

Translated from Spanish

Decree No. 1141/2001 on Amendments to Decree No. 558/81

MARKS AND DESIGNATIONS

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Decree No. 558/81 is hereby amended for the purposes of providing the Trademark Office of the National Industrial Property Institute (INPI) with greater flexibility, economy and efficiency in the trademark registration process, and of replacing the nomenclature of goods and services, in line with the guidelines of the International Classification of Goods and Services approved by the World Intellectual Property Organization (WIPO).

CONSIDERING File No. 253-61280/02 of the Registry of the NATIONAL INDUSTRIAL PROPERTY INSTITUTE (INPI), a self-governing body that operates as part of the former SECRETARIAT FOR INDUSTRY, TRADE AND MINING within the former MINISTRY OF PRODUCTION; Laws Nos. 22.362, 24.481 and its Amending Law No. 24.572, in accordance with the text ordered by Annex I of Decree No. 260 of March 20, 1996 and Decrees No. 558 of March 24, 1981 and No. 722 of July 3, 1996, and CONSIDERING:

That Law No. 22.362 and its Regulatory Decree No. 558 of March 24, 1981 govern the procedure of registering trademarks for goods and services and trade descriptions.

That by Law No. 24.481 (consolidated text of 1996) regulated by Annex II of Decree No. 260 of March 20, 1996, the NATIONAL INDUSTRIAL PROPERTY INSTITUTE was created, and established as the Implementing Authority of Law No. 22.362.

That it has become necessary to update certain aspects of the procedure governed by Decree No. 558/81, in order to provide the Trademark Office of the NATIONAL INDUSTRIAL PROPERTY INSTITUTE, a self-governing body that operates as part of the SECRETARIAT FOR INDUSTRY, TRADE AND SMALL AND MEDIUM-SIZED ENTERPRISES within the MINISTRY OF ECONOMY AND PRODUCTION with greater flexibility, economy, effectiveness and efficiency in the trademark registration process.

That it has also become necessary to replace the nomenclature of goods and services provided for under Decree No. 558/81, placing the Implementing Authority in charge of its ongoing development and updating, in order to maintain constant appropriateness to the emerging trends of the International Classification of Goods and Services approved by the WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO).

That the Directorate General for Legal Affairs of the MINISTRY OF ECONOMY AND PRODUCTION has taken the appropriate action.

That the present Decree is issued in the exercise of the powers conferred on the NATIONAL EXECUTIVE AUTHORITY by Article 99(2) of the NATIONAL CONSTITUTION.

Therefore, THE PRESIDENT OF ARGENTINA DECREES:

Article 1 - Articles 1, 4, 5, 8, 11, 12, 15, 16, 18, 21, 23, 26, 27, 30, 31, 32, and 33 of Decree No. 558 of March 24, 1981, shall be replaced with the following:

"ARTICLE 1 – Goods and services shall be classified in accordance with the nomenclature that the Implementing Authority establishes, in accordance with the emerging trends of the International Classification of Goods and Services approved by the WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO).

The nomenclature established in accordance with the above paragraph and its subsequent amendments shall enter into force from the time of publication of the relevant final order, in the Trademark Gazette".

"ARTICLE 4 – Trademark registration procedures shall be subject to the payment of fees established in Annex III of Decree No. 260 of March 20, 1996.

Applications submitted without the respective receipts shall not be accepted in any form".

"ARTICLE 5 – Applications for trademark registration, oppositions and other documents concerning procedures followed before the Implementing Authority of Law No. 22.362, shall be filed in the Autonomous City of Buenos Aires, at the headquarters of the NATIONAL INDUSTRIAL PROPERTY INSTITUTE, a self-governing body that operates as part of the SECRETARIAT FOR INDUSTRY, TRADE AND SMALL AND MEDIUM-SIZED ENTERPRISES of the MINISTRY OF ECONOMY AND PRODUCTION.

At the provincial level, such procedures shall be performed in the delegations of official mail or other dependencies that have been authorized for this purpose by the NATIONAL INDUSTRIAL PROPERTY INSTITUTE, which shall establish procedural standards with which applicants and the receiving offices shall have to comply."

"ARTICLE 8 – Applications for trademark registration shall contain, in addition to the requirements of Article 10 of the Law on Trademarks, an indication concerning the registration of the petitioner with the tax authorities.

Where the applicant is a legal person, information concerning its registration with the relevant bodies, in accordance with the rules governing its establishment and a sworn statement of the acts or instruments supporting the legal personality of the signatory to exercise such legal representation shall be included.

All misinformation provided shall render the actions performed null and void".

"ARTICLE 11 – A copy of the applicant's application shall be delivered to him, in which the date and time of filing and the number assigned thereto shall be recorded".

"ARTICLE 12 – The Implementing Authority shall verify whether the trademark registration application satisfies the requirements of Article 10 of Law No. 22.362, and whether the application has been filed in the relevant class.

The absence of the applicant's signature as well as of the sign for which registration is sought shall render the application null and void, which shall be shelved forthwith, following the publication of the administrative action declared as such. The same solution shall be applied where the absence of an indication of class or of the goods or services prevents the scope of protection which is claimed from being established.

In the case of non-compliance with the remaining formal requirements provided for under Law No. 22.362, in these regulations and in the provisions issued by the Implementing Authority, notification shall be served of a period of TEN (10) administrative working days, from the day following notification, shall be granted to remedy the defects noted.

Where the application was incorrectly classified notification to correct it shall be served of a period of THIRTY (30) administrative working days, calculated as indicated in the above paragraph, in which the criteria applied by the Office and any prior claims are also specified.

Once a response has been made to the notices with the relevant amendments or the time limit to do so has expired, the publication of the application shall be ordered or a decision to refuse shall be pronounced, as applicable".

"ARTICLE 15 – Once the period established under Article 13 of the Law has expired, the Implementing Authority shall notify the applicant, by way of publication in the Trademark Gazette, of the existence of oppositions, prior claims and other objections which may prevent the registration of the requested trademark, with the applicant applying to the Implementing Authority, within SIXTY (60) calendar days from the date of publication, for the purposes of obtaining the details of the objections or prior claims or,

where applicable, of copies of the opposition submissions.

The period of ONE (1) year provided for under Article 16 of the Law being regulated shall commence from the expiry of the latter period, with respect to all of the oppositions put forward”.

”ARTICLE 16 – Where only comments prevent the grant of the registration, the applicant shall have a period of NINETY (90) working days, beginning from the expiry of the term of SIXTY (60) days provided for in the previous Article, to respond to the opinion issued and to accommodate, where applicable, the terms of his application.

Once a response has been made to the notices or the time limit to do so has expired, a decision shall be issued, granting or refusing the requested trademark”.

”ARTICLE 18 – The Implementing Authority shall notify, by means of publication in the Trademark Gazette, the grant or abandonment of the trademark registration application, within NINETY (90) days following the date of the relevant administrative act.

Refusal decisions shall be notified by way of the remaining means provided for in the first paragraph of Article 21”.

”ARTICLE 21 – Notifications of transfers, vistas and administrative acts, may be issued by way of publication in the Trademark Gazette; by writ of summons; by registered mail or by any other of the means provided for in the National Regulations on Administrative Procedures approved by Decree No. 1759 of April 3, 1972 (consolidated text in accordance with Decree No. 1883 of September 17, 1991).

The Implementing Authority shall establish the cases and arrangements for implementing such notification means, such as also the use of electronic mail and/or fax, to the extent of their technical possibilities.”

”ARTICLE 23 – In order to record a change of name or a transfer of a trademark registration or trademark registration application, the relevant form produced by the Implementing Authority shall be submitted.

The same form shall contain the names and domiciles of the transferor and transferee, a legal domicile so established within the Autonomous City of Buenos Aires, registration grant number and a certified copy of the instruments authorizing the transfer or change of name. The trademark registration certificate shall also be included for the relevant endorsement, or in its absence, new documented proof shall be requested, authorizing payment of the relevant fees”.

”ARTICLE 26 – The publication of registration applications shall be carried out in the Trademark Gazette published by the NATIONAL INDUSTRIAL PROPERTY INSTITUTE”.

”ARTICLE 27 - Publications ordered under Article 45 of the regulating Law shall be carried out in the Trademark Register established under Article 92(g) of Law No. 24.481, which is published by the NATIONAL INDUSTRIAL PROPERTY INSTITUTE which shall have recourse, to the extent of its technical possibilities, to publication by electronic or computer means”.

”ARTICLE 30 – The procedures concerning the registration of trademarks may be performed by:
(a) applicants, whether natural or legal persons;
(b) their representatives with sufficient authority to represent them before the National Public Administration;
(c) registered industrial property agents.

In the case of legal persons and in so far as it does not arise from the instruments of the mandate, a sworn statement should accompany the application, in which the acts granting such authority are shown, in order to exercise legal representation”.

”ARTICLE 31 – Where industrial property agents act as legal representatives, accompanying documentation on the respective power of attorney shall not be requested, unless so requested by the

Implementing Authority, *ex officio* or at the request of a party. All misinformation on the legal personality cited shall lead to the acts, carried out under the mandate cited, being declared null and void.

If they do so by citing their capacity as representatives, their representation shall be ratified by the submission of a written document that satisfy the requirements established under Article 8 of these regulations, or of sufficient authority, within FORTY (40) administrative working days following the submission in that capacity. Non-compliance with this requirement shall lead to all actions taken being declared null and by sole virtue of the expiry of the time limit.”

”ARTICLE 32 – The NATIONAL INDUSTRIAL PROPERTY INSTITUTE shall be authorized to determine procedural rules as deemed necessary to better comply with the provisions of these regulations”.

”ARTICLE 33 - The NATIONAL INDUSTRIAL PROPERTY INSTITUTE shall regulate the professional responsibilities, rights and obligations, examinations and enrollment conditions of industrial property agents, for whose registration they are responsible”.

Article 2 - Articles 2; 3; 6; 7; 9; 10; 17; 19; 20; 25; 29 and 34 of Decree No. 558 of March 24, 1981 are hereby repealed.

Article 3 – For communication, promulgation and submittal to the National Directorate of the Official Registry and for recording - KIRCHNER - Alberto A. Fernández. - Roberto Lavagna.