

## REFORMS TO THE LAW ON TRADEMARKS AND OTHER DISTINCTIVE SIGNS

Legislative Decree No. 913, of December 14, 2005

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF EL SALVADOR,

### WHEREAS:

- I. By means of Legislative Decree No. 868, dated June 6, 2002, published in the Official Journal (Diario Oficial) No. 125, Volume No. 356, of July 8 of the same year, the Law on Trademarks and Other Distinctive Signs was issued;
- II. By means of Legislative Decree No. 555, dated December 17, 2004, published in the Official Journal (Diario Oficial) No. 17, Volume No. 366, of January 25, 2005, the Free Trade Agreement between Central America, the United States of America and the Dominican Republic was ratified;
- III. This Agreement contains obligations incumbent upon the State of El Salvador that, in order to be fulfilled, require national legislation to be aligned with provisions contained in the Agreement, thereby making it necessary to reform the foregoing Law.

### THEREFORE,

By virtue of its constitutional powers and at the initiative of the President of the Republic, through the Minister for Economic Affairs,

DECREES the following:

### REFORMS TO THE LAW ON TRADEMARKS AND OTHER DISTINCTIVE SIGNS

Art. 1.- Some definitions are hereby amended and others added to Art. 2, as follows:

**MARK:** Any sign or series of signs that enable the goods or services of one person to be distinguished from those of another, due to their being sufficiently distinctive or likely to identify the goods or services to which they apply in relation to those from the same kind or class.

**CERTIFICATION MARK:** A mark applied to goods or services, the quality or other characteristics of which have been checked and certified by the owner of the mark.

**INSIGNIA:** A figurative, symbolic or allegorical sign that identifies and distinguishes an undertaking or its establishments.

**GEOGRAPHICAL INDICATION:** Any geographical name, term, image or sign that designates or refers to a good originating from a specific country, group of countries, region, or a particular place, when a specific quality, reputation or other feature of the good is essentially attributable to its geographical origin.

**REGISTRY:** Intellectual Property Registry.

Art. 2.- The first subparagraph of Article 4 is hereby amended and the second subparagraph of Art. 4 is hereby repealed, as follows:

“Art. 4.- Marks may consist, inter alia, of words or groups of words, including people’s names, letters, numbers, monograms, figures, portraits, labels, coats of arms, stamps, vignettes, borders, lines and fringes, sounds and scents or series and arrangements of colours. They may also consist of the form, presentation or packaging of the goods or their packing or wrapping, or the means or places of retail sale of the corresponding goods or services. Marks may also consist of geographical indications.”

Art. 3.- Letter (j) is hereby repealed and letter (p) added to Art. 8, as follows:

“(p) Comes under the prohibition provided for in Article 51- G of the present Law.”

Art. 4.- Letters (a), (b), (d) and (h) of Art. 9 are hereby amended as follows:“(a) If the sign is identical or similar to a mark or other distinctive sign that had already been registered or pending registration for a third party from an earlier date, for goods or services related to the goods and services protected by a registered or pending mark, when that use gives rise to probable confusion;

(b) If the sign, due to graphic, phonetic, olfactory or ideological similarity with other marks and other distinctive signs that have already been registered or pending registration for a third party from an earlier date, for goods or services related to the goods and services protected by a registered or pending mark, gives rise to probable confusion;

(d) If the sign consists of a total or partial reproduction, imitation, translation, transliteration, or transcription of a well-known distinctive sign belonging to a third party, the use of which would lead to a likelihood of confusion or mistaken association with that party or taking unfair advantage of the prestige of the sign, in relation to any good or service, even those not identical or similar to those identified by the well-known distinctive sign,

provided that there is a connection between the said goods or services;

- (h) If the sign is likely to cause confusion with an appellation of origin protected prior to the mark application.”

Art. 5.- Letter (c) of the first subparagraph of Art. 10 is hereby amended as follows:

- “(c) The mark whose registration is being applied for, duly based on a model or example. When the mark is wholly constituted by a design, the applicant shall assign a form of identification to it. When the mark is constituted by sounds, the reproduction thereof shall be necessarily graphic in nature, which may be done through representation in staves or any other means known or to be known. The sound mark shall also be attached on a material support. When the mark is constituted by a denominational element with meaning in a language other than Spanish, a simple translation thereof shall be included.”

Art. 6.- The fourth of subparagraph Art. 14 is amended as follows:

“The coexistence of similar marks shall be allowed where there is a written agreement between the parties concerned.”

Art. 7.- Letter (e) of the second subparagraph of Art. 15 is hereby amended as follows:

- “(e) The mark as it was applied for, including the name of the goods and services distinguished by the mark in the form expressed in the registration application; and”

Art. 8.- Letters (e) and (f) of the first subparagraph of Art. 20 are hereby amended as follows:

- “(e) The complete list of goods or services distinguished by the mark, indicating the names expressed in the registration application, with specification of the class to which they correspond;
- (f) The reserves made, as well as declarations on non-exclusivity made by the applicant.”

Art. 9.- The fifth subparagraph of Art. 22 is hereby amended as follows:

“Once the requirements provided for in this Article have been fulfilled and where there is no objection in accordance with Article 112 of this Law, the Registry shall record the renewal without any further formality, ordering that the renewal be mentioned in the margin of the entry corresponding to the mark.”

Art. 10.- Art. 35 is hereby amended as follows:

“Art. 35.- The holder of the right over a registered mark may grant a license for the use of the mark. The use licensing contract shall have effect in relation to third parties without the need for registration.

Notwithstanding the provisions of the previous subparagraph, the licensor may apply for the license to be listed in the Registry, exclusively to make the existence of the license public knowledge.

Unless otherwise stipulated in a licensing contract, the following rules shall apply:

(a) The licensor shall be entitled to use the mark during the whole of the term of validity of the registration, including renewals thereof, throughout the country and with respect to all the goods or services for which the mark is registered;

(b) The licensor may not assign the license or grant sub-licenses; and(c) The licensor may grant other licenses in the country with respect to the same mark and the same goods or services, and may use the mark in the country for his/her own purposes with respect to the same goods and services.

If it was thus stipulated in the license contract of a foreign mark, the licensee shall be able to prevent the importation of goods that, being covered by the mark that is the subject of the license, are intended to be introduced into the country for commercial purposes.

In the same way, the owner of the mark shall be able to prevent the sale of those goods that, because of irregular production balances or qualities for exports contracted exclusively for undertakings outside the area, are sold on the Salvadorian market without the respective authorization of the owner of the mark.”

Art. 11.- The first part of the first subparagraph of Art. 36 is hereby amended as follows:

“Art. 36.- To enter a user license for a registered mark, in the event of the licensor or licensee wishing to enter it, an application containing the following shall be filed with the Registry:”

Art. 12.- Arts. 41 and 42, Arts. 41-A, 41-B, 41-C and 41-D are hereby inserted as follows:

#### “CANCELLATION OF REGISTRATION OWING TO LACK OF USE OF THE MARK

Art. 41-A.- At the request of any person with a certified legitimate interest and following a hearing with the holder of the mark registration, the competent court shall cancel the registration of a mark where it has not been used for five years in El Salvador, prior to the date on which the action for cancellation is initiated. The request for cancellation shall not be made until five years have elapsed, counting from the initial registration date of the mark.

Where the use of the mark begins five years after the date on which its registration was granted, such use shall prevent the cancellation of the registration only if it was initiated at least three months prior to the date on which the request for cancellation is submitted.

Where the lack of use affects only one or some of the goods or services for which the mark is registered, the cancellation of the registration shall only apply to those goods or services.

The registration of a mark shall not be cancelled owing to lack of use, where this is due to justified reasons. Justified reasons for the lack of use of a mark shall be considered to be those which arise from circumstances beyond the control of the owner of the mark and that constitute an obstacle to its use, such as import restrictions or other official requirements imposed on the goods or services protected by the mark.

## USE OF THE MARK

Art. 41-B.- A registered mark shall be considered in use where the goods or services distinguished by it have been placed in circulation or are available on the market under that trademark, in the form and amounts that are normal, due account being taken of the nature of the goods or services and the methods used for their marketing. Use of the mark shall also be constituted by its use in relation to goods intended for export from the national territory, or in relation to services provided abroad from the national territory.

A registered mark shall be used as it appears to be registered. However, use of the mark in a different form from the one in which it is registered only in relation to details or elements which are not essential and which do not alter the identity of the mark shall not constitute grounds for its cancellation, nor shall it reduce the protection granted to the mark. Use of a mark by a licensee or another duly authorized person shall be considered to be carried out by the holder of the registration, for purposes relating to use of the mark.

## CANCELLATION FOR LACK OF USE AS A DEFENCE

Art. 41-C.- The cancellation of a registration due to lack of use may also be requested as a defence to an objection by the Registry, third party opposition to the registration of the mark, a request for the registration to be declared invalid or an action for infringement of a registered mark. In these cases, the cancellation shall be settled by the competent court.

The person who obtains a favourable decision shall have the preferential right to registration. This right may be invoked at the filing time of the request for cancellation or within three months after the cancellation decision has become final.

## PROOF OF USE OF THE MARK

Art.- 41-D.- The burden of proof of mark use shall rest with the owner of the registration. Commercial invoices, accounting documents or auditing certificates that demonstrate the regular nature and amount of trade that exists in the goods identified by the mark may be employed to prove mark use, among others. Advertising promotion of the mark, by any means, even if the goods or services identified with the mark are not yet being marketed in the country, shall constitute use of the mark.”

Art. 13.- TITLE III, TITLE III-BIS “CERTIFICATION MARKS”, which includes Arts. 51-A, 51-B, 51-C, 51-D, 51-E, 51-F and 51-G, are hereby added as follows:

### “TITLE III-BIS CERTIFICATION MARKS

#### APPLICABLE RULES

Art. 51-A. Except for special provisions in this Title, the rules on marks contained in this Law, and in particular those relating to the procedures, term, renewal, expiry and amendment of the registration, are also applicable to certification marks.

#### OWNERSHIP OF A CERTIFICATION MARK

Art. 51-B. A certification mark may be owned by a private or public national, regional or international entity or institution, authorized to carry out quality certification activities.

#### REGISTRATION FORMALITIES

Art. 51-C. The application for registration of a certification mark shall be accompanied by regulations for use of the mark, which shall stipulate the features guaranteed by the presence of the mark and the manner in which the verification of such characteristics shall be carried out, both before and after use of the mark is authorized. The regulations for use shall be approved by the administrative authority which is competent, depending on the good or service in question, and shall be registered together with the mark.

The provisions of the previous subparagraph shall apply even when the regulations for use of the mark have been amended.

#### TERM OF REGISTRATION

Art. 51-D. Where the holder of the registration of the certification mark is a public institution,

the registration shall be of indefinite duration and shall expire with the dissolution or disappearance of the holder. Where the holder of the certification mark is a person under private law, the registration shall have a term of 10 years from the filing date of the application and may be renewed in the same way as marks. The registration of a certification mark may be cancelled at any time at the request of its owner.

#### USE OF CERTIFICATION MARK

Art. 51-E. The owner of a certification mark shall authorize the use of the mark by any person, the good or service of which, according to the case, satisfies the requirements of the regulations for use of the mark. The certification mark may not be used in relation to goods or services produced, supplied or marketed by the actual owner of the mark.

#### ENCUMBRANCE AND TRANSFER OF THE CERTIFICATION MARK

Art. 51-F. Due to its nature, a certification mark may not be the subject of any burden or encumbrance, or of any seizure or precautionary or judicial enforcement measure.

A certification mark may be transferred only with the body holding the registration. In the case of dissolution or disappearance of the holding body, the certification mark may be transferred to another appropriate entity, subject to authorization by the administrative authority that approved the regulations.

#### RESERVATION CONCERNING EXPIRED CERTIFICATION MARKS

Art. 51-G. A certification mark, the registration of which expires without being renewed, is cancelled at the request of its owner or is annulled, or which ceases to be used owing to the dissolution or disappearance of its owner, may not be used or registered as a distinctive sign for a term of five years, beginning from the date of expiry, cancellation, annulment, dissolution or disappearance, as appropriate.”

Art. 14.- Art. 65 is hereby amended as follows:“USE IN ADVERTISING

Art. 65.- A geographical indication that could mislead or cause confusion as to the geographical provenance of goods or services shall not be used in advertising or in any commercial documents concerning the sale, exhibition, or offering of such goods and services.”

Art. 15.- The third subparagraph of Art. 67 is hereby amended as follows:

“Foreign producers, manufacturers or craftsmen, and the competent authorities of foreign countries, may register foreign appellations of origin.”

Art. 16.- Letters (b) and (c) are hereby amended, and letter (d) hereby added to the first subparagraph of Art. 68, as follows:

“(b) Is contrary to proper practice, morality or public order, or may mislead the public as to the geographical source, nature, production, preparation or manufacturing method, characteristics or features, or suitability for use or consumption of the individual goods;

(c) Is the common or generic name of a particular good, where a name is considered to be common or generic when considered as such both by connoisseurs of that type of good and by the general public; or

(d) Comes under one of the cases foreseen in Art. 9 of the present Law.”

Art. 17.- The second subparagraph of Art. 69 is hereby amended as follows:

“The registration for application of an appellation of origin shall give rise to the prescribed fee”.

Art. 18.- The second subparagraph of Art. 70 is hereby amended as follows:

“The procedures relating to the examination, publication, opposition and registration of the appellation of origin shall be governed by the provisions on the registration of marks, contained in Title II of this Law.”

Art. 19.- The third subparagraph of Art. 71 is hereby amended as follows:

“In a period no longer than six months from the publication referred to in the previous subparagraph, applicants shall produce and submit to the Registry the rules on the use and administration of the appellation of origin in question. The Executive Body for Economic Affairs, Agriculture and Livestock and the National Records Centre shall be part of the administrative body of each appellation of origin. No authorization of use shall be awarded for an appellation of origin while the said rules have not been approved by the Registry and published once in the Official Journal.”

Art. 20.- Art. 74 is hereby amended as follows:

## “ANNULMENT OF REGISTRATION

Art. 74.- At the request of any interested person, the competent court shall declare the nullity of the registration of an appellation of origin, where it is demonstrated that the appellation is covered by one of the prohibitions provided for by Art. 68 of this Law.

At the request of any interested person, the competent court shall cancel the registration of an appellation of origin, where it is demonstrated that the appellation is used for the purposes of trade in a manner which does not correspond to that indicated in the individual registration, in accordance with Art. 71, subparagraph 1, of this Law.”

Art. 21.- The first subparagraph of Art. 76 is hereby amended as follows:

“Art. 76.- A single request may be filed seeking registration of the licensing of rights in two or more pending applications or two or more patents or registrations where the licensor and licensee are the same persons in each case. This provision shall apply, where relevant, to the registration of licenses for use of distinctive signs that are registered or pending registration, as well as to changes of name, corporate name and address.”Art. 22.- Art. 78 is hereby amended as follows:

## “INTERVENTION OF INTERESTED THIRD PARTIES

Art. 78.- In any procedure relating to the renunciation, invalidation or cancellation of a registered right, any licensee and any beneficiary of a registered right in relation to the industrial property right that is the subject of the action may present him/herself.”

Art. 23.- Art. 85 is hereby replaced as follows:

## “CLASSIFICATION OF GOODS AND SERVICES

Art. 85.- For the purposes of the classification of the goods and services for which marks shall be registered, the International Classification of Goods and Services for the Purposes of the Registration of Marks shall apply, in accordance with the Treaties, Agreements or Arrangements administered by the World Intellectual Property Organization.

The Registry shall settle any doubt with respect to the class in which a good or service should be classified.

The classification awarded to a good or service shall not determine its similarity with respect to other goods or services included in the same class of the Classification referred in the first subparagraph of this Article.

The classification awarded to a good or service shall not determine its difference with

respect to other goods or services included in different classes of the Classification referred in the first subparagraph of this Article.”

Art. 24.- Letter (b) of the first subparagraph of Art. 86 is hereby amended as follows:

“(b) The person to whom the ownership of a mark or the ownership of a corporate name, insignia or expression or sign of business advertising is transferred, if the instrument by virtue of which the transfer is made lacks any rectifiable legal formality that prevents the permanent recording of the right.”

Art. 25.- The first subparagraph of Art. 88 is hereby amended as follows:

“Art. 88.- Without prejudice to the relevant criminal actions, the holder of a right protected under this Law shall be able to bring a civil action before the competent court against any person that infringes that right. He/she may also act against any person who carries out acts that are extremely likely to result in infringement.”

Art. 26.- The first subparagraph of Art. 89 is hereby amended as follows:

“Art. 89.- A mark use licensee may bring an action against any third party who infringes upon the right that is the subject of the license. For these purposes, the licensee who does not have the right owner’s mandate to act shall certify at the beginning of the action that he/she requested that the latter bring the action and that more than one month has passed without him/her taking action.”

Art. 27.- Letters (a) and (b) of Art. 90 are hereby amended, letters (c) and (d) of the first paragraph of Art. 90 are hereby replaced and the second subparagraph of the same Article is hereby amended as follows:

- (c) “(a) Confiscation of the infringing goods, including the wrapping, packaging, labels, printed or advertising material, and other materials resulting from the infringement, and of the materials and means used mainly to commit the infringement; as well as the documentary evidence relating to the infringement;(b) The prohibition of the import or export of the goods, materials or means referred to in letter (a); The destruction of the goods in question;
- (d) The destruction of the materials and implements used to produce or create the infringing goods, without any compensation for the infringer or, in exceptional circumstances, without any compensation disposed of outside the market, so as to minimize the risk of future infringements. When considering application for such destruction, the competent

court shall take into consideration, among other factors, the seriousness of the infringement, as well as the interests of third parties, holders of real rights, ownership or a contractual or guaranteed interest. The competent court may ask the infringer to provide any information in his/her possession about any person involved in any aspect of the infringement and about the means of production or channels distribution for the infringing goods or services, including the identification of third persons involved in their production and distribution, and their distribution channels, and to provide this information to the right holder.”

Art. 28.- Arts. 90 and 91, Arts. 90-A and 90-B are hereby inserted as follows:

#### “DONATION OF COUNTERFEIT GOODS

Art. 90-A. The competent court may order as part of the final ruling the donation to charity of goods with counterfeit marks, with the authorization of the right holder. In those cases considered appropriate by the competent court, goods with counterfeit marks may be donated to charity for use outside the market, when the removal of the mark eliminates the infringing characteristics of the goods and it is no longer identifiable with the mark removed. In no case shall the mere removal of the illegally acquired mark be sufficient to authorize the entry of the goods onto the market.

#### EXPERT AND TECHNICAL COSTS

Art. 90-B.- If the competent court appoints an expert or technical expert in civil proceedings relating to the enforcement of intellectual property rights and order the parties to bear the costs of those experts, such costs shall be closely related to, inter alia, the quantity and nature of the work to be performed and should not unreasonably dissuade them from having recourse to the said procedures.”

Art. 29.- Art. 91 is hereby amended as follows:

“Art. 91.- The compensation of damages and losses shall be calculated on the basis of any of the following criteria, among others, to be chosen by the aggrieved person:

- (a) On the basis of damages suffered by the right holder as a result of the infringement;
- (b) On the basis of the profits that the right holder would have predictably obtained if the infringement had not occurred. To determine the foregoing, the competent court shall consider, inter alia, the value of the good or service that is the subject of the infringement, based on the recommended retail price or other legitimate measure of value presented by the right holder; or

- (c) On the basis of the price or royalty the infringer would have paid for a contractual license, taking account of the commercial value of the subject matter of the infringed right and such contractual licenses as may have already been granted.

In addition, the infringer shall pay the right holder profits attributable to the infraction that were not considered when the amount of damages referred to in the previous letters was calculated.

If the competent court makes an award of costs, these costs shall include reasonable lawyers' fees."

Art. 30.- Art. 92 is hereby amended as follows:

"Art. 92.- Any party initiating or intending to initiate an action for infringement may request the competent national authority to order immediate provisional measures for the purpose of preventing an infringement from occurring, avoiding its consequences, obtaining or preserving evidence, or ensuring the effectiveness of the action or compensation for damages.

Provisional measures may be requested before starting the action, together with it, or after it has been initiated. Any precautionary measure enforced prior to action being initiated shall be without effect as of right, unless that action is initiated within 15 working days of the enforcement of the measure.

The competent court may require the applicant for provisional measures to provide a deposit sufficient to protect the defendant and to prevent abuse and ensure that he/she is not dissuaded from having recourse to the said procedures.

The competent court shall order and implement the measures requested within the non-extendable period of 48 hours from the filing of the application, provided that the latter was accompanied by proof of ownership of the infringed right and that the commission of the infringement or extreme likelihood of commission is demonstrated using available evidence that the competent authority deems to be sufficient. On the assumption that a guarantee is required, the term established at the beginning of this subparagraph shall be reckoned from the submission of the deposit or guarantee required.

The following provisional measures, among others, may be ordered:

- (a) The immediate cessation of acts that constitute the infringement;
- (b) Seizure with inventory, description or deposit of products, packaging, labels and other materials displaying the infringing mark or sign and of the instruments or materials used to commit the infringement; as well as the documentary evidence relevant to the infringement; and

(c) Suspension of the import, export or movement in transit of the products, instruments or materials referred to in letter (b).

The competent court may ask the presumed infringer to provide any information in his/her possession about any person involved in the production or marketing of the products of the presumed infringement and about the means of production or channels of distribution for the infringing goods or services, including the identification of third persons involved in their production and distribution, and their distribution channels, and to provide this information to the right holder”.

Art. 31.- Art. 93 is hereby amended as follows:

#### “SEIZURE OF THE PRODUCTS AND INSTRUMENTS OF THE INFRINGEMENT

Art. 93.- The provisional measures to be applied at the border shall be enforced by the customs authorities at the moment of import, export or transportation of the goods, instruments or materials that are the subject of the infringement.

Products that display unlawful marks or distinctive signs, advertising materials referring to those marks or signs and the instruments or materials used to commit the infringement, shall be retained or seized by the competent customs or police authorities, pending the results of the relevant process.

The customs authority or police shall be exempt from any responsibility in exercising the power established in this Article, unless it were to be proved that they acted in bad faith.”Art. 32.- Art. 95 is hereby amended as follows:

#### “PRESCRIPTION OF ACTION

Art. 95.- Any civil action against an infringement or rights awarded by the present Law shall be limited to five years from when the infringement was committed for the last time”.

Art. 33.- Art. 96 is hereby replaced as follows:

#### “BORDER MEASURES

Art. 96.- The right holder may request the competent court to suspend the import, export or movement in transit of goods with presumably counterfeit or confusingly similar marks, and shall be required to provide adequate evidence to satisfy the competent court that there is prima facie an

infringement of the right holder's intellectual property right and to supply a sufficiently detailed description of the goods that would be reasonably known by the right owner to make them readily recognizable. The requirement to provide sufficient information should not discourage parties from having recourse to these procedures.

The competent court may require the right holder initiating suspension proceedings to provide a security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse. Such security or equivalent assurance shall not unreasonably deter recourse to these procedures. The said deposit may take the form of an instrument issued by a provider of financial services to keep the importer or owner of the imported goods free from any loss or damage resulting from any suspension in the dispatch of goods in the event of the competent court determining that the item does not constitute an infringement.

The importer and the applicant shall be promptly notified of the suspension of the release of goods.

Border measures may be ordered ex officio in respect of imported, exported or in transit goods suspected of infringing an intellectual property right without the need for a formal request on the part of the right holder or a private individual.

In cases where there is a charge for an application or storage of goods, in relation to border measures to enforce an intellectual property right, the charge shall not be set at a level that discourages recourse to such measures."

Art. 34.- The title of Art. 97 is hereby amended as follows: "DURATION OF THE SUSPENSION OF GOODS AT BORDERS"

Art. 35.- The title of Art. 98, is hereby amended as follows:  
"RIGHT OF INSPECTION AND INFORMATION IN CASES OF BORDER MEASURES"

Art. 36.- Art. 99 is hereby amended as follows:  
"MEASURES AGAINST COUNTERFEIT GOODS"

Art. 99.- The competent court shall order the destruction of merchandise that it has determined to be counterfeit, unless the right holder agrees for them to be disposed of in another way. Goods with counterfeit marks may be donated to charity for use outside the market, when the removal of the mark eliminates the infringing characteristics of the goods and it is no longer identifiable with the mark removed. The mere removal of the illegally acquired mark shall not be sufficient to authorize the entry of the goods onto the market. In no case shall the export of counterfeit goods seized by the customs authorities be allowed without their being subjected to a

different customs procedure, except in exceptional circumstances.”

Art. 37.- Art. 104 is hereby amended as follows:

“Art. 104.- The administration of industrial property for the purposes of this Law shall be the responsibility of the Registry, which comes under the National Records Centre. The Registry shall be run by a Director who is a Lawyer and Notary or professional from any other branch, and shall also have Assistant Registrars who are Lawyers and Notaries.”

Art. 38.- Art. 113 is hereby replaced by the following:

#### “COMPETENT COURTS

Art. 113.- Until special courts with jurisdiction in intellectual property matters are created, the competent courts referred to in this Law are those courts that have jurisdiction in trade matters, which shall hear summary proceedings.

Provisional measures may also be handed down by competent courts in legal proceedings for offences.”

Art. 39.- Art. 113-A is hereby inserted between Arts. 113 and 114 as follows:

#### “INTERNET DOMAIN NAMES

Art. 113-A.- As for Internet piracy of marks, the national administrating entity for the domain of the higher level of the country code shall put in place procedures to settle disputes based on principles established in the standardized policies for settling domain name disputes.

Furthermore, that entity shall provide public online access to a reliable and accurate database with the contact information for those registering domain names. In relation to information published by this entity, it shall respect the legal provisions on the protection of privacy of those registering.”

Art. 40.- This Decree shall enter into force eight days following its publication in the Official Journal..

DONE IN THE BLUE CHAMBER OF THE LEGISLATIVE PALACE: San Salvador,  
December 14, 2005.

CIRO CRUZ ZEPEDA PEÑA  
PRESIDENT

JOSÉ MANUEL MELGAR HENRÍQUEZ  
FIRST VICE-PRESIDENT

JOSÉ FRANCISCO MERINO LÓPEZ  
THIRD VICE-PRESIDENT

MARTA LILIAN COTO VDA. DE CUÈLLAR  
FIRST SECRETARY

JOSÉ ANTONIO ALMENDÀRIZ RIVAS  
THIRD SECRETARY

ELVIA VIOLETA MENJÌVAR ESCALANTE  
FOURTH SECRETARY