Patents

in 37 jurisdictions worldwide

2014

Contributing editor: Frank L Bernstein
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Patents 2014

Contributing editor:
Frank L Bernstein
Kenyon & Kenyon LLP

Getting the Deal Through is delighted to publish the 11th edition of Patents, a volume in our series of annual reports, which provide international analysis in key areas of law and policy for corporate counsel, cross-border legal practitioners and business people.

Following the format adopted throughout the series, the same key questions are answered by leading practitioners in each of the 37 jurisdictions featured. New jurisdictions this year include Canada, Indonesia, Singapore, Sweden and Ukraine.

Every effort has been made to ensure that matters of concern to readers are covered. However, specific legal advice should always be sought from experienced local advisers. Getting the Deal Through publications are updated annually in print. Please ensure you are referring to the latest print edition or to the online version at www.gettingthedealthrough.com.

Getting the Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We would also like to extend special thanks to contributing editor Frank L Bernstein of Kenyon & Kenyon LLP for his continued assistance with this volume.

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March 2014

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**Mexico**

**Eugenio Pérez and José Luis Ramos-Zurita**

Under Mexican Law, the legal enforcement of a patent always involves, as a first step, filing for an administrative infringement claim before the Mexican Institute of Industrial Property (IMPI). Further appeals to the resolution issued by IMPI can be filed before the Specialised Chamber on Intellectual Property Matters of the Federal Court of Administrative and Taxing Affairs (SEPI-TFJFA) and, as a last recourse, federal *amparo* appeals before federal circuit courts.

As a result of a firm and definitive resolution declaring an infringement, the successful plaintiff can file an action asking the recovery of damages and losses, although these claims are regular civil claims tried before regular civil courts.

Considering this, and although there are no ‘specialised courts’ concerning patent infringements, these matters are examined and tried before authorities specialised in IP affairs.

**Proof requirements**

What are the burdens of proof for establishing infringement, invalidity and unenforceability of a patent?

The plaintiff is required to completely support the claims made in the infringement brief, which means producing evidence that demonstrates any conduct claimed against the infringer that, under Mexican Law, constitutes a patent infringement. Considering this, the plaintiff is obliged to prove every single aspect of the infringement claim with as much evidence as possible.

The only exception to this rule is established under article 192 bis 1 of the Mexican Industrial Property Law (MIPL), but this exception only is subject to the burden of proof considering the term ‘significant probability’ foreseen in this article and has to be credited via the evidence apportioned by the plaintiff.

It is worth mentioning that witness depositions and confessional statements are not allowed according to the Mexican Industrial Property Law.

**Inducement, and contributory and multiple party infringement**

To what extent can someone be liable for inducing or contributing to patent infringement? Can multiple parties be jointly liable for infringement if each practises only some of the elements of a patent claim, but together they practise all the elements?

Under Mexican Law there are no specific gradations concerning inducement or contributory infringement as the plaintiff is entitled to credit any and all causes of the claimed infringement committed by the infringer, which in turn are limited to the conduct described by law only, specifically article 213 of MIPL, which does not foresee contributory matters or inducement as infringing conduct.

**Further reading**

For further information on the topics discussed above, please refer to the following resources:

1. *La Propiedad Intelectual* by Eugenio Pérez and José Luis Ramos-Zurita
2. *Practitioner’s Guide to Patents* by John C. Decker
3. *Patent Law* by Bruce S. Brodersen

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question 5, the conduct foreseen as infringements must be clearly and exclusively established in article 213 of MIPL. Where there are several infringers, the patent holder is obliged to file separate infringement claims against each infringer.

7 Infringement by foreign activities
To what extent can activities that take place outside the jurisdiction support a claim of patent infringement?

Following the same line of thought, any activities taking place outside Mexican territory should have a direct impact on any of the conduct foreseen by the Mexican law as an infringement, for example, a clear example of a cause of patent infringement would be to import a product that is either protected by a patent or is a result of the use of a procedure that is patented.

8 Infringement by equivalents
To what extent can ‘equivalents’ of the claimed subject matter be shown to infringe?

Under Mexican law and practice, there are no ‘equivalents’ when dealing with a patent infringement, namely, the alleged infringing conduct must conform exactly to the claims contained in the patent title that is considered as being infringed.

9 Discovery of evidence
What mechanisms are available for obtaining evidence from an opponent, from third parties or from outside the country for proving infringement, damages or invalidity?

MIPL establishes different mechanisms that are similar to what is called ‘discovery’ in other countries, as follows:
- every person or entity is obliged to provide IMPI with the information and data that the agency requires in a written and duly notified manner, and failure to comply with this obligation constitutes an infringement in itself; and
- in the course of infringement procedures, IMPI has the legal power to require the counterpart to provide any evidence that is directly under its control and is related to the case being examined, under the penalty of being subject to any provisional measures ordered against such a party if it fails to comply with what is required to produce or inform.

10 Litigation timetable
What is the typical timetable for a patent infringement lawsuit in the trial and appellate courts?

A typical patent infringement lawsuit could last from 24 to 48 months in the first stage, plus another 24 to 48 months in the following stages (nullity claim appeal and amparo trial), but the time frame largely depends on the complexity of the matter and the number of parties involved in the process.

11 Litigation costs
What is the typical range of costs of a patent infringement lawsuit before trial, during trial and for an appeal?

Again, it depends on the complexity of the matter, the fees charged by the counsel, the cost involved in obtaining evidence such as certified copies and translation fees (as all evidence must be submitted in Spanish), etc. Concerning government fees, those are around US$500, plus other costs such as certified copies that can widely vary depending on the specific matter.

12 Court appeals
What avenues of appeal are available following an adverse decision in a patent infringement lawsuit?

Any party can opt to file either an administrative reconsideration recourse, which is examined by the same authority that issued the administrative resolution, or a nullity petition that is tried before SEPI-TFJFA. It is worth pointing out that the vast majority (95 per cent) of resolutions to reconsideration recourses confirm the first resolution issued by IMPI; thus, in most cases it is preferable to directly file a nullity petition before TFJFA.

TFJFA resolutions can be challenged via an amparo federal appeal tried before federal circuit courts. The sentence pertaining to the amparo appeal is final and definitive.

13 Competition considerations
To what extent can enforcement of a patent expose the patent owner to liability for a competition violation, unfair competition, or a business-related tort?

Under Mexican law, the owner of a patent is the rightful owner of a monopoly that is permitted directly by the Constitution, thus no argument could be successfully produced involving competition issues. In the same regard, unfair competition is usually construed as the actions performed with the aim of unlawfully profiting or taking advantage of any right (including a patent), prestige or good reputation of an actor within the same relevant market, and considering that any legal enforcement action is an extension of the right holder to actually apply such a right, any action based on such grounds would not have merits to prosper.

14 Alternative dispute resolution
To what extent are alternative dispute resolution techniques available to resolve patent disputes?

These are allowed by Mexican law but are only applicable when conflicting parties have a written agreement in that sense. In all other cases, both administrative and judicial authorities have the obligation to resolve the disputes between parties as this is part of the rights granted by the Mexican Constitution.

Scope and ownership of patents

15 Types of protectable inventions
Can a patent be obtained to cover any type of invention, including software, business methods and medical procedures?

Mexican legislation foresees the possibility of protecting any type of invention that is new, the result of an inventive step and susceptible of industrial application, with some exceptions that cannot be protected in the country (article 16 of MIPL) and also other matters that are not considered as inventions in Mexican legislation (article 19 of the MIPL). The list of exceptions and matters not considered an invention in Mexican legislation are as follows:
- exceptions are essentially biological processes for obtaining, reproducing and propagating plants and animals, biological and genetic material as found in nature, animal breeds, the human body and the ling matter constituting it and plant varieties; and
- not considered as an invention are theoretical or scientific principles, discoveries that consist in making known or revealing something that already existed in nature even though it was previously unknown to man, schemes, plans, rules and methods for carrying out mental processes, playing games or doing business and mathematical methods, computer programs, methods of presenting information, aesthetic creations and artistic or literary works, methods of surgical, therapeutic or diagnostic treatment applicable to the human body and to animals and the juxtaposition of known inventions or mixtures of known products, or alteration of the use, form, dimensions or materials
thereof, except where, in reality, they are so combined or merged that they cannot function separately or where their characteristic qualities or functions have been so modified as to produce an industrial result or use not obvious to a person skilled in the art.

### 16 Patent ownership
Who owns the patent on an invention made by a company employee, an independent contractor, multiple inventors or a joint venture? How is patent ownership officially recorded and transferred?

**Invention made by an employee**
If an employee is hired to perform research or work focused on improving proceedings on behalf of an employer, the property of the inventions created during his or her job pertain to the employer. In this case, inventions have to be created using the employer’s resources and during working hours. If an invention is created by an employee who is not expressly hired to do research and development for the employer and the invention is created using the employer’s resources, then the invention will pertain to the employee, but the employer will have a preferential right to acquire the right to acquire the property of the invention or the right to use it in the same terms as the employee could offer to a third party.

**Invention made by an independent contractor**
The property of the invention will pertain to the inventor, except if, in the agreement entered with the contractor, there is an express provision to determine that the property of the invention will pertain to the party that entrusted the invention development.

**Multiple inventors**
The property of the invention will be split into equal shares among the inventors, except if, through agreement, they agree to distribute the property among them in a different form.

**Joint venture**
The parties in the joint venture agreement will have to determine what will happen with the ownership of patents developed during the term of the business relationship.

### Defences

#### 17 Patent invalidity
How and on what grounds can the validity of a patent be challenged? Is there a special court or administrative tribunal in which to do this?

Under Mexican law, the only cancellation or invalidation grounds other than the ones foreseen in articles 78 and 79 of MIPL, which are the same as those that deal with the lack of any of the essential requisites to grant a patent (novelty, inventive step and industrial application). Concerning the procedural requisites to validly file a cancellation or invalidation action, the applicant must prove that he or she has a direct and legitimate interest to challenge the validity of the patent. Thus, there is no provision to file anonymously. If an invention is created by an employee who is not expressly hired to do research and development for the employer and the invention is created using the employer’s resources, then the invention will pertain to the employee, but the employer will have a preferential right to acquire the right to acquire the property of the invention or the right to use it in the same terms as the employee could offer to a third party.

### Remedies

#### 18 Absolute novelty requirement
Is there an ‘absolute novelty’ requirement for patentability, and if so, are there any exceptions?

It is a compulsory requirement for obtaining a valid patent in Mexico to comply with absolute novelty for any kind of invention or design. However, Mexican legislation foresees an exception of novelty through a prior disclosure of the invention if and when the same is made by the inventor or his or her successor in title within a term of one year prior to the filing date of the patent application or of the recognised priority. In order that this novelty exception can be applied in Mexico, it is necessary that, when filing the patent case, all evidentiary documentation be submitted in the Mexican filing petition papers.

Additionally, it is important to consider that publications of a pending or granted patent issued by a foreign patent office cannot be considered as an exception to the novelty requirement and, therefore, the same will affect or destroy the novelty of an invention.

#### 19 Obviousness or inventive test
What is the legal standard for determining whether a patent is ‘obvious’ or ‘inventive’ in view of the prior art?

Mexican legislation considers that the meaning of ‘inventive step’ is the result of the creative process that is not obviously deductible from the state of the art by a person skilled in the relevant art. In other words, the legal standard in Mexico for determining if a patent is protectable in view of any prior art is novelty, obviousness (result of an inventive activity) and capability of industrial application.

#### 20 Patent unenforceability
Are there any grounds on which an otherwise valid patent can be deemed unenforceable owing to misconduct by the inventors or the patent owner, or for some other reason?

Under Mexican Law there are no ‘unenforceability’ causes, as the equivalent concepts are what are called ‘exceptions and defences’, which are examined as an integral part of a defence filed against an infringement claim.

#### 21 Prior user defence
Is it a defence if an accused infringer has been privately using the accused method or device prior to the filing date or publication date of the patent? If so, does the defence cover all types of inventions? Is the defence limited to commercial uses?

Mexican law provides for prior user defence if an accused infringer has been privately using the accused method or device prior to the filing date or publication date of the patent. The defence covers all types of inventions. The defence is limited to uses carried out solely by the prior user and, of course, it is a matter of proving the fact.

#### 22 Monetary remedies for infringement
What monetary remedies are available against a patent infringer? When do damages start to accrue? Do damage awards tend to be nominal, provide fair compensation or be punitive in nature?

As previously explained, in order to arrive at a civil claim intended to recover damages and losses, the patent owner must first file an administrative infringement claim that will produce an infringement
procedure where no damages or losses are examined (in a patent infringement matter the plaintiff is not able to request damages relief because the law only foresees this procedure as a means to determine only if there was an infringement or not, leaving damages and losses out of the matter being tried).

Once the infringement procedure is finished and, ideally, the patent owner has obtained a firm and definitive resolution of infringement (i.e., a resolution obtained after exhausting all of the available appeals and recourses, including an amparo federal appeal trial), then the patent owner is entitled to file a completely new and separate procedure before a civil court where only the recovery of damages and losses is the subject being tried.

This is due to provisions set forth in the last paragraph of article 6 bis of the Commerce Code, which roughly translates sees that ‘civil actions that are the provoked by unfair competition acts (patent infringements are considered unfair competition acts) can only be initiated when there is a firm ruling in the administrative matter, when this is applicable’, this provision having been confirmed and reinforced by multiple jurisprudences issued by the Mexican Supreme Court and this has resulted in the particular difficulties of the Mexican legal system.

It is important to point out that statutory damages and loss of profits, would not be less than 40 per cent of the public selling price of each infringing product from the first date of non-authorised use of the patent, according to article 221-bis of the Mexican Industrial Property Law.

In a typical patent infringement matter, it may take between seven and 10 years to obtain a definitive infringement resolution, depending on the complexity of the specific case-matter, and once such a definitive infringement resolution is issued, the patent owner could have a suitable basis for filing an action to recover damages and losses. Consequently, not many companies or individuals have the will or the budget to be involved in such lengthy and costly litigation procedures, which results in being one of the main reasons causing the absence of cases being tried before higher federal courts concerning this particular subject.

23 Injunctions against infringement

To what extent is it possible to obtain a temporary injunction or a final injunction against future infringement? Is an injunction effective against the infringer’s suppliers or customers?

Any patent owner or recorded licensee is legally entitled to file diverse actions in order to stop the manufacturing, distribution, transportation, importation and sale of an alleged infringing product, by requesting IMPI to issue a provisional or preliminary administrative order (similar to a preliminary injunction) intended to immobilise and secure infringing products at the place where such infringing articles are located (including customs offices in the case of imported items).

Conduct considered as patent infringements are established in article 213 of MIPL; for instance, section XII of the said provision establishes that ‘offering for sale or bringing into circulation goods protected by a patent or by a utility model or industrial design registration, in the knowledge that they have been manufactured or developed without the consent of the owner of the patent or registration or without the appropriate licence’ is an infringement.

Further, provisional measures are set forth in article 199-bis of MIPL, which include the power of securing (seizing) and immobilising offending products.

In this sense, according to article 199-bis 1 of the MIPL, in order to determine the implementation of provisional orders, IMPI will require the petitioner to:

• demonstrate the corresponding ownership of rights and any of the following conditions:
  • the existence of a violation of its trademark rights;
  • that the violation of rights is imminent;
  • the existence of the possibility of irreparable damage being suffered; and
  • the existence of a well-founded concern that evidence may be destroyed, concealed, lost or altered;
  • post a bond intended to guarantee the possible damages that may be caused by the seizure; and
  • provide the necessary information for the identification of the infringing goods.

Likewise, the defendant could request the release of the provisional measures by posting a counter-bond.

The party requesting the provisional measures is liable for the payment of damages caused to the person against whom they have been carried out when the final decision declares that there was no violation nor threat of violation to the complainant’s rights or when the provisional measures were requested and the complaint or the trade mark infringement action was not filed before the competent authority or IMPI, regarding the merits of the case, within a period of 20 days counted as from the execution of the measure, according to article 199-bis 3 of the MIPL.

24 Banning importation of infringing products

To what extent is it possible to block the importation of infringing products into the country? Is there a specific tribunal or proceeding available to accomplish this?

Part of the provisional measures (similar to the injunctions of other jurisdictions) described above, include the temporary detention of merchandises that are to be imported at customs offices, and in order to exert this measures a patent owner must follow the same procedure described above, with the difference that such measures are to be exerted in a determined customs office.

25 Attorneys’ fees

Under what conditions can a successful litigant recover costs and attorneys’ fees?

Administrative procedures are limited to declaring the existence or not of an infringement matter, plus the imposition of fines as one of the penalties for the infringement, but such procedures do not cover the possibility of including attorneys’ fees, as the only way to request the recovery of such fees is to include them as part of a damages and losses claim.

26 Wilful infringement

Are additional remedies available against a deliberate or wilful infringer? If so, what is the test or standard to determine whether the infringement is deliberate?

Mexican law does not make a distinction concerning deliberate or wilful infringers, as the resolution declaring the infringement only determines if there is an actual infringement. The intent, deliberate or willing condition of the infringement may only be examined in the arguments produced by the authority to support any penalty (mainly fines) imposed on the infringer.

27 Time limits for lawsuits

What is the time limit for seeking a remedy for patent infringement? It is important to point out that patent infringements are considered to be ‘ongoing and continued’ actions, thus all provisions are drafted in the present time. Considering this, it should be noted that there is no specific time limit (statute of limitations) concerning the infringement of a patent but there is a general statute of limitations of two years after the infringement has taken place or the owner was aware of the infringement, subject to evidence that can support that this general time limit has not been exceeded.
28 Patent marking

Must a patent holder mark its patented products? If so, how must the marking be made? What are the consequences of failure to mark?

What are the consequences of false patent marking?

Marking products is an obligation on the patent holder, which consists in notifying the general public that the product is under protection of a granted patent, since the articles quoted above establish the obligation to comply with this requirement in order to enforce preventive measures (such as seizure of products) and, eventually, be able to start a procedure to claim damages.

On the other hand, in order to provide notice to the public there are two options:

- to mark the product with the patent number or to state there is a pending application related to the product and providing the application number; and
- to inform the public in a recognised newspaper that a product is under protection of a patent or has a potential right in the case of a pending patent application.

It is important to point out that specific wording is not required to effect proper notice and that it is only needed to specify that the product is under the protection of a patent and provide the patent number or mention that the product has a potential right and provide the patent application number.

Finally, it should be noted that false patent marking is an infringement foreseen in article 213 section II of MIPL.

Licensing

29 Voluntary licensing

Are there any restrictions on the contractual terms by which a patent owner may license a patent?

The only restriction in matters of the patent licence agreement established in the MIPL refers to the term of the licence. A patent licence cannot be granted by the patent owner for a term longer than the term of the concerned patents.

Except for the above, the parties can freely agree about all other terms and conditions that will govern the patent licence and the business relationship between licensor and licensee.

30 Compulsory licences

Are any mechanisms available to obtain a compulsory licence to a patent? How are the terms of such a licence determined?

If, without exiting justified reasons, an invention is not in use in Mexico after three years from the granting date of the patent protecting the invention or four years from the filing date of the corresponding patent application, a third party with legitimate interest in exploiting the invention and having sufficient technical and economical capabilities will have the right to initiate a proceeding before IMPI for obtaining a compulsory licence to enable it to use the invention in Mexico.

A compulsory licence is not granted automatically by IMPI by just showing the lack of use of the invention. It is necessary to initiate a formal proceeding before IMPI in which the patent owner will have the right to defend its interests.

Once IMPI has served copy of the compulsory licence request to the patent owner, it will have the right to initiate the use of the patent in Mexico during the year from the date of reception of the request. In the event the use of the patent is not initiated during the mentioned one-year term, IMPI will summon the concerned parties to a hearing in which it will determine whether the compulsory licence should be granted and, in such a case, the amount of royalties to be paid to the patent owner for the use of the invention in Mexico.

If, within a term of two years of the granting of a compulsory licence, IMPI determines that the use of the invention by the licensee that has obtained the compulsory licence or by the patent owner does not remedy the lack of use in Mexico, it may declare the cancellation of the patent.

Patent office proceedings

31 Patenting timetable and costs

How long does it typically take, and how much does it typically cost, to obtain a patent?

Concerning the prosecution process of a patent application in Mexico, the application is divided into five stages, which are:

- the filing of the patent application;
- the development of the substantial or formal examination by the patent office (this stage normally occurs between the three and six months from the Mexican filing date);
- the publication of the patent application (the publication of a patent application should occur 18 months from the Mexican filing date or from its recognised priority (in PCT cases the publication usually occurs once the formal examination has already finished, since the 18 months should be counted as from the international filing date);
- the development of the technical or in-depth examination (this stage normally starts between two-and-a-half to three years from the Mexican filing date); and
- the final resolution on the acceptance or refusal on the granting of the patent (this last stage normally occurs between three and four years).

An estimate of the involved fees from the filing date until the granting of a patent application in Mexico is about US$6,000, including filing, prosecution and granting of the same, and will depend on several aspects such as the size of the specification text, number of official actions, etc.

32 Expedited patent prosecution

Are there any procedures to expedite patent prosecution?

The patent office has a procedure to expedite patent prosecution of pending patent applications and this is a programme involving other foreign patent offices, known as 'Patent Prosecution Highway' (PPH). At this time, the Mexican patent office has signed up to PPH's programme with the Chinese patent office, the Japanese patent office, the Korean patent office, the Spanish patent office and the United States patent office. These PPH programmes have proved to be a success in pending Mexican patent applications since the prosecution time has been reduced considerably up to around one month when a request is made at the Mexican patent office.

33 Patent application contents

What must be disclosed or described about the invention in a patent application? Are there any particular guidelines that should be followed or pitfalls to avoid in deciding what to include in the application?

The specification text of a patent application that is being filed before the patent office must include a detailed description of the invention, which must be sufficiently clear and complete to be fully understood and, where appropriate, to serve as a guide for a person with average skill in the art to make it. It also must mention the best method known to the applicant for carrying out the invention when this is not clear from the description thereof. It is also necessary to include, when necessary, a set of drawings for the better understanding of the description, sequence listings in the case of genetic material, a copy of the deposit of biological material (microorganisms,
cells, fungi, plants, etc), a set of claims that must be clear and concise and may not exceed the contents of the description and an abstract of the invention, which shall serve solely for the publication thereof and as an element of technical information.

34 Prior art disclosure obligations
Must an inventor disclose prior art to the patent office examiner?
In reference to prior art disclosure obligations, it should be noted that Mexican legislation does not foresee a duty of the inventor to disclose prior art affecting his or her invention to the patent office as in other countries, such as the United States.

35 Pursuit of additional claims
May a patent applicant file one or more later applications to pursue additional claims to an invention disclosed in its earlier filed application? If so, what are the applicable requirements or limitations?
Mexican legislation does not accept the filing of additional or new matter different from that originally sought in the specification text of a pending patent application, either by submitting a new set of claims in the corresponding patent application or by filing a divisional patent application with a new set of claims. In this respect, it is important to consider that the only amendments that can be done in a pending Mexican patent application or when filing a divisional case, will refer to a set of claims that do not include new matter as, otherwise, such matter will be objected by the patent office.

However, if the set of claims to be submitted in either a pending patent application or when filing a divisional case only include matter that was originally claimed and described in the specification text of the former patent application, such a set of claims will be acceptable.

36 Patent office appeals
Is it possible to appeal an adverse decision by the patent office in a court of law?
Yes, it is possible to do so before SEPI-TFJFA (see questions 1, 2, 12 and 17).

37 Oppositions or protests to patents
Does the patent office provide any mechanism for opposing the grant of a patent?
Article 52-bis of MIPL provides a mechanism for third parties submitting information before the patent office in order to make the examiner aware of relevant prior art or subject matter that may not be within patentability requirements. The information is solely permitted to be entered into the examination process and the examiner will have the final decision on the matter.

38 Priority of invention
Does the patent office provide any mechanism for resolving priority disputes between different applicants for the same invention? What factors determine who has priority?
There is no provision in Mexican law to resolve such a dispute, as the only procedures available are post concession, as discussed previously.

39 Modification and re-examination of patents
Does the patent office provide procedures for modifying, re-examining or revoking a patent? May a court amend the patent claims during a lawsuit?
There is no provision in Mexican Patent Law for re-examining or for actually revoking a patent. The patent office only provides a procedure for conducting a cancellation action against a patent. Such action must be requested by a third party with legal interest.
A court may not amend the patent claims during a lawsuit; however, partial nullity is contemplated in Mexican law and, therefore, where partial nullity of a patent is determined, the nullified claims will be omitted from the patent.

40 Patent duration
How is the duration of patent protection determined?
The validity or patent duration of a patent of invention in Mexico is 20 years counted as from the Mexican filing date if and when the annuity payment (maintenance fees) are effected in proper time. In PCT cases, the 20 years will be counted from the PCT’s international filing date.