

## PERUVIAN IP DEVELOPMENTS IN 2022

After Peru has stabilized, having passed the pandemic, the year 2022 has brought a lot of important jurisprudence to take into account in the field of intellectual property in our country.

### **First the modification of the single text of administrative procedures - tupa of indecopi is approved, by reducing the processing time of five (5) administrative procedures in industrial property matters**

On June 21, 2022, the Congress of the Republic, by means of Law No. 31497, amended and incorporated several articles to Legislative Decree No. 1075 by which complementary measures for the application of Decision No. 486 of the Andean Community were approved.

Thus, on October 30, 2022 Indecopi approved the modification of five (5) administrative procedures simplifying the registration, renewal and protection of trademarks, among others.

In such sense, the modifications to the provisions related to the term of processing of the (5) administrative procedures mentioned above, are the following:

- (a) Renunciation of rights on a registration (Incorporates literal 64-A.4): the maximum term for this procedure will be 90 business days, counted from the date of the application until the date of issuance of the resolution that resolves the renunciation.
- b) Request for precautionary measures on registration of industrial property elements (Incorporates a second paragraph to article 112): the maximum term of 15 working days to grant or reject the request for precautionary measures will be counted from the filing of the request or correction of omissions.
- c) Inspection visit (Incorporates item 99.3): the maximum term to process them, in cases of infringement of trademark rights, is 10 working days, counted from the date of the request or correction of the omission (if applicable) until the date of issuance of the resolution ordering the inspection.

d) Renewal of registrations (Incorporates Article 61-C): the maximum term for trademark registration renewal procedures is 60 working days, counted from the filing of the application.

e) Registration of amendments to registrations (Incorporates Article 64-B): the maximum term for registration amendment procedures is 90 working days, counted from the date of the application until the issuance of the resolution.

In the same context, another amendment is that of article 118, referring to inspection procedures at the request of a party, specifying that this must be carried out prior coordination with the applicant and for this purpose it has a term of thirty (30) working days, counted from the date of notification of the resolution ordering the inspection.

Finally, we consider that these amendments will contribute to speed up the procedures to the benefit of the parties concerned.

### **Second, the Plaza Veá case, and why it is not obliged to deliver TV sets sold at S/. 35?**

In this case, the Consumer Protection Commission N°3 of Indecopi resolved to file the administrative sanctioning procedure against Plaza Veá (Supermercados Peruanos S.A.), initiated for the unilateral cancellation of consumers' purchase orders on May 3, 2021.

It all started when said supermarket offered on its website televisions and other high value products at reduced prices of up to S/. 35. After that, the company announced that it had made a "mistake" and proceeded to unilaterally cancel the purchase orders registered by consumers on that date.

In view of this, the National Institute for the Defense of Competition and Protection of Intellectual Property (Indecopi) initiated an inspection process in which it finally ruled in favor of Plaza Veá in September 2022, according to the Resolution Number N. ° 084-2022/CC3.

The decision was taken because the price stated by Plaza Veá was due to an error that, according to the context, could have been known by consumers; consequently, the delivery of the products was not enforceable. In this sense, there was no violation of the provisions of articles 19 and 46 of the Consumer Protection and Defense Code, referring to the obligations of suppliers and the integration and linking of the offer, promotion and advertising.

The Commission reaffirms the consumers' right to have the terms of the offer respected; however, it also recognizes that, in the particular case, in the event of an error that could have been noticed in any of its terms, such as the price, the supplier cannot be required to comply with the offer.

Likewise, the authority urged suppliers to adopt the minimum security and suitability mechanisms necessary to guarantee the truthfulness of the information they provide to their consumers in order to minimize errors such as the one detected in this case, which generates disagreements in electronic commerce.

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