

Intellectual property law

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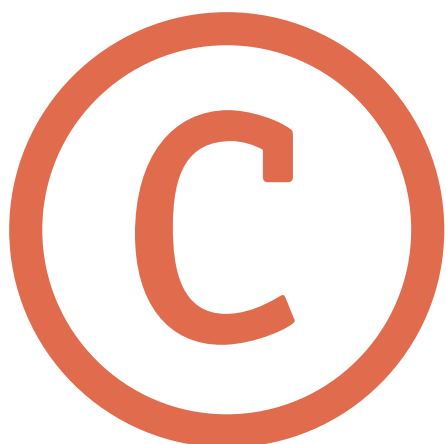


Spanish Intellectual Property (“IP”) legislation is consistent with other EU Member States’ IP laws. Spain has ratified the most relevant international treaties in this field, which entails that non-Spanish nationals may obtain protection of their IP rights in Spain, and that Spanish nationals may obtain such protection in virtually every other country in the world.

This chapter describes the different ways existing in Spain to protect IP rights (trade marks, patents, utility models, plant varieties, industrial designs, topographies of semiconductor products, copyright and computer software), also focusing on the legal remedies available against IP infringements.

Intellectual property law

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1. Introduction

1. INTRODUCTION

1.1. What is intellectual property?

Intellectual property (IP) guarantees businesses protection of their intangible assets through the legal recognition of exclusive rights in such assets (copyrights in creative works and industrial property rights in industrial assets, such as trademarks, patents, designs etc.). Before launching in a new market, the company must take the necessary steps to ensure that its intangible assets are correctly managed and protected.

Table 1

INTELLECTUAL PROPERTY

	Trade secrets	Trademarks ®	Copyright ©	Patents-Utility models	Spanish designs	Community designs
What is protected	Information.	Identifiers.	Creations.	Inventions.	Designs.	Designs.
Duration	It will depend on the policies of the company regarding know-how and confidential information.	10 years, renewable indefinitely.	70 years from the death of the author.	Patents: 20 years maximum, renewable annually. Utility models: 10 years maximum, renewable annually.	5 years extendible up to 25 years.	Unregistered: 3 years Registered: 5 years, renewable for up to 25 years.
Protection requirements	Secrecy and confidentiality Value of the information.	Distinctiveness and use.	Originality.	Novelty, useful and non-obvious subject matter.	Novelty and individual character.	Novelty and individual character.

1.2. What is the registration principle?

In Spain, registration at the relevant industrial property office is a prior requirement in order to obtain protection of intellectual property (as we will see, this principle does not govern copyright).

Spain, unlike the United States for example, follows the “first-to-file” system, which means that the first person to apply for registration will have prior rights. Use does not afford any rights against third parties except in the case of well-known marks.

Registration entails payment of the official fees, whose amount will depend on circumstances such as the specific type of right applied for, the number of classes, territory, etc.¹.

¹ Annex I to this chapter includes a list with links to the official fees corresponding to the different types of rights for 2014.

1. Introduction

1.3. What is the territoriality principle?

The principle of territoriality means that the protection conferred by intellectual property rights is only available, in principle, in the country or countries in which registration has been obtained (or in the case of copyright, in the country where protection is sought).

Thus, the registration of a trademark or a patent in the country of origin by the owner does not confer automatic protection in other countries. Consequently protection must be sought through additional registrations in each relevant country.

1.4. How to overcome the limits of territoriality?

In order to make it easier to protect intellectual property rights in different territories, Spain has ratified the main international conventions in this area.

With rare exceptions, international intellectual property treaties allow non-Spanish nationals to protect their rights in Spain, and Spanish nationals to enjoy protection in most other countries. Spain's membership of the European Union has also favored Spanish legislation to be in line with that of the rest of EU Member States.

1.5. What are the most important conventions signed by Spain?

Table 2

CONVENTIONS SIGNED BY SPAIN

International convention	Intellectual property rights regulated	Organization
<u>Agreement on Trade-related aspects of intellectual property rights (TRIPS)</u>	Intellectual Property	World Trade Organization
<u>Paris Convention</u>	Industrial Property	World Intellectual Property Organization (WIPO)
<u>Patent Cooperation Treaty (PCT)</u>	Patents	World Intellectual Property Organization
<u>European Patent Convention</u>	Patents	European Patent Organization
<u>Madrid Agreement</u>	Trademarks	World Intellectual Property Organization
<u>Madrid Protocol</u>	Trademarks	World Intellectual Property Organization
<u>Berne Convention for the Protection of Literary and Artistic Works</u>	Copyright	World Intellectual Property Organization

1. Introduction

1.6. Can intellectual property rights be marketed?

Intellectual property rights are assets, and may therefore be assigned, encumbered or transferred by any means provided by Law.

Licenses are the contracts most frequently used in this area, through which a third party is authorized to use the rights granted in exchange for payment.

2. Trademarks

2. TRADEMARKS

2.1. What is a trademark?

A trademark is an exclusive right in a distinctive sign the main function of which is to distinguish the goods and services of one undertaking from those of its competitors. It also plays an important role in advertising and goodwill consolidation.

2.2. What factors need to be borne in mind to register a trademark in Spain?

1. That it is free to be used.
2. That it is free to be registered.
3. That it has no negative connotations, *i.e.* it is commercially suitable.

Before marketing goods or services, it is advisable to verify that no identical or similar mark has been registered previously for identical or similar goods or services, since this could prevent the use of the sign in the relevant territory.

After confirming that no prior third-party rights are being infringed, one of the various procedures for obtaining registration should be chosen in order to secure exclusive rights and prevent the mark from being used by other companies. Obtaining registration also involves assessing that the mark is not generic, deceptive, descriptive or contrary to public policy or accepted principles of morality.

2.3. What are the ways of registering a mark in Spain?

- National system.
- International system: Madrid Agreement / Madrid Protocol.
- Community Trademark.

2.4. How do you obtain a Spanish trademark?

By filing an application at the Spanish Patents and Trademarks Office (OEPM).

The application process takes approximately between 8 and 15 months.

Spanish trademarks may consist of words, names or surnames, signatures, numbers and number combinations, slogans, drawings, sounds, colors and three-dimensional shapes, including packaging.

2.5. What checks does the OEPM mark when it receives the application?

The OEPM only examines *ex officio* whether the trademark falls within **absolute grounds for refusal** (mainly, that the mark is not generic, misleading, descriptive or contrary to public policy), but does

2. Trademarks

not carry out an examination of **relative grounds for refusal**, that is, the existence of identical or similar earlier marks registered for identical or similar goods, likely to be confused with the new trademark. Relative grounds for refusal are only examined where the owners of prior marks file an opposition against the trademark application.

In short, the OEPM will not refuse trademarks *ex officio* based on relative grounds, and instead performs a computer search to notify the holders of prior identical or similar signs, for informative purposes only, of the application, in case they are interested in filing an opposition.

2.6. How long does Spanish trademark registration last?

Trademark registration is valid for **10 years** and can be renewed indefinitely for further ten-year periods. However the registration may lapse or be revoked if the trademark is not renewed, if it is not effectively used during an uninterrupted 5-year period, or if it becomes generic or deceptive in connection with the goods and/or services it covers.

2.7. What is an international trademark?

An international trademark is linked to the Madrid system for the international registration of trademarks “Madrid System”, comprising the Madrid Agreement of 1891 and the Madrid Protocol of 1989, and administered by the World Intellectual Property Organization (WIPO), with headquarters in Geneva.

Although known as “international trademarks”, this is **not strictly speaking** the case since the Madrid system unifies administrative procedures at one sole national office, enabling various national registrations to be obtained, but does not offer protection worldwide.

2.8. How do you obtain an international trademark?

The applicant must designate the countries where it wishes to obtain protection from among those countries that have ratified either the Agreement or the Protocol. WIPO subsequently proceeds to notify the national Offices of the designated countries and if no oppositions are filed pursuant to the national laws of each of the countries concerned within one year (pursuant to the Agreement) or 18 months (pursuant to the Protocol), the international trademark will be registered.

Since April 1, 2004 international trademark applications filed under the Madrid system for the international registration of marks may be processed in Spanish.

The application process usually takes between 12 and 20 months.

2.9. Who can file an international trademark?

International trademarks can only be filed by natural or legal persons who have ties to a State that is party to one or both of the treaties (due to nationality, domicile, or real and effective establishment) and may, on the basis of an application filed at the Trademark Office of such State, obtain an international registration effective in all or some of the countries of the Madrid Union.

2. Trademarks

2.10. What is a Community trademark?

A Community trademark confers its proprietor the right to prevent unauthorized use of the trademark by third parties throughout the entire European Union, as well as the use of identical or similar signs that could generate a likelihood of confusion among consumers.

Therefore, an undertaking that seeks to market its products or provide its services in Europe, does not have to file an application in each EU Member State, but rather is able to obtain one sole Community registration that automatically gives it exclusive rights in all of them.

Another important advantage of the Community trademark is that no evidence of use is required to obtain registration, and use of a mark in any one Member State is sufficient to maintain its validity.

The Community trademark does not replace trademark rights in each Member State. The national, international and Community trademark systems coexist and, in some cases, complement each other.

Community trademark infringement actions are brought before Community trademark courts, which are national courts designated by each of the Member States.

2.11. Who can file a Community trademark?

Any person domiciled or with an establishment in the European Union or in a country which is a party to the Paris Convention, or domiciled in a member state of the World Trade Organization.

2.12. How do you obtain a Community trademark?

The Community trademark is administered by the **Office for Harmonization of the Internal Market (OHIM)**, which is based in Alicante, Spain. The application may be submitted in any of the official languages of the European Union, although the applicant is required to designate a second language out of the OHIM's five official languages, (German, Spanish, English, Italian and French) which may be used as the language of opposition, revocation or invalidity proceedings.

The application process takes approximately 7 months if there are no oppositions.

2.13. What checks does the OHIM make when it receives the application?

The OHIM only examines marks on **absolute grounds for refusal** (*i.e.* it mainly verifies that the mark is not descriptive, generic or deceptive in any of the European Union countries).

However, it does not examine applications *ex-officio* on **relative grounds for refusal**, *i.e.* it will not refuse registration on account of the existence of any earlier trademark registrations in the European Union), but rather it is up to the owners of these registrations to file an opposition against such marks at the OHIM.

2. Trademarks

2.14. Community trademark... and international?

The European Union's accession to the Madrid Protocol connects the registration procedure of a Community trademark application to the International trademark registration system. Thus, any person based in an EU State may file an application at the OHIM not just to protect his mark as a Community trademark but also as an international trademark in the Member States of the Madrid Protocol.

2.15. How long does a Community trademark last?

10 years. This period can be renewed for further 10-year periods subject to payment of the appropriate fees.

3. Protection of inventions in Spain

3. PROTECTION OF INVENTIONS IN SPAIN

Inventions may be protected in Spanish law through patents and utility models.

3.1. What is a patent?

Patents are exclusive rights granted by the State to the inventor in his invention for a specific term (**20 years**) on the understanding that once this period has expired, the invention will enter the public domain. Thus society benefits from the technical advantage provided by the invention.

3.2. How can you register a patent in Spain?

In addition to filing a patent application at the OEPM, regional registration systems are also available. Such systems allow the applicant to obtain protection for the invention in one or more countries and each country determines whether or not to protect the patent in its territory pursuant to applicable legislation.

The application process before the OEPM can take a minimum of 30 months.

The patent owner may exploit the invention and prevent third parties from exploiting, marketing, or launching it in the market without consent. While the patent is in force, third parties may only exploit the invention if the owner has granted a license.

3.3. What kinds of inventions are patentable?

In order for an invention to be patentable, it must be new, involve inventive step and be capable of industrial application. Consequently, the three main requirements to obtain a patent are as follows:

1. Absolute novelty.
2. Inventive step.
3. Industrial application.

Scientific discoveries or theories, mathematical methods, literary, scientific, artistic works and any other aesthetic creations, rules and methods of performing a mental act, playing a game or doing business are not considered patentable. Neither is it possible to obtain a patent for inventions that are contrary to public policy, plant varieties (which have their own special legislation) animal breeds, essentially biological processes for the production of plants or animals and the human body.

3.4. Are bio-technological inventions patentable in Spain?

The Spanish Patents Law includes the legal protection of bio-technological inventions, although clear restrictions are established based on ethics and public policy.

3. Protection of inventions in Spain

3.5. Are pharmaceutical products patentable in Spain?

In Spain both product and process patents are admitted and pharmaceutical products have been patentable since 1992.

Indeed, the inclusion of the “Bolar clause” or “Bolar exemption” in the Spanish Patent Law refers precisely to pharmaceutical products. According to this clause performing within certain time periods the necessary studies, tests and trials to obtain authorization for generic drugs does not constitute patent infringement.

Patents are granted for a period of 20 years from the date on which the application is filed. However, a maintenance fee, which is subject to a gradual annual increase, is due yearly.

Once the 20-year period has lapsed, the subject matter of the patent passes into the public domain and may be used by any third party. The Complementary Protection Certificate for pharmaceutical and phytosanitary products, which has been in force since 1998, extends the patent by up to a maximum of five years for the time it took to obtain the relevant administrative authorization, which is essential in order to market such products.

3.6. What is a European patent?

Since Spain’s ratification of the European Patent Convention (EPC) in 1973, Spain may be designated with a European patent application. European patents are administered by the European Patent Office, based in Munich. Via a single procedure and applying legislation in common (the European Patent Convention), this system allows the registration of a bundle of national patents enforceable in the countries designated by the applicant.

3.7. What is a unitary patent?

In 2012, a new patent system was approved in the European Union, establishing the so called “unitary patent”².

According to article 18, the new regulation will be applicable on the date of entry into force of the Agreement on a Unified Patent Court. Italy and Spain have provisionally refused to form part of the system since Spanish and Italian have not been included as working languages.

The unitary patent will be valid automatically from the time it is granted in the remaining 25 EU participating States.

² Regulation (EU) No 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection and Regulation (EU) 1260/2012 implementing enhanced cooperation in the area of unitary patent protection with regard to the applicable translation arrangements.

3. Protection of inventions in Spain

An application for a unitary patent will be filed at the European Patent Office (EPO), in Munich. The official languages of the proceedings (and of the unitary patent system in general) will be English, French and German.

The Regulation envisages the creation of a Unified Patent Court with headquarters in Paris, which will be competent to handle both unitary patents, as well as European patents, and will be bound by European Union Law.

3.8. What is the PCT?

Spain has ratified the Patent Cooperation Treaty (PCT) which unifies the initial filing of applications and the performance of search reports which are necessary to determine the novelty of the invention and the inventive step, with a view to reducing costs and simplifying the grant of a patent. However, as opposed to the European patent, registration is granted by each of the relevant national Offices.

3.9. What is a utility model?

A utility model is a form of protection for inventions which although new and with inventive step, only give the subject matter a configuration, structure, or constitution that results in an advantage, appreciable for its use or manufacture, but with a lower standard of inventiveness.

A lower standard of inventiveness is therefore required for utility models than for patents and, unlike patents, utility models require only national and not absolute novelty. They are granted for a non-extendable period of 10 years, and therefore have a shorter term than patents. This system of protection is particularly suitable for protecting tools, objects and devices used for practical purposes. The application process usually takes between 8 and 14 months.

4. Plant varieties

4. PLANT VARIETIES

4.1. What are plant varieties?

Plant varieties constitute a category of intellectual property with a legal status similar to that of patents. A plant variety is a group of plants that are distinguishable from any other group since they have specific features that remain unchanged after repeated propagation processes and can propagate without changing.

In Spain, applications for plant varieties are processed by the autonomous community authorities.

Finally, the Spanish Criminal Code expressly includes the counterfeiting of plant varieties, the unauthorized propagation or multiplication of a plant variety, and the unauthorized use of the name of said varieties as criminal offences, which are punishable with fines, special disqualification and even prison.

5. Industrial designs

5. INDUSTRIAL DESIGNS

5.1. What are industrial designs?

Industrial designs are industrial property rights that protect the aesthetic appearance of goods rather than their functional novelty. Therefore, the owner of an industrial design has exclusive rights in the appearance of the whole or part of a product (in particular, the lines, contours, colors, shape, texture or materials of the product itself or its ornamentation), if it is novel and has individual character.

5.2. What is novelty and individual character?

A design is considered to meet the **novelty** requirement if no other identical design has been made available to the public beforehand. Two designs are deemed to be identical where they only differ in irrelevant aspects.

As far as **individual character** is concerned, a design is considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced by any design that has been made available to the public beforehand.

5.3. How can you obtain protection in a design?

At present there are three procedures through which designs may be protected:

- Spanish system.
- Community designs.
- International system.

5.4. How do you obtain a Spanish design?

Industrial designs are filed at the OEPM. The application process can take approximately between 6 and 10 months.

The most relevant feature includes the so-called “grace period”, which consists of a 12-month period during which the disclosure of the design by its author or a related third party does not jeopardize the possibility of registration by its lawful owner. The aim of this grace period is to grant the owner of the design a term before registration without such term destroying its novelty.

Once the design has been granted, the owner is entitled to use it and to obtain relief should any third party use it after its grant has been published.

5.5. How long does a Spanish design last?

Registration is granted for a period of 5 years from the filing date, renewable for further 5-year periods up to a maximum of 25 years.

5. Industrial designs

5.6. How do you obtain a Community design?

Community designs are protected in the European Union by Council Regulation 6/2002³.

The essential feature of the Community design system is the recognition of exclusive rights throughout the EU, via a dual system of protection: registered and unregistered designs. In both cases the design must meet the requirements of novelty and individual character.

A registered community design is filed at the OHIM. The application process is very fast, it can take six days, but there is not a fixed term for third parties opposition.

Once granted confers its owner the exclusive right to use and prevent use of said design by unauthorized third parties.

5.7. How long does a Community design last?

Registration is granted for a period of 5 years from the filing date, renewable for further 5-year periods up to a maximum of 25 years.

5.8. What does an unregistered Community design consist of?

An unregistered Community design is a form of protection under Community legislation, through which rights are acquired automatically without the need for filing, simply by disclosing the products to which the design is applied.

Protection of an unregistered Community design is restricted to a period of three years from the date on which the design was first made available to the public within the EU. These types of designs are particularly advantageous for those commercial sectors, such as the fashion industry, which produce short-lived designs and in which the three-year protection period without the need for registration is sufficient and reasonable.

5.9. How do you obtain an international design?

There is an international registration system consisting of filing the application at the World Intellectual Property Organization (WIPO), pursuant to the Hague Agreement.

Through this treaty nationals of the contracting states of the Hague Agreement can obtain protection for their designs in all those states by filing those designs —or a graphic reproduction pursuant to WIPO requirements— at WIPO'S headquarters in Geneva.

A single application is sufficient to protect the design in the member States, subject to the conditions envisaged in each national legislation.

³ Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs.

5. Industrial designs

The European Union's accession to the Hague Agreement on January 1, 2008, means that the applicants of an international design may designate the 28 EU Member States with a single application and also base the application for an international design on a Community design. This is aimed at simplifying registration procedures, reducing the costs deriving from the international protection of designs and simplifying the management of such rights.

Spanish is one of the working languages of The Hague System, which means on the one hand that it is an excellent tool for the international protection of Spanish companies' designs, and on the other acts as an incentive to attract more Spanish-speaking Member States to the System.

6. Topographies of semiconductor products

6. TOPOGRAPHIES OF SEMICONDUCTOR PRODUCTS

6.1. What are topographies of semiconductor products?

Spanish legislation grants a period of protection of 10 years for topographies of semiconductor products, (integrated semi-conductor circuits known as “chips”). The subject-matter of protection is not the integrated circuit itself but the way in which it is physically mounted, that is, the physical arrangement of all its elements.

6.2. How do you obtain topographies of semiconductor products?

In order for the OEPM to grant protection of the semiconductor product, the topography must be the result of the creator’s own intellectual efforts and must not be commonplace in the semiconductor industry, that is, the law requires originality and creativity⁴.

⁴ The governing provisions are to be found in Law 11/1988, the result of the transposition to Spanish law of Directive 87/54/EEC of December 16, 1986.

7. Copyright

7. COPYRIGHT

7.1. What is copyright?

Copyright generates various types of rights, economic rights and “moral” rights. Moral rights cannot be waived or assigned and they entitle the author to decide, *inter alia*, whether his work is to be published and to demand acknowledgement as author of the work. Consequently, economic or exploitation rights can be traded and transferred to third parties.

All literary, artistic or scientific works which are original are protected by copyright, in particular, books, music compositions, audiovisual works, projects, plans, graphics, computer programs and databases. The Copyright Law⁵ also grants related rights to performers, phonogram producers, producers of audiovisual recordings and broadcasting organizations.

7.2. How do you obtain copyright protection?

In Spain, copyright protection is automatic, since it exists from the very moment the work is created. However, it is also possible to register the work on the Copyright Register in order to obtain stronger evidence vis-à-vis third parties.

The application for registration in the Copyright Registry requires payment of the corresponding fees to the Provincial Registry in question. The time for the Registry to issue a decision is approximately 6 months.

7.3. Who owns the rights?

In Spain, the rights are always owned by the author of the work, unless the work was created in the course of an employment relationship, is a collective work or the rights are assigned to a third party.

7.4. How long does copyright protection last?

Copyright protection is granted for 70 years from the death of the author, where the author is a natural person. In those cases in which the author is a legal person, the term of protection is 70 years from January 1 of the year following that in which the work was lawfully published, or following the year of its creation, if the work has not been published.

⁵ In Spain, copyright is governed by Legislative Royal Decree 1/1996 of April 12, 1996. In addition, Spain is party to the Berne Convention for the Protection of Literary and Artistic Works.

8. Unfair competition

8. UNFAIR COMPETITION

8.1. What does unfair competition consist of?

Any conduct objectively contrary to good faith is deemed to be unfair. The amendments introduced by Law 29/2009 significantly extend the scope of consumer protection, whereby in relations between businesses or professionals and consumers, there are two requirements for behavior to be deemed unfair: that the behavior of the business or professional be contrary to professional diligence and capable of significantly distorting the economic behavior of the average consumer. Intellectual property can often be protected via unfair competition legislation.

8.2. What acts are deemed unfair?

Unfair competition torts include acts of confusion, misleading acts and omissions, aggressive acts, acts of denigration, comparison, imitation, exploitation of a third party's reputation, violation of trade secrets, incitement to breach of contract, infringement of laws relating to discrimination and selling at a loss. The 2009 reform also considers the breach of industry codes of conduct to which businesses have freely adhered, an act of unfair competition.

Unfair competition regulations also include the protection of know-how by deeming unfair the disclosure or exploitation, without the consent of their proprietor, of industrial or business secrets obtained lawfully, in the understanding that they would be kept confidential.

9. Action against infringement of intellectual property rights

9. ACTION AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

the owner of intellectual property rights may take both civil and criminal action against those that infringe its rights in Spain:

9.1. Civil actions

The procedure for bringing action before the Civil Courts is governed by the Civil Procedure Law, which establishes the ordinary trial as the procedural means for the trademark owner to defend its rights against third parties.

The IP owner whose rights have been infringed may claim:

- The cessation of the infringing acts.
- Damages.
- Seizure of the infringing goods.
- To be awarded the seized objects or their means of production.
- The adoption of necessary steps to prevent the continuation of the infringement.
- Publication of the judgment against the infringer.

The owner of the rights may also seek injunctive relief to ensure the effectiveness of the available actions.

9.2. Criminal actions

Industrial property rights are also covered by criminal law.

In addition to activities related to the marketing, use, manufacture and imitation of inventions and distinctive signs without the IP owner's consent, the Criminal Code also includes the counterfeiting of plant varieties and parallel imports.

Another aspect that should be underscored is the extension of the grounds for determining that an offense is particularly serious. In this regard the Criminal Code establishes sterner penalties consisting of imprisonment (from one to four years), a fine (from twelve to twenty-four months) and special disqualification from practicing the profession related to the offence committed (for a period ranging from two to five years).

Appendix I

Reference to official fees for 2015

APPENDIX I

REFERENCE TO OFFICIAL FEES FOR 2015

A) Trademarks

- i. National Trademark
- ii. International Trademark
- iii. Community Trademark

B) Patents and utility models

- i. National Patent
- ii. European Patent
- iii. PCT
- iv. Utility Model

C) Industrial designs

- i. Spanish Design
- ii. Community Design
- iii. International Design

D) Topographies of semiconductor products

E) Copyright

Appendix II

Intellectual property conventions

APPENDIX II

INTELLECTUAL PROPERTY CONVENTIONS

Country	IP		Trademarks			Patents		Designs	Copyright
	Paris Convention	WTO ¹ (Trip's) ²	Madrid Agreement	Madrid Protocol	CTM ³	PCT ⁴	EPC ⁵	Hague Agreement	Berne Agreement
Afghanistan		O							
African Intellectual Property Organisation (OAPI)				X				X	
Albania	X	X	X	X		X	X	X	X
Algeria	X	O	X			X			X
Andorra	X	O							X
Angola	X	X				X			
Antigua and Barbuda	X	X		X		X			X
Argentina	X	X							X
Armenia	X	X	X	X		X		X	X
Australia	X	X		X		X			X
Austria	X	X	X	X	X	X	X		X
Azerbaijan	X	O	X	X		X		X	X
Bahamas	X	O							X
Bahrain	X	X		X		X			X
Bangladesh	X	X							X
Barbados	X	X				X			X
Belarus	X	O	X	X		X			X
Belgium	X	X	X	X	X	X	X	X	X
Belize	X	X				X		X	X
Benin	X	X				X		X	X
Bhutan	X	O	X	X					X
Bolivia	X	X							X
Bosnia and Herzegovina	X	O	X	X		X	E	X	X
Botswana	X	X		X		X		X	X
Brazil	X	X				X			X
Brunei	X	X				X		X	X

1. WTO: World Trade Organization.

2. TRIP'S: Trade-Related aspects of Intellectual Property Rights.

3. CTM: Community Trademark.

4. PCT: Patent Cooperation Treaty.

5. EPC: European Patent Convention.

6. E: Non-Member States that have executed extension agreements with the European Patent Organization.

7. O: Observer Governments which should commence negotiations for adhesion within 5 years of becoming observers.

• Will become a member of the European Union on July 1, 2013.

Appendix II

Intellectual property conventions

APPENDIX II (Cont.)

INTELLECTUAL PROPERTY CONVENTIONS

Country	IP		Trademarks			Patents		Designs	Copyright
	Paris Convention	WTO ¹ (Trip's) ²	Madrid Agreement	Madrid Protocol	CTM ³	PCT ⁴	EPC ⁵	Hague Agreement	Berne Agreement
Bulgaria	X	X	X	X	X	X	X	X	X
Burkina Faso	X	X				X			X
Burundi	X	X							
Cambodia	X	X							
Cameroon	X	X				X			X
Canada	X	X				X			X
Cape Verde		X							X
Central African Republic	X	X				X			X
Chad	X	X				X			X
Chile	X	X				X			X
China	X	X	X	X		X			X
Colombia	X	X		X		X			X
Comoros	X	O				X			X
Congo	X	X				X			X
Costa Rica	X	X				X			X
Côte d'Ivoire	X	X				X		X	X
Croatia	X	X	X	X	X	X	X	X	X
Cuba	X	X	X	X		X			X
Cyprus	X	X	X	X	X	X	X		X
Czech Republic	X	X	X	X	X	X	X		X
Democratic People's Republic of Korea	X		X	X		X		X	X
Democratic Republic of the Congo	X	X							X
Denmark	X	X		X	X	X	X	X	X
Djibouti	X	X							X
Dominica	X	X				X			X
Dominican Republic	X	X				X			X

1. WTO: World Trade Organization.

2. TRIP'S: Trade-Related aspects of Intellectual Property Rights.

3. CTM: Community Trademark.

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Intellectual property conventions

APPENDIX II (Cont.)

INTELLECTUAL PROPERTY CONVENTIONS

Country	IP		Trademarks			Patents		Designs	Copyright
	Paris Convention	WTO ¹ (Trip's) ²	Madrid Agreement	Madrid Protocol	CTM ³	PCT ⁴	EPC ⁵	Hague Agreement	Berne Agreement
Ecuador	X	X				X			X
Equatorial Guinea	X	O				X			X
Egypt	X	X	X	X		X		X	X
El Salvador	X	X				X			X
Estonia	X	X		X	X	X	X	X	X
Ethiopia		O							
European Communities		X		X				X	
Fiji		X							X
Finland	X	X		X	X	X	X	X	X
France	X	X	X	X	X	X	X	X	X
Gabon	X	X				X		X	X
Gambia	X	X				X			X
Georgia	X	X		X		X		X	X
Germany	X	X	X	X	X	X	X	X	X
Ghana	X	X		X		X		X	X
Greece	X	X		X	X	X	X	X	X
Grenada	X	X				X			X
Guatemala	X	X				X			X
Guinea	X	X				X			X
Guinea-Bissau	X	X				X			X
Guyana	X	X							X
Haiti	X	X							X
Honduras	X	X				X			X
Hong Kong		X							
Hungary	X	X	X	X	X	X	X	X	X
Holy See	X	O							X
Iceland	X	X		X		X	X	X	X

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India	X	X		X		X			X
Indonesia	X	X				X			X
Iran, (Islamic Republic of)	X	O	X	X		X			
Iraq	X	O							
Ireland	X	X		X	X	X	X		X
Israel	X	X		X		X			X
Italy	X	X	X	X	X	X	X	X	X
Jamaica	X	X							X
Japan	X	X		X		X			X
Jordan	X	X							X
Kazakhstan	X	O	X	X		X			X
Kenya	X	X	X	X		X			X
Kuwait	X	X							X
Kyrgyzstan	X	X	X	X		X		X	X
Laos	X	X				X			X
Latvia	X	X	X	X	X	X	X	X	X
Lebanon	X	O							X
Lesotho	X	X	X	X		X			X
Liberia	X	O	X	X		X			X
Libya	X	O				X			X
Liechtenstein	X	X	X	X		X	X	X	X
Lithuania	X	X		X	X	X	X	X	X
Luxembourg	X	X	X	X	X	X	X	X	X
Macao		X							
Madagascar	X	X		X		X			X
Malawi	X	X				X			X
Malaysia	X	X				X			X

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Maldives		X							
Mali	X	X				X		X	X
Malta	X	X			X	X	X		X
Mauritania	X	X				X			X
Mauritius	X	X							X
Mexico	X	X		X		X			X
Micronesia									X
Monaco	X		X	X		X	X	X	X
Mongolia	X	X	X	X		X		X	X
Montenegro	X	X	X	X		X	E	X	X
Morocco	X	X	X	X		X		X	X
Mozambique	X	X	X	X		X			X
Myanmar		X							
Namibia	X	X	X	X		X		X	X
Nepal	X	X							X
New Zealand	X	X		X		X			X
Nicaragua	X	X				X			X
Niger	X	X				X		X	X
Nigeria	X	X				X			X
Norway	X	X		X		X	X	X	X
Oman	X	X		X		X		X	X
Pakistan	X	X							X
Panama	X	X				X			X
Papua New Guinea	X	X				X			
Paraguay	X	X							X
Penghu, Kinmen and Matsu (Customs Territory other than Taiwan)		X							

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Peru	X	X				X			X
Philippines	X	X		X		X			X
Poland	X	X	X	X	X	X	X	X	X
Portugal	X	X	X	X	X	X	X		X
Qatar	X	X				X			X
Republic of Korea	X	X		X		X		X	X
Republic of Macedonia (the former Yugoslav Republic of Macedonia)	X	X	X	X		X	X	X	X
Republic of Moldova	X	X	X	X		X		X	X
Romania	X	X	X	X	X	X	X	X	X
Russian Federation	X	X	X	X		X			X
Rwanda	X	X		X		X		X	X
Saint Kitts and Nevis	X	X				X			X
Saint Vincent and the Grenadines	X	X				X			X
Saint Lucia	X	X				X			X
Samoa	X	X							X
San Marino	X		X	X		X	X		
Sao Tome and Prince	X	O		X		X		X	
Saudi Arabia	X	X				X			X
Senegal	X	X				X		X	X
Serbia	X	O	X	X		X	X	X	X
Seychelles	X	O				X			
Sierra Leone	X	X	X	X		X			
Singapore	X	X		X		X		X	X
Solomon Islands		X							
Slovakia	X	X	X	X	X	X	X		X

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Slovenia	X	X	X	X	X	X	X	X	X
South Africa	X	X				X			X
Spain	X	X	X	X	X	X	X	X	X
Sri Lanka	X	X				X			X
Sudan	X	O	X	X		X			X
Suriname	X	X						X	X
Swaziland	X	X	X	X		X			X
Sweden	X	X		X	X	X	X		X
Switzerland	X	X	X	X		X	X	X	X
Syria	X	O		X		X		X	X
Tajikistan	X	X	X	X		X		X	X
Thailand	X	X				X			X
The Netherlands	X	X	X	X	X	X	X	X	X
Togo	X	X				X			X
Tonga	X	X							X
Trinidad and Tobago	X	X				X			X
Tunisia	X	X		X		X		X	X
Turkey	X	X		X		X	X	X	X
Turkmenistan	X			X		X			
Uganda	X	X				X			
Ukraine	X	X	X	X		X		X	X
United Arab Emirates	X	X				X			X
United Kingdom	X	X		X	X	X	X		X
United Republic of Tanzania	X	X				X			X
United States of America	X	X		X		X			X
Uruguay	X	X							X
Uzbekistan	X	O		X		X			X

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Vanuatu		X							X
Venezuela	X	X							X
Viet Nam	X	X	X	X		X			X
Yemen	X	X							X
Zambia	X	X		X		X			X
Zimbabwe	X	X		X		X			X

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This guide was researched and written by Garrigues on behalf of ICEX-Invest in Spain.

This guide is correct to the best of our knowledge and belief at the date indicated below.
It is, however, written as a general guide, so it is necessary that specific professional advice
be sought before any action is taken.

Madrid, March 2015

Prepared by:

GARRIGUES



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