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### 1. INTELLECTUAL PROPERTY RIGHTS IN COLOMBIA FOR SMEs

#### 1.1 Intellectual Property Rights for SMEs: Why is this relevant to you?

Colombia is the fourth largest economy in Latin America according to recent reports issued by the [World Economic Forum](#).

It has shown an exponential economic growth that will potentially continue in the upcoming years, attracting foreign investment and creating a favourable economic climate for business. Along these lines, it is worth mentioning that the Colombian Government has introduced a new approach for sustainable development in the country, placing creativity and innovation as essential growth factors. The so-called creative industries are stepping up, and new and disruptive technologies are being welcomed.

The creation of the Orange Economy Ministry aims to position Colombia as an innovation leader in the region by enacting tax incentives for entrepreneurs and tech-based companies. Moreover, strong efforts regarding Intellectual Property (IP) Rights and their enforcement are being made to incentivise and attract capital.

Colombia is also becoming an international player, having recently joined the Organisation for Economic Cooperation and Development (OECD), and having concluded Free Trade Agreements (FTA) with the EU, the US and the Pacific Alliance.

The FTA with the EU had a significant impact on the international trade between EU countries and Colombia, setting a minimum standard for the protection of Intellectual Property Rights and harmonising certain aspects to create legal certainty that will benefit European SMEs. One example is e.g. the implementation of adequate technological measures for protecting the use of software programs or the recognition of denominations of origin for wines.

Besides the steps taken, it should be reminded that Colombia remains listed in the *Special 301 Report* of the United States Trade Representative - the blacklist of countries in which intellectual property protection is not guaranteed in accordance to international treaties. This country still needs to increase the efficiency of its IP enforcement efforts and reduce the

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high levels of piracy and counterfeiting, which particularly affects the pharmaceutical, music, recording, computer, electronics and software industries.

Consequently, EU SMEs should be cautious when entering the Colombian market to ensure that their intellectual property rights are adequately protected in the territory. Bear in mind that given the territorial nature of intellectual property rights, the registration of an IP right in Europe has no legal validity in Colombia and can therefore not be invoked there.

It is thus not simply relevant, but even crucial for an SME to design an IP strategy which englobes all the territories in which to do business. This document aims to help them do so by outlining the main differences between the EU's IP legal environment, which SMEs are familiar with, and Colombia's legal framework.

### 1.2 How does Colombia's IP legal framework compare to EU and International Standards?

The type of IP rights covered and the scope of their protection in Colombia is very similar to that in Europe. Furthermore, like the EU, Colombia is a member of the World Intellectual Property Organization (WIPO) and party to most of the international treaties related to intellectual property managed by WIPO. A clear advantage of Colombia's participation to these international agreements is that Colombian legislation on intellectual property is mostly aligned with that of European countries.

Additionally, Colombia is a member of the Andean Community, a regional pact that also encompasses Peru, Ecuador and Bolivia. Note that although the national IP regime of these countries is

mostly harmonised through Decisions taken by the Community, national laws and particularities still apply.

The following tables offer a broad comparison between the main intellectual property rights in Colombia and the European Union, highlighting the major differences and similarities. For further information, we invite you to read our Colombia Country IP Factsheet, available [here](#). In pursuit of clarity, a glossary has been introduced at the end of the document, which defines the technical terms included in the table.

#### DO I NEED A REPRESENTATIVE FOR THE MANAGEMENT OF MY IPRS IN COLOMBIA?

IPR applicants in Colombia do not need to be represented by a specialised IP attorney, be it for trade marks, patents, utility models or design rights. However, this is always strongly recommended. Moreover, if the applicant does not have an address in Colombia, they must be represented by a local agent. In practice, this means that EU SMEs that do not already have an address will have to go through a representative in their dealings with the INPI, the Colombian IP office.

Note that the same rule applies in Europe: people or businesses which have a legal address in Europe will not need representation when registering their IP rights in Europe. Foreign companies without an address in Europe will need to be represented by local agents.



# copyright

## 2. IP RIGHTS IN COLOMBIA: COMPARING BASICS

### A. COPYRIGHT AND RELATED RIGHTS

Copyright protects original intellectual works fixed in a tangible form whatever their genre or merit. The exclusive rights are enjoyed by the author of the work and by the successors. These so-called economic rights give the power to exploit the work for economic gain, including the reproduction, distribution, adaptation, translation, communication to the public and any other use. It also includes moral rights that are personal to the author, unwaivable and non-transferrable. Related rights, on the other hand, refer to the rights enjoyed by producers, performers and broadcasters for their investment and participation in the creation and dissemination of the work.

COLOMBIA	EUROPE
<p><b>Copyright does not need registration</b></p> <p>As in Europe, works are protected from the date of creation and the author's rights are automatically protected.</p> <p>Works can be registered with the National Copyright Directorate (Dirección Nacional de Derecho de Autor -DNDA-), creating an evidence of authorship/ownership which may be useful to enforce your rights. More information on this <a href="#">here</a>.</p> <p>Although this body has enabled many alternatives to register different works (e.g. online and mobile app registration), foreign applicants are limited to onsite registration.</p> <p>The registration procedure is free and it takes around 15 working days to obtain a registration certificate.</p>	<p><b>Copyright does not need registration.</b></p> <p>Works are protected from the date of creation.</p> <p>Only a few EU countries offer copyright registration services to provide proof of authorship or ownership. If this is not possible, you should still keep a record of authorship and any transfers of rights to facilitate their enforcement thereof in case of a dispute. For instance, this can be done by keeping laboratory logbooks or via private registration (notary registration, for example).</p>
<p><b>Copyright typically lasts for the life of the author + 80 years</b></p> <p>When the owner is a legal person, the term lasts from 50 years counting from the date of creation, disclosure or publication of the work.</p>	<p><b>Copyright lasts for the life of the author + 70 years in all cases where the author is known.</b></p> <p>Copyright protection expires after the period that lasts for the author's life plus 70 years after that.</p> <p>When the first owner is a legal person, the term lasts from 70 years counting from the date of lawful communication to the public of the work.</p>
<p><b>Works made for hire or in the course of employment are presumed to belong to the client or employer</b></p> <p>Any work that has been developed as part of a service contract or in the course of employment will be considered as automatically transferred from the author to the client/ employer unless the written service or employment contract specifically states the opposite.</p>	<p><b>There is no harmonisation regarding the concept of the works made for hire in the EU.</b></p> <p>France, Germany and Spain, for example, keep the rights to the author, unless otherwise agreed. This is particularly relevant within the software industry, where software developers maintain the ownership over the software source code developed at the completion of the project.</p>
<p><b>The elements that constitute mobile apps are protected by copyrights: the source code, the graphics and the user's manual.</b></p>	<p><b>In the same way, mobile apps are protected by copyright in the EU.</b></p>
<p><b>Databases are protected through copyright only.</b></p> <p>Databases are protected under general copyright. There is no sui generis database protection.</p>	<p><b>Databases are protected by copyright or a sui generis database right.</b></p> <p>Databases in EU countries can be protected under general copyright or under a special database right. To know how to protect the content and structure of your database in Europe, click <a href="#">here</a>.</p>

## THE ORANGE NETWORK OF THE DNDA

The DNDA created the orange network, an online business portal that connects authors with cultural and creative industries. The aim of this platform is to foster the commercialisation of the original works registered before this body by connecting authors with cultural promoters. However, as of today, only Colombians are entitled to use this platform.

## B. PATENTS AND UTILITY MODELS

A patent is an exclusive right granted for an invention, either a product or a process that provides a new way of doing something or offers a new technical solution to a problem. The patent holder enjoys the exclusive right to prevent others from exploiting the invention for a limited period of time. In return, the patent holder must disclose the invention to the public in the patent application.

In Colombia, the patent system includes utility models, sometimes called “small patents”, which protect new technological advances but have a lower threshold for registration and are only granted for products. When discussing patents in the EU it is important to bear in mind that even if there exists a European registration system – the European Patent Convention (EPC) – for the filing of patents in countries across Europe, there is no community patent in the EU and that only some EU countries provide protection for utility models.

PATENTS	
COLOMBIA	EUROPE
<p><b>Registration takes between 1 and 2 years for patents.</b></p> <p>The Colombian Trade Mark and Patent Office (SIC), which is one of the fastest Patent Offices in Latin America, participates in <a href="#">several Patent Prosecution Highway (PPH)</a> programs with several Patent Offices (e.g. Spain and the European Patent Office) as well as multinational and IP associations (e.g. PCT-PPH, Global PPH, the Pacific Alliance and PROSUR).</p> <p>Patent applications carried out under this type of programs generally obtain a final action faster before participating Offices. To learn more about how these programs work, click <a href="#">here</a>.</p>	<p><b>Registration time depends on each country of the EU.</b></p> <p>Each patent is granted by the national authorities, even when applied for through the European registration system (EP validation is the process of converting a single granted European patent application into a national patent). However, an EPC application typically takes between 3 and 5 years. Note that the EU Unitary Patent is expected to be available in the coming years.</p> <p>It is also possible to request an accelerated examination in Europe, depending on the country.</p>
<p><b>Patents are granted for a 20-year term as of the date of application.</b></p> <p>The term of protection shall under no circumstances be extended. However, it is possible to request a <a href="#">restoration of the patent rights term</a> in case of an undue delay in prosecution, which is counted as of 5 years after the initial filing date for causes that cannot be attributable to the applicant.</p> <p>It is important to highlight that this is not applicable for pharmaceutical inventions.</p>	<p><b>Patents in EU countries are also granted for 20 years from the date of application.</b></p> <p>The period of protection may be extended for products or processes which need to undergo an administrative authorisation before being commercialised (e.g. drugs), as it may take around 20 years for the products to be authorised in the market. This extension will last for a maximum of 5 years.</p>
<p><b>Colombia grants a 12-month grace period prior to the filing of the application during which the disclosure of the invention does not affect the novelty requirement for patentability, under certain conditions.</b></p> <p>The novelty of an invention is not threatened when it is disclosed in the 12 months prior to the filing of the application (1) by the inventor or their successor, (2) by a national IP office acting against its own internal rules or (3) by a third party that has obtained the information directly from the inventor or their successor.</p> <p>The grace period applies both for patents and utility models.</p>	<p><b>Some European countries also grant a 6-month grace period, but these cases are limited.</b></p> <p>Generally, the novelty of an invention is “sheltered” only when disclosed (1) by the applicant at an official international exhibition, or (2) by a third party in breach confidence owed to the patent applicant.</p> <p>For detailed information regarding the grace period for EU countries (and other countries worldwide), you can consult WIPO’s report <a href="#">here</a>.</p> <p>There is no grace period under the European Patent Convention.</p>



<p><b>Use and second-use claims, including “Swiss-type” claims (see Glossary) are not allowed</b></p>	<p><b>Use claims are allowed, but “Swiss-type” claims are not allowed.</b></p>
<p><b>Once granted, the patent becomes enforceable without the need to pay any final fees.</b></p> <p>It is worth mentioning that the granting only makes the patent enforceable in Colombia despite being part of the Andean Community (there is no such thing as a Community patent).</p>	<p><b>After a substantive examination takes place, and if the patent is granted, final registration fees may be requested.</b></p> <p>If it is a national patent, it becomes enforceable in the territory where the filing is carried out.</p> <p>If it is an EU patent that has been granted, it becomes a bundle of national patents.</p>
<p><b>Colombia is a contracting party to the Patent Cooperation Treaty (PCT), which allows for the filing of international patent applications (see Glossary).</b></p> <p>Therefore, EU applicants can benefit from the simplified procedures and reduced costs that the WIPO systems provide to foreign applicants.</p>	<p><b>All EU countries are also contracting parties to the PCT.</b></p>

UTILITY MODELS	
COLOMBIA	EUROPE
<p><b>Utility models are protected and are granted for a 10-year term as of the date of application.</b></p> <p>Utility models are granted when the requirements of novelty and industrial applicability are met. They do not need to satisfy any inventiveness requirement and can only protect objects, not methods.</p> <p>The term of protection lasts for 10 years from the date of application.</p>	<p><b>Not all of the European countries protect utility models.</b></p> <p>They do exist in some EU countries, but not in all of them. It is best to check with the corresponding national IP office.</p> <p>Utility models are typically protected for 10 years in Europe. The only EU countries offering utility model protection for less than 10 years are Greece (7 years maximum) and Portugal (6 years)</p>
<p><b>Registration takes less than for patents (less than 1-2 years).</b></p>	<p><b>The registration term depends on each country of the EU.</b></p>

**Patent registration before the Colombian Trade Mark and Patent Office**

Applying for patent protection in Colombia is a very simple procedure. It can be filed online or directly before the Colombian Trade Mark and Patent Office (SIC). There is a special online platform called SIPI exclusively enabled for filing and controlling IP requests. The platform allows applicants to follow their application’s status and have direct access to online files and official requirements.

Additionally, the SIC offers many online information resources that help IP users better understand the patent system and provide tools for a more comprehensive way to file patent applications. Users can download examination guidelines and also perform unofficial prior art searches. The Patent Office traditionally uses Patentscope (WIPO) and Espacenet (European Patent Office) as searching engines.

**C. TRADE MARKS**

Trade marks are exclusive rights over signs capable of distinguishing the goods or services of a business from those of another.

Trade marks follow the specialty principle, which allows similar trade marks to coexist if they identify different types of goods or services (for example, shoes and financial services). The exception to this rule is the case of well-known brands like Apple or Louis Vuitton, with such a reputation that even when used to designate non-related products or services they may cause a risk of association.

There exists an international classification for trade marks, known as the Nice classification system, which is regularly updated and is currently on its eleventh version. The purpose of this system is to set out different categories of products and services helping the principle of specialty of the trade marks to be applicable.

Trade mark protection is granted for 10 years and can be renewed indefinitely.

COLOMBIA	EUROPE
<p>Multiclass applications (see Glossary) are admitted.</p>	<p>Multiclass applications are also admitted.</p>
<p>Three-dimensional signs (shape and packaging of product), sounds, smells and tactile brands can be registered as trade marks.</p> <p>Slogans can also be registered but as a trade mark.</p>	<p>Sounds, as well as other non-traditional trade marks can be registered.</p> <p>Visual, sound and three-dimensional marks are accepted in the European Union.</p> <p>Initially, slogans can be registered as trade marks in the EU, but the EUIPO has rejected most applications. Rules and applications at a national level may vary.</p>
<p>The use of a registered trade mark is mandatory within 3 years from registration.</p> <p>In Colombia, if a trade mark has not been used for 3 consecutive years, it could be subject to cancellation for lack of use.</p>	<p>There is an obligation to use the trade mark within 5 years from registration.</p> <p>In the EU, if a trade mark is not used for 5 consecutive years, an action to revoke it can be brought before the corresponding IPO based on lack of use.</p>
<p>Trade marks can only be protected at a national level.</p> <p>However, it is possible to file an Andean Community opposition, which means a valid owner of a similar or identical trade mark in one of the Andean Community countries can oppose to the registration of the trade mark in another member country.</p>	<p>Trade marks can be protected at a national or European level for those seeking trade mark protection in Europe.</p> <p>Both EU and national trade marks can constitute a basis for opposition against another EU or national trade marks.</p>
<p>Colombia has a special procedure for trade mark oppositions called “facilitation hearings”, where the parties are summoned to the TMO in order to try to reach an agreement.</p> <p>Facilitation hearings can be jointly requested by the parties or imposed by the TMO when it is considered that the two parties can reach an agreement to make two trade marks coexist.</p>	<p>The EUIPO does not provide facilitation hearings, but it grants a two-month “cooling period” during which the parties are encouraged to reach an agreement.</p> <p>While the EUIPO does encourage the parties to reach an agreement, it takes no active role as a mediator.</p>
<p>If no objections are raised, trade mark registration takes around 6 months.</p> <p>It is also possible to request a conditional registration in which the applicant specifically allows the Trade Mark Office to grant the trade mark before the 6-month term, provided that the conditioned granting may be revoked in the event of the request of a prior application claiming priority.</p>	<p>The registration term depends on the EU country of the EU trade mark.</p> <p>Each trade mark is granted by national authorities. However, an EU trade mark application typically takes around 5 months to be processed by the EUIPO if there are no oppositions filed by third parties.</p>
<p>Colombia allows coexistence agreements but they must be registered.</p> <p>The Colombian IP Office allows and will respect coexistence agreements, as long as they do not mislead the consumer.</p>	<p>Coexistence agreements are allowed but not binding in the EUIPO.</p> <p>In the EU, coexistence agreements are allowed by the EUIPO and other IPOs of national EU countries, but they are not binding for the offices. Therefore, registration may be rejected for a trade mark, even if a coexistence agreement was signed with the owner of a similar trade mark.</p>
<p>Trade mark assignments and licences need to be registered with the SIC to be enforceable against third parties. This is also applicable for patents, utility models and design rights.</p> <p>Those which are not registered in the official trade mark registry will not be enforceable against third parties. These annotations are subject to a fee.</p>	<p>Trade mark assignments and licences must also be registered to be enforced against third parties. This is also applicable for patents and design rights.</p> <p>Additionally, at the EUIPO and many other IPOs of EU countries, assignments and licences can enter the register upon request, subject to a fee.</p>

Colombia is a contracting state to the Madrid system for international trade mark registration (see Glossary).

Therefore, trade mark applicants can choose whether to file a national application or to designate Colombia under an international registration.

The EU and all its Member States are contracting parties to the Madrid system.

EU can also be designated under the Madrid Protocol.

Trade mark applications that comply with certain conditions can request a fast-track examination of the formal requirements of the application without paying additional fees. By declaring that all formal requirements are met and that the application is ready to be published, the applicant would be able to shorten the registration process significantly.

#### D. Industrial Designs

Industrial designs protect the appearance of a product. Designs can be three-dimensional (chair) or two-dimensional (a print). Only visible objects can acquire design protection, as the main requirement is that they have a certain degree of aesthetic value.

It is also important to remember that designs only protect the external appearance of the product, but cannot protect the functionality of its technical features.

COLOMBIA	EUROPE
<p><b>Industrial designs must be registered to be protected.</b></p> <p>Unregistered designs are not protected in Colombia.</p>	<p><b>The EU community design regime provides for protection of unregistered designs.</b></p> <p>Nevertheless, this protection only prevents unauthorised and intentional copying of the design throughout the European Union for 3 years. As a comparison, registered design rights protect against the use of any similar design.</p>
<p><b>Protection is granted for 10 years without the option for renewal.</b></p>	<p><b>EU community registered designs last for 5 years from the date of the application and can be renewed for 5-year periods up to 25 years.</b></p>
<p><b>The only requirements for an industrial design are that it must be new and that it does not perform a technical function.</b></p>	<p><b>A design must possess an individual character besides being new and not having any technical function.</b></p>
<p><b>There is an applicable grace period of 12 months.</b></p> <p>The novelty of the design is not threatened when it is disclosed in the 12 months prior to the filing of the application by the applicant or by a third party that has obtained the information directly from the applicant.</p>	<p><b>No grace period applies.</b></p> <p>Any disclosure prior to the registration will destroy the novelty of the design.</p>
<p><b>The registration procedure is simple and can take less than 6 months.</b></p>	<p><b>Registration of community designs can take around a year.</b></p> <p>The length of the registration procedure of national designs will depend on the national offices.</p>
<p><b>Colombia is not a member of the Hague system for the international registration of industrial designs.</b></p> <p>Therefore, industrial design registration can only be obtained by filing an application directly with the Colombian Superintendency of Industry and Commerce (SIC)</p>	<p><b>The EU and its Member States are all contracting states to the Hague Agreement.</b></p> <p>There are three routes to obtain design protection in the EU:</p> <ul style="list-style-type: none"> <li>- National route, via direct application with the national IP offices, which will protect the design only in the countries in which it is registered.</li> <li>- Community design right which will be valid in all the EU.</li> <li>- International design application through the Hague system which can designate the EU as a whole or only one/some of its member states.</li> </ul>

## E. Trade Secrets

Trade secrets are traditionally regarded as the know-how of a company, or that specific information that gives an additional commercial advantage to a business. Trade secrets are also an alternative for protecting ideas, business plans, formulas or methods that are not eligible for other type of IP protection such as patents.

They can also be used by SMEs which may not have yet the necessary funds to obtain patent protection for a new technology, for example. Popular examples of valuable information which has been protected as trade secrets are Google's algorithm or the Coca-Cola recipe.

The main disadvantage for SMEs is that a trade secret does not provide an exclusive right over the secret information. Hence, third parties that may discover it through legally accepted means will be entitled to use it.

COLOMBIA	EUROPE
<p><b>Trade secrets are protected by the courts if there is evidence that the holder of the information has taken sufficient steps to protect it.</b></p> <p>Like in the EU, trade secrets are protected in Colombia if the information is secret, if it has commercial value (due to its secrecy) and if it has been subject to reasonable steps taken by the holder in order to keep it secret.</p> <p>For further detailed information on this type of protection, check out our factsheet Trade Secrets in a Nutshell.</p>	<p><b>Trade secrets are protected throughout the EU if there is evidence that the holder of the information has taken sufficient steps to protect it.</b></p> <p>Trade secret protection has been harmonised under the 2016 Trade Secret Directive which sets the same requirements as the Colombian law. The information must be secret, must have commercial value because it is secret and must have been subject to reasonable steps taken by the holder in order to keep it secret.</p> <p>For further information on trade secret protection in the EU check out this factsheet.</p>

## Protecting your confidential information

Given the requirement to show that the holder of the information has taken sufficient steps to protect the information in Colombia and in Europe, it is strongly advised to protect trade secrets through contracts (NDAs, confidentiality clauses, etc.) when dealing with employees, clients or providers, and by using physical and technological measures to restrict access to confidential information.

## F. Geographical Indications, Appellation of Origin and Indications of Source

Geographical indications and appellations of origin relate to signs that represent the place of origin of the goods, including their specific quality, reputation or other features determined according to the natural or cultural factors of those regions.

These rights can prove particularly important for SMEs and producers of local goods. As an acknowledgment of that importance, the EU has a policy of securing the mutual recognition of EU GIs as part of trade deals with other countries/economic blocks. In the [free trade agreement signed between Colombia and the EU](#) in 2012, more than 70 products from the EU were securely recognised in Colombia, including champagne and gorgonzola cheese.



COLOMBIA	EUROPE
<p>There is full recognition of geographical indications and appellations of origin.</p> <p>The registration procedure can be requested by any legitimately interested party and the protection will last until the production conditions remain.</p> <p>Colombia only has one type of geographical indication, classified as “designation of origin”.</p> <p>The applicant must demonstrate a legitimate interest in protecting the designation of origin and it must be proved that the production/quality of the relevant good is linked to the specific area.</p>	<p>Geographical indications and appellations of origins are both protected.</p> <p>The EU is one of the most significant protectors of GIs and AOs in the world, providing protection as long as the conditions of the region and the particularities of the manufacturing process remain.</p>
<p>Geographical indications can protect all types of products.</p>	<p>At EU level, GIs and AOs only protect agricultural products, spirit drinks, aromatised wines or grapevine products.</p> <p>Note that there may be other schemes of protection available for non-agricultural products at national level.</p>

### 3. IP ENFORCEMENT

#### 3.1 Litigation Strategies

In Colombia, the enforcement of IP rights can be achieved by means of civil or criminal actions.

COLOMBIA	EUROPE
<p>Civil actions can be requested to stop IPR infringements.</p> <p>A claim can be filed before any civil court in the country requesting the infringer to stop selling, offering and using the protected IP right. Damages can also be requested.</p>	<p>Civil actions can be pursued in any EU country in which the IP right is enforceable.</p> <p>The civil action must be brought before a civil court and it will allow the right holder to request the infringer to cease their behaviour and to compensate for the damages.</p>
<p>Precautionary measures are available and will usually be granted in less than a week. However, a bond needs to be secured by the requesting party.</p>	<p>Precautionary measures are available. The specific legal requirements for their granting will be determined by the law of the EU country where the action is presented.</p> <p>German courts, for example, are likely to grant precautionary measures to IP holders.</p>
<p>Criminal actions are another way to enforce IP rights in Colombia, as the Criminal Code considers IPR infringements as a criminal offence.</p>	<p>There is no standard practice in relation to the criminal actions that can be requested in the EU.</p> <p>France, for example, considers some of these infringements as crimes.</p>
<p>Alternative Dispute Resolution (ADR) mechanisms are available to solve IP disputes. However, unless there is a specific clause in a contract stating otherwise, the claim cannot be reviewed by an arbitrator or a mediator.</p>	<p>Alternative Dispute Resolution (ADR) mechanisms can be an option to resolve IP issues. Most EU countries provide fast and efficient solutions in arbitration and mediation bodies.</p>
<p>There are no specialised IP courts in Colombia.</p>	<p>Most EU countries have specialised IP courts that deal with infringement cases.</p>

### Special Highlights

- ✓ If a legal action is going to be brought before courts, legal representation is mandatory and also needed to file appeals and to reconsider petitions before the Colombian Patent and Trade Mark Office (SIC).
- ✓ It is important to highlight that the power of attorney does not need to be legalised and does not require any formalities. It can be deposited at the Trade Mark and Patent Office for several applications of the same entity.

### 3.2 Customs Measures

Customs or border measures are actions that an IP holder can request before the national customs in order to prevent counterfeit goods from leaving a country or entering a country's market.

COLOMBIA	EUROPE
<p>In Colombia it is possible for an IP holder to request the inspection and seizure of goods suspected of infringing Intellectual Property Rights. This applies to all IP forms such as trademarks, patents and also plant varieties.</p> <p>This action is performed by the Customs and Taxes Authority (DIAN).</p> <p>This action will immediately cease the customs operation: imports, exports, transit and other operations in free-trade zones.</p> <p>The right holder will first need to file the request before DIAN, who will admit the action and fix an amount for a bond to secure the seized goods.</p> <p>The decision regarding the infringing nature of the products will be decided by a national Court, therefore, the IP owner needs to file the corresponding legal action against the infringer.</p>	<p>IP rights holders in the EU countries can request the inspection and seizure of goods that are suspected to infringe any IP right.</p> <p>EU customs authorities have the right to seize and detain goods entering and in transit in the EU that are suspicious of IPR infringement.</p> <p>National forces are in charge of the seizure of IP infringing products within national territory.</p>
<p>The DIAN can perform an inspection and stop the custom even <i>ex officio</i> or at the request of an IP holder.</p>	<p>Under EU rules, customs agents can act both <i>ex officio</i> or at the request of an IP holder.</p>
<p>It is possible to register the IP rights before DIAN</p> <p>The registration must be renewed every two years and the DIAN must be notified of any changes.</p>	<p>It is possible to register IP rights with the EU customs, though it is not required.</p> <p>Right holders can specifically register their IP with the EU customs, thereby facilitating the detection of infringing products.</p> <p>Customs officials across the EU have access to the Enforcement Database managed by the EUIPO. This database contains information on products protected at an EU level (i.e. registered with the EUIPO). EU customs will seize goods that allegedly infringe IP rights.</p>

If you need specific information regarding litigation and enforcement of IP rights in Argentina, contact the Latin America IP SME Helpdesk's [Helpline services](#). Our IP experts will provide you with professional and tailor-made assistance on your particular case within 3 working days.

#### 4. RELATED LINKS AND ADDITIONAL INFORMATION

Factsheets on Colombia by the Latin America IP SME Helpdesk:

- [Colombia IP Country Factsheet](#)
- [Protecting your creations in the Andean Community](#)

Further information about IPR in Colombia can be found on:

- The Latin American IP SME Helpdesk website: [www.latinamerica-ipr-helpdesk.eu](http://www.latinamerica-ipr-helpdesk.eu)
- The Colombia Superintendency for Industry and Commerce (SIC): <https://www.sic.gov.co/propiedad-Industrial>
- The National Directory for Copyright: <http://derechodeautor.gov.co/home>
- The Colombian Customs Authorities: <https://www.dian.gov.co/Transaccional/Paginas/ServiciosAduaneros.aspx>

#### 5. GLOSSARY

**Swiss type claims:** correspond to the specific way in which a patent claim is written for the patenting of the second medical use of a known substance. The substance is known and can therefore not be patented for lack of novelty, but the new medical treatment can be patented in some countries by drafting the claim: "Use of substance X in the manufacture of a medicament for the treatment of condition Y".

**Multiclass applications:** trade marks are registered in relation to specific products or services which must be defined in the trade mark application. To make the examination easier, products and services are categorised into different classes (e.g. shoes in one class, drinks in another). A multiclass application is a trade mark application that categorises products in different classes. Not all countries allow this and they demand that a separate trade mark application be filed for different classes of products.

**Unregistered trade marks:** trade mark rights are generally only protected when registered. However, marks that are used in commerce but have not been registered will still get some protection in some countries.

**Patent Cooperation Treaty:** is an international agreement that allows for international patent applications. This type of application consists of a single application filed in a patent office in one language, in which the payment of one set of fees is demanded, acting as a bundle of patent applications in the contracting states designated by the applicant. For further information about the PCT, please click [here](#).

**Madrid system:** is an international agreement that allows for international trade mark applications. This type of application consists of a single application filed with a national trade mark office that designates the other contracting states in which protection is sought. For further information on the Madrid System please click [here](#).

**Hague system:** is an international agreement that allows for international design applications. This type of application consists of a single application filed in an IP office in one language, in which the payment of one set of fees is demanded and other contracting states in which protection is sought are designated. For further information about the Hague System please click [here](#).

**Counterfeit goods:** goods in which a trade mark is unlawfully used.



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