to know-how (technical, process, products or business model) or valuable information that provides a competitive advantage for SMEs.

It can be subject to national or international transfer between enterprises through specific contracts or as part of a complex contract, such as franchises and outsourcing licenses or processes. Undisclosed information is information submitted to the competent authority to obtain sanitary registration or authorisation (e.g. for new medicine).

Trade secrets and undisclosed information submitted to the authorities in Chile: What you need to know

The trade secret – the confidential information itself - is protected in Chile by Industrial Property, Unfair Competition and Administrative Probitly law. Chilean law protects the rightholder against infringers and recognises confidentiality agreements. If the confidentiality contracts are breached, the rightholder is entitled to compensation.

The unlawful acquisition, disclosure or exploitation without the holder’s authorisation will be considered as a Trade Secret infringement. Likewise, the disclosure and exploitation of trade secrets that have been lawfully accessed with the obligation to preserve confidentiality would also be an infringement, provided that such behavior has been committed to benefit the infringer or a third party, or to cause damage to the right holder.

Protect your secrets by identifying the confidential information, protecting access to computers and documents with passwords or technological security measures. Make sure that people know the information and set aside the information in separate documents indicating “confidential” and “do not copy”, and sign confidentiality agreements with employees, partners, associates, customers and suppliers.
The right holder, whose industrial property right has been damaged, will be entitled to bring civil proceedings and claim:
(a) Cessation of the infringing conduct
(b) Compensation of damage
(c) Adoption of measures to prevent further unfair conducts
(d) Publication of the legal decision at the expense of the infringer.

The undisclosed information cannot be disclosed or used without the right holder’s authorisation for a period of 5 years, for pharmaceuticals, and 10 years for agricultural chemical products, calculated from the first sanitary registration or authorization granted by the Chilean Public Health Institute (Instituto de Salud Pública) or Agriculture and Cattle Service (Servicio Agrícola y Ganadero) respectively. In order to protect the information, the confidential character must be expressly indicated in the sanitary registration or authorization.

F. Domain names

What are Internet domain names?
An Internet domain name is the address of your company on the internet. It enables everyone in the world to access the information on your products and services.

The country code top-level domain (ccTLD) for Chile is <.CL>, and can be used with other domains such as <.com> and <.org>. Currently, the name of a company or a brand (<mypyme.mipyme>) is accepted as well.

The Internet Corporation for Assigned Names and Numbers (ICANN) provides domain names (such as <.com>), and ICANN-accredited registrars are entitled to register them.

The Name registration of the Domain .CL, called NIC Chile (Network Information Center Chile) is provided by the University of Chile. Before choosing a domain name, you can verify if it has been registered by searching on the registrar’s website (for Chile it is www.nic.cl) or on “Whois”, (www.whois.com). Avoid choosing a domain name that is the trademark of another company, especially if it is a well-known trademark. Under Chilean Law registering another person’s trademark as a domain name is a trademark infringement, also known as “cybersquatting”.

How do I REGISTER?
Any natural or legal person, either national or foreign may be the holder of domain names. Over and above providing information required for registration, the applicant should include the contact details of those who may take part in the management of the domain name. The registration forms must be sent online via www.nic.cl. Only the registration of domain names available at the Name registration of the Domain .CL will be admitted.

Any domain name registration will be considered filed when the payment of the corresponding fee is made. The owner of the registration is exclusively liable for ensuring that his/her registration is not contrary to the freedom of expression and information rules, fair competition principles, business ethics, as well as the legally acquired rights of third parties (such as trademarks).

<table>
<thead>
<tr>
<th>Years</th>
<th>Approximate Value in Euros (€)</th>
<th>Estimated Cost Per year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>€ 12.88</td>
<td>€ 12.88</td>
</tr>
<tr>
<td>2</td>
<td>€ 24.48</td>
<td>€ 12.24</td>
</tr>
<tr>
<td>3</td>
<td>€ 36.09</td>
<td>€ 12.03</td>
</tr>
<tr>
<td>4</td>
<td>€ 47.15</td>
<td>€ 11.78</td>
</tr>
<tr>
<td>5</td>
<td>€ 57.64</td>
<td>€ 11.52</td>
</tr>
<tr>
<td>6</td>
<td>€ 67.61</td>
<td>€ 11.26</td>
</tr>
<tr>
<td>7</td>
<td>€ 77.09</td>
<td>€ 11.01</td>
</tr>
<tr>
<td>8</td>
<td>€ 86.07</td>
<td>€ 10.75</td>
</tr>
<tr>
<td>9</td>
<td>€ 94.57</td>
<td>€ 10.50</td>
</tr>
<tr>
<td>10</td>
<td>€ 102.70</td>
<td>€ 10.27</td>
</tr>
</tbody>
</table>

TIPS and WATCH OUTS
Avoid domain names that include other person’s marks or words that may interfere with third parties’ rights or international protection systems, such as geographical names, celebrities’ names, generic names for pharmaceutical substances, international organizations’ names, and other person’s trademark names (e.g. the name of another company).

What can you do if someone is using your company’s name or trademark as a domain name?
If your company’s name trademark is subject to a registration application by third parties in Chile, there is an arbitration procedure available before the Center for the resolution of .CL domain name disputes (CRC), dependent on NIC Chile, and is responsible for the management of .CL domain disputes. Likewise, any domain name registered in gTLD as <.com>, is subject to a dispute resolution procedure, which entitles the trademark holder to end the cybersquatting.
G. Plant varieties

WHAT are plant varieties (PVs)?

The Law on the Rights of the Breeders of Plant Varieties grants an IP right to the creator of a new plant variety. In order to be registered as a new variety, it has to meet 5 requirements – it has to be new, distinct, uniform, stable and it has to have a variety denomination.

Plant varieties in CHILE: What you need to know

Any plant variety breeder, either Chilean or foreigner, must register the variety before the Register of Protected Varieties in the Seeds Division of the Agricultural and Livestock Service (SAG). All botanic genera and species (agricultural, forest, ornamental and fruit varieties) are subject to registration. Only names that are not registered as a trademark are allowed. Once the requirements are met, the right holder receives a variety Registration Certificate. Once the definitive registration is granted, the Plant Variety Certificate is issued. This certificate recognises the breeder’s rights over the variety, and it grants the exclusive right to produce and reproduce, to sell or offer for sale, to place on the market, to import or export and use for the commercial production of another variety during 18 years for trees and vines and 15 years for other species, calculated from the registration date.

Currently, the creation of new varieties can be conducted by means of selection and crossing techniques, conventional plant selection techniques, mutagenesis (the whole genome is manipulated) and transgenesis (only one or two genes are manipulated).

3. ENFORCING your IP

IP rights are valuable to your company and require effective protection. If a third party or competitor infringes your IPR, then you should be able to enforce them.

In Chile IP right holders can enforce their rights through:

- Civil actions, which aim to put an end to the infringement and obtain compensation for damages.
- Criminal actions, intended to impose criminal penalties for IP infringements.
- Protective measures, designed to avoid IP right infringement or prevent further infringement.
- Border measures, which prevent goods infringing IP rights from entering or leaving the country.
- Relevant agencies

Relevant agencies

In Chile, IP rights fall under the jurisdiction of the National Institute of Industrial Property (INAPI), which acts as an administrative body for registrations and as a Court of First Instance (for remarks, oppositions and invalidity); the Industrial Property Tribunal (specialised second-instance court) and the Supreme Court, which has developed case-law relating to appeals in cassation for the protection of intellectual rights.

The civil legal system uses technological tools, which provide transparency and speed up legal proceedings. The legal services market is fairly well developed and offers affordable litigation costs and times.

The criminal legal system prosecutes public IP offences. This is carried out through an independent body (Ministerio Público – Public Prosecution Service) in cooperation with specialised police forces before hierarchical courts.

Criminal cases are heard by ‘Guarantee Courts’, Criminal Trial Courts and Courts of Appeal. The Supreme Court is responsible for hearing appeals for annulment on the ground of law infringements.

At an administrative level, Customs authorities are competent border measures against IP rights infringement.

TIPS and WATCH OUTS

In order to be able to take legal action, it is essential to be able to claim that the product or service is protected by industrial property rights using any of these indications:

- For trademarks, the letters ‘MR’ or ‘R’ within a circle ®.
- For patents, the letters ‘PI’ and the corresponding registration number; for industrial designs, ‘DI’ and the registration number; for utility models, ‘MU’ and the registration number.

Failure to comply with this requirement shall prevent the right holder concerned from taking criminal action.
4. Using CUSTOMS to block counterfeits

Customs in Chile: What you need to know

The so-called ‘cross-border law’ (border measures) is an enforcement measure concerning intellectual property that prevents products infringing intellectual property rights from entering or leaving the country.

These measures fall within the competence of the National Customs Service.

The Customs authorities develop risk profiles and seize counterfeit and pirated goods via two different procedures, either ex officio or at the request of a party before the courts.

The Customs authorities can suspend the clearance of goods for a maximum of 5 working days because of a copyright infringement or counterfeit trademarks, without prejudice to the competence of civil courts to take measures and to criminal actions linked to police measures.

5. RELATED LINKS and Additional Information

Further information about IPR in Chile can be found on the Latin America IPR SME Helpdesk website: www.latinamerica-ipr-helpdesk.eu

Agency in charge of Industrial Property in Chile: National Institute of Industrial Property: www.inapi.cl

From 2017 there are new guidelines of trademarks: https://www.inapi.cl/centro-de-documentacion/directrices/marcas

Agency in charge of Copyright in Chile: Intellectual Property Right Department at the Directorate of Museums, Libraries and Archives: www.propiedadintelectual.cl

Chilean Customs Authorities: National Customs Service: www.aduana.cl/aduana/site/edic/base/port/inicio.html

Authority in charge of Plant Variety Registrations: Agricultural and Livestock Service: www.saa.cl

Authority in charge of design a national innovation strategy: National Council on Innovation for Competitiveness: www.cnid.cl/
Authority in charge of the transparency of public service and access to information: www.consejotransparencia.cl

Barriers to Trade: www.barrerascomerciales.es

Congress of Deputies: www.camara.cl

Design, Technology and IP Research Centres: www.dkchile.cl

CONADI: www.conadi.gob.cl

Council for National Monuments: www.monumentos.cl

CORFO (Economic Development Agency): www.corfo.cl

Creative Commons: www.creativecommons.org

Diario Financiero (Financial Newspaper): www.df.cl/

DIRECON (Foreign Ministry's General Directorate of International Economic Relations): www.direcon.gob.cl

EUROCHILE (Business Foundation): www.eurochile.cl

EUROSTAT (European Union Statistics Office): http://ec.europa.eu/eurostat

FLORASEM: www.florasem.cl

ICANN New gTLDs: https://newgtlds.icann.org/en/

ICEX: www.icex.es

INIA (Agricultural Research Institute): www.inia.cl

Public Prosecution Service in Chile: www.fiscaliadechile.cl

NIC Chile: www.nic.cl

OECD: www.oecd.org/chile

The Judiciary in Chile: www.pjud.cl

Criminal Investigation Police in Chile: www.investigaciones.cl

PROCHILE: www.prochile.gob.cl

Start Up Chile: www.startupchile.org

Industrial Property Court in Chile: www.tdpi.gob.cl

WHOIS: www.whois.com
The Latin America IPR SME Helpdesk offers multilingual services (English, French, German, Spanish and Portuguese1), with free information and first-line legal advice on IP related subjects, as well as training, webinars and publications, especially designed for EU SMEs.

**HELPLINE** First-line advisory service on IP protection and enforcement for EU SMEs working or planning to operate in Latin America.

**TRAINING** Targeted trainings and webinars on IPR protection and enforcement for EU SMEs (including sector-specific approaches).

**IP CONTENT** State-of-the-art publications (factsheets, learning modules, videos, IP glossary, infographics, case studies and newsletters) on the protection and enforcement of IPR in Latin America – specifically addressing IP matters from the SME business needs point of view.

**AWARENESS RAISING EVENTS** Participation in events attended by EU SMEs to increase the awareness of IP and of the visibility of the services provided by the Helpdesk.

**IP ANALYSIS** Analysis of IP challenges faced by EU SMEs in the target markets.

**IP DIAGNOSTIC TOOLKIT** Toolkit for self-evaluation of the IP-status of the user in terms of IP knowledge and management.

**IP COST TOOL** Online tool that allows the user to pre-evaluate the costs related to IP management in every Latin American country covered by the Helpdesk.

1The language offer will depend on the specific service and experts’ availability.

If you have any queries on how to protect your Intellectual Property in Latin America contact our Helpdesk service:

helpline@latinamerica-ipr-helpdesk.eu
+34 96 590 9684
Working Hours: Monday - Friday 9:00 -16:30 (CEST)

If you want more information on additional free services offered by the Helpdesk contact the coordination team:

info@latinamerica-ipr-helpdesk.eu
University of Alicante, Campus San Vicente del Raspeig, Edificio Torre de Control, 03690 Alicante, Spain
+34 96 590 9684

Follow us on Social Media and stay tuned on new releases of factsheets and other IP content:

www.latinamerica-ipr-helpdesk.eu