

**AMENDMENTS AND ADDITIONS TO LAW No. 354
LAW ON PATENTS, UTILITY MODELS AND INDUSTRIAL DESIGNS**

LAW No. 634 adopted September 13, 2007

Published in Gazette No.196 of October 12, 2007

THE PRESIDENT OF THE REPUBLIC OF NICARAGUA

Declares to the Nicaraguan people that:

THE NATIONAL ASSEMBLY

WHEREAS

I

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) was adopted through National Assembly Decree No. 4371, published in Official Gazette No. 199 of October 14, 2005.

II

Nicaragua ratified the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), through Executive Decree No. 77-2005, published in Official Gazette No. 203 of October 20, 2005.

III

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) entered into force on April 1, 2006, once the Parties notified the Depositories of the end of the relevant legal procedures.

IV

Under Article 15.9.6 subparagraphs (a) and (b) of Chapter XV of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), the obligation of each State party is to establish remedial periods for patent owners, where undue delays are attributable to the Public Administration.

V

Article 15.12 (f)(i) of Chapter XV of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) establishes a transition period of one year, in order for Nicaragua to implement the provisions of Article 15.9.6 subparagraphs (a) and (b), this period ended on April 1, 2007.

THEREFORE

In its sole discretion

Has ordered the following

AMENDMENTS AND ADDITIONS TO LAW No. 354, “LAW ON PATENTS, UTILITY MODELS AND INDUSTRIAL DESIGNS”

Article 1. Article 38 *bis* 1 is added to Law No. 354, “Law on Patents, Utility Models and Industrial Designs”, published in Official Gazettes No. 179 and No. 180 of September 22 and 25, 2000, and shall read as follows:

“Article 38 *bis* 1. Undue Delays. The patent term shall be twenty years and shall be non-renewable, in accordance with Article 38, however, it may end after the corresponding date, only in the following cases:

(a) Where, for reasons attributable to the Intellectual Property Registry, the latter takes more than five years from the filing date of the application for patent registration to grant the patent registration;

(b) Where, for reasons attributable to the Intellectual Property Registry, the latter takes more than three years from the filing date of the request for substantive examination to grant patent registration; or

(c) Where, for reasons attributable to the competent authority, in order to authorize registration for marketing pharmaceutical products, it takes the competent authority more than five years from the filing date of the application for registration to grant health registration. The provision in this subparagraph shall only apply where pharmaceutical products are covered by an effective patent in Nicaragua.

The end date of the term of protection to which this Article refers, shall be decreed by the Intellectual Property Registry, at the request of the party concerned, who must file for the remedy of the patent term within sixty days from the issuance of the certificate of grant, where subparagraphs (a) and (b) apply, or sixty days from the first authorization for marketing, where subparagraph (c) applies.

The Intellectual Property Registry shall apply the following: one day shall be added to the term of protection of the patent for every day of delay starting from the first day of the sixth year, where subparagraphs (a) and (c) apply, or on the first day of the fourth year where subparagraph (b) applies, but in no case shall it exceed 550 days.”

Article 2. This Law shall enter into force from the time of its publication in the Official Gazette.

Done at Managua, in the Conference Room of the National Assembly, on the thirteenth of September, two thousand and seven. **MR. RENÉ NÚÑEZ TÉLLEZ**, President of the National Assembly. **DR. WILFREDO NAVARRO MOREIRA**, Secretary of the National Assembly.

Therefore: Let this be the Law of the Republic. To be published and Executed. Managua, the third of October, two thousand and seven. **DANIEL ORTEGA SAAVEDRA**, PRESIDENT OF THE REPUBLIC OF NICARAGUA.
