

## Good to know if you are applying for a patent in Chile!

**Patentability:** Patents are granted for a term of 20 years counted from the filing date of the application. Products and/or procedures are patentable provided that they meet the novelty, non-obviousness and industrial applicability requirements. Exceptionally, patents may be granted for "*the new use of known articles, objects or elements*".

**Limits on patentability:**

- Software (protected through copyright provisions).
- Discoveries, scientific theories and mathematical methods;
- Plants and animals, except microorganisms that comply with general conditions for patentability;
- Plant varieties (protected via a *sui generis* system);
- Processes for the production of plants and animals which are essentially biological;
- Systems, methods, economic, financial or commercial plans and principles, business plans and those referred to purely mental or intellectual activities or gaming.
- Methods for surgical or therapeutic treatment, administration or diagnostic methods applied to the human and animal body, except for the products aimed to put in practice those methods.
- Mere new use, change of form, change of dimensions, change of proportions or change of materials of articles, objects or elements known and employed for determined purposes.
- Parts of living beings as found in nature, natural biological processes, biological material existing in nature or material that can be isolated, including genome or germplasm.

**Grace period:** A 12-month grace period for claiming the "*innocuous disclosure*" of the invention (non-prejudicial disclosures or exceptions to the novelty requirement) is granted in the case of public disclosures made or authorized from the applicant, or even in the case of disclosures derived from abuse or unfair practices. This is a legal exception that has to be claimed when filing the patent application and the grace period is counted from the date of the first universal disclosure of the invention.

**Divisional applications:** Divisional applications may be filed at any time during the prosecution of the patent application. However, if the first substantive examination report has been already issued, then divisional applications are only allowed if there is a unity of invention problem.

**Pre-grant proceedings:** Any interested party may file an opposition within a term of 45 working days after the publication date of a patent application in the Official Gazette.

**Post-grant proceedings:** Any interested party may request the cancellation of a patent within 5 years counted from the granting date of the final registration.

**Formalities:** Notarization/legalization/Apostille of documents (POA, assignment) is not required. In the case of claiming the Paris Convention priority right, a certified copy of the priority document will be needed.

**Official fees:** No annuities and no excess claims fees apply!

**General prosecution:** The non-contentious prosecution of a patent application usually takes an average time of 3.5 years, since the substantive examination implies the issuance of at least two technical reports/office actions.

**PPH Pilot Program:** The PPH Pilot Program is part of a collaborative effort between the Colombian (CO), Mexican (MX), Peruvian (PE) and Chilean (CL) Patent Offices to speed up the examination of patent applications in the Latin American region.

In the case of other PROSUR countries, such as Argentina, Brazil, Ecuador, Paraguay and Uruguay; those patent applications wherein INAPI (Chile) or INPI (Brazil) have been designated as ISA, can

also get an accelerated examination in the corresponding national equivalent case, provided that the ISR issued in the corresponding PCT application was favorable.

The Chilean Patent Office also has PPH Pilot Program agreements with the Canadian (CA) Patent Office (CIPO), the Japanese Patent Office (JPO), the Chinese Patent Office (SIPO) and the United States Patent and Trademark Office (USPTO), which extend the benefits of this program beyond the Latin American region.

To apply for any of these pilot programs in Chile, a PPH form has to be submitted with the basic information about the patent application and the examination results of the previous examination office, so that INAPI, as subsequent examination office; can check that the following minimum requirements are fulfilled:

- The patent applications claim the same priority and have at least one allowable claim;
- INAPI has not yet issued the first examination report; and
- The claims accepted to registration by the previous examination patent office are substantially identical to those that will undergo substantive examination in Chile.