

JIV Patentes & Marcas

Expertos en Propiedad Industrial e Intelectual

INDUSTRIAL PROPERTY:

Industrial Property is a variety of exclusive rights which protect innovative activity manifested in new goods, new procedures, new designs or mercantile activity, by means of the exclusive identification of goods and services offered in the market.

INVENTIONS:

A PATENT is a title which recognises the right to exclusively exploit the patented invention, preventing others from manufacturing, selling or using it without authorisation by the owner. The patent is used to put an invention to public disposition for general information.

The right given by a patent isn't so much for manufacturing, offering it in the market or the for use of the object of the patent, but, above all and especially, "the right to exclude from others" the manufacture, use or introduction in the market of the patented good or procedure.

The patent may refer to a procedure, a machine, a good or an improvement on one of them (It must be a world wide novelty).

The duration of the Patent is of 20 years beginning from the filing date of the application. An annual fee must be paid, from its concession to keep the patent in vigour.

A UTILITY MODEL protects inventions with less inventive rank than those protected by patents, consisting of, for example, in giving an object a configuration or structure from which any utility or practical advantage is derived.

The device, instrument or toll protected by the Utility Model (it must be a novelty in Spain) is distinguished by its "utility" and "Practicality" not by its "aesthetic" as occurs in Industrial design.

The range of the protection of a Utility Model is similar to that conferred to by the Patent. The duration of the Utility Model is of 10 years from the filing date of the application. In order to maintain the right, it is necessary to pay annual fees.

AN INDUSTRIAL MODEL gives an exclusive right to its owner for the new shape given to a three-dimensional good or article. In this case the protected creativity falls on the aesthetic appearance of the good.

The model is registered for a period of five years starting from the date the application is submitted and can be renewed for one or more successive five-year periods up to a maximum of 25 years.

AN INDUSTRIAL DESIGN gives an exclusive right to its owner on all new disposition or combinations of lines or colours, applicable within commercial purpose for the ornamentation of a two-dimensional product or article.

The design is registered for a period of five years starting from the date the application is submitted and can be renewed for one or more successive five-year periods up to a maximum of 25 years.

DISTINCTIVE SIGN:

A TRADEMARK is a title which gives the exclusive right of use to a certain identification of a good or service in the market.

The trademark can be words or combinations of words, images, figures, symbols, graphics, letters, numbers, three-dimensional shapes (covers, boxes, good form or its representation).

Duration: 10 years renewable for periods of the identical duration.

A TRADE NAME is a title which gives the exclusive right of use to any sign or denomination as identification of a legal or natural person in the exercise of its business activity. The commercial names, as a title of industrial property, are independent of the corporate name inscribed in the Mercantile Register.

Duration: 10 years renewable for periods of the identical duration.

INTELLECTUAL PROPERTY:

THE AUTHOR RIGHT (Intellectual Property in Spain) is regulated by the Legislative Royal Decree 1/1996 on April 12, which adapt and harmonise the several legal dispositions about Intellectual Property.

On the other hand, it must be noted that Spain is a member of the Berne Agreement on Intellectual Property, in which is it established the reciprocity in the protection between member states.

The law establishes that the Intellectual Property of a literary, artistic or scientific work corresponds to the author only by the fact of its creation.

On the other hand, it is important to make clear that the right of Intellectual property is independent and accumulative to other kinds of rights, such as the Industrial Property rights.

The Intellectual Property Register is unique for Spain and depends on the Ministry of Culture.

All the original, artistic, or scientific creations may be object to register as Intellectual Property, comprising among themselves:

- Books, brochures, speeches, conferences.
- Musical compositions.
- Theatrical works in general.
- Audio-visual and cinematographic works.
- Artistic works (sculptures, paintings, drawings, sketches, and comics).
- Projects, plans, scale models for engineering and architecture works.
- Computer programs.
- Graphics, maps and designs relating to topography and to science in general.
- Collections that due to disposition or selection of elements form intellectual creations.
- The derived works, translations and adaptations, musical settings, summaries and extracts.