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Amendments to the Mexican Patent Law and their impact on patent practice

Sergio L. Olivares Sr., Daniel Sánchez, Rommy Morales, and Jorge Juárez of OLIVARES examine Mexico's amendments to its Federal Law for the Protection of Industrial Property, outlining key procedural changes and their practical implications for patent applicants. From the introduction of provisional applications to new timelines and restoration mechanisms, they explore how these developments aim to modernize the system and align it with international practice.



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In 2025, Mexico's President Claudia Sheinbaum introduced a set of amendments to the Federal Law for the Protection of Industrial Property, introducing new mechanisms and revising existing procedures within the Mexican patent system. Rather than addressing isolated issues, the amendments encompass a coordinated set of changes affecting patent filing and prosecution in Mexico, including early-stage filing options, examination timelines, procedural remedies, and third-party participation. The amendments have been approved with certain modifications and were published in the Official Gazette of the Federation (DOF) on April 3, 2026, entering into force on April 4, 2026.

The amendments include several interrelated measures, most notably the introduction of provisional patent applications, a mechanism widely used in other jurisdictions but previously unavailable in Mexico. The amendments also establish statutory time limits for substantive examination, expand mechanisms for restoring procedural and priority rights,

formalize a specific request procedure allowing applicants a short period to remedy omissions or deficiencies in priority documentation, and broaden third-party participation in utility model and design proceedings.

The amendments introduce changes across several procedural phases of patent



prosecution in Mexico. The following sections outline the main provisions and describe how they are expected to operate within the Mexican patent system.

Provisional patent applications

One of the most notable innovations introduced by the amendments to Mexico's Federal Law for the Protection of Industrial Property is the creation of the provisional patent application. Previously absent from Mexican law, this mechanism is widely used in other jurisdictions such as the United States, Australia, India, and France, where it has proven to be an effective tool for promoting early protection of inventions.

The provisional patent application will allow inventors to secure a filing date with minimal formal requirements, without needing to comply immediately with all the demands of a full patent application. According to the amendments, it will be sufficient to submit the name of the inventor or assignee and a description that is adequate to identify the invention. From that moment, the applicant will have a non-extendable period of 12 months to file the formal patent application, which must meet all legal and regulatory requirements.

It is important to emphasize that the provisional application will establish a filing date that can be claimed as the priority date for the subsequent full patent application, provided that the latter is filed within the 12-month window. The provisional application itself will not be published or examined by the Mexican Institute of Industrial Property (IMPI). If the formal application is not filed within the specified period, the provisional application will be considered abandoned, without the need for any administrative declaration. This scheme is designed to offer flexibility and reduce initial costs for those in the early stages of developing an invention, allowing them to refine their idea, seek funding, or assess its commercial potential before committing to the full patent process.

The introduction of this mechanism responds to the need to make industrial property protection more accessible, especially for independent inventors, small businesses, and research centers. Furthermore, by aligning the Mexican system with international practices, it facilitates the entry of national inventions into global markets and encourages innovation by providing greater certainty and protection from the earliest stages of the creative process. These changes are consistent with the current government's policy to promote innovation as a key driver of economic growth and competitiveness.

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The 12-month window

Following the filing of a provisional application, applicants will have a 12-month period before submitting the complete application. This time serves as a legally protected window during which inventors can generate experimental data, adjust claim scope, and explore commercial opportunities.

The amendments recognize that in sectors like biotechnology, pharmaceuticals, medical devices, and advanced materials, the path from initial concept to a fully developed invention often requires significant time and resources. By allowing applicants to secure an early filing date while continuing technical development, the amendments introduce a mechanism that provides legal certainty and practical flexibility.

Legal effect and priority of the Mexican provisional patent application

The amendments introduce the Mexican provisional patent application, with specific rules regarding its effect on priority claims. According to the amendments, a provisional application filed in Mexico cannot itself claim priority from an earlier application, whether domestic or foreign. In other words, when filing a Mexican provisional application, the applicant cannot benefit from the filing date of a previous application submitted in another country or before IMPI.

However, the Mexican provisional application can serve as the basis for a priority claim in a subsequent complete application. If the applicant files the complete application within 12 months, the filing date of the provisional application may be claimed as the priority date for the full application, provided all legal requirements are met.

If the complete application is not filed within the 12-month period, the provisional filing lapses without effect. As the provisional application is neither examined nor published, the legal framework does not prevent the applicant from filing a new application at a later date, although without the benefit of the earlier filing date.

Maximum time limits for substantive examination

The amendments establish time limits for the issuance of final decisions once substantive examination has commenced. For patent, utility model, and industrial design applications, IMPI is expected to issue a final decision within one year from the start of the substantive examination.

If no final decision is issued within

this period, applicants may request the intervention of a specialized technical committee to be established for this purpose, which will assess the circumstances of the delay and determine the appropriate course of action.

This approach reflects a departure from the originally proposed concept of 'affirmative administrative silence,' which was not retained in the final version of the amendments. Instead, the adopted framework introduces a mechanism aimed at ensuring timely resolution through institutional review.

In addition, recent amendments to the applicable administrative regulations, effective as of March 12, 2026, limit the number of substantive office actions that may be issued during examination. Under these rules, IMPI may issue a maximum of two substantive office actions in patent and utility model applications.

While these measures are intended to promote efficiency, their practical implementation may present challenges, particularly in complex cases where the reduced number of office actions and compressed timelines could limit the flexibility available to applicants and their ability to fully address substantive issues during examination.

Restoration of procedural rights

An important issue in the amendments is the introduction of mechanisms allowing applicants to restore rights lost due to missed procedural deadlines, such as failing to respond to a formal office action, a substantive office action, or to pay the grant fees. For applications filed prior to the entry into force of the amendments, once a deadline for responding to a formal or substantive office action, or for paying grant fees, is missed, there is no possibility to reinstate the application; abandonment is final and irreversible.

To benefit from the right of restoration, the applicant will have a non-extendable period of 15 business days counted from the expiration of the missed deadline to file a

written request for restoration of rights.

This mechanism does not operate *ex officio*. Accordingly, the applicant must expressly submit the restoration request, together with full compliance with the omitted requirement. IMPI is not required to issue any prior warning, reminder, or notification regarding the missed deadline or the availability of the restoration mechanism; if the applicant fails to act within the prescribed timeframe, IMPI will proceed directly with the issuance of the abandonment office action.

Priority rights and restoration

The amendments introduce a mechanism to restore priority rights within two months after the original deadline has passed (12 months for inventions and utility models, six months for designs), providing applicants with a mechanism to mitigate the irreversible loss of priority. This change enhances procedural flexibility and supports innovators who operate under tight timelines, reducing the impact of administrative oversights.

Nevertheless, the amendments do not make any reference to international treaties, which may create uncertainty regarding the possibility of entering the national phase in Mexico for PCT applications after the 30-month period.

While the introduction of priority restoration represents a step toward greater procedural flexibility, it may also prompt a reconsideration of Mexico's current position with respect to the reservations maintained under the PCT framework.

Priority documentation and corrective mechanism

In Mexico, when claiming a right of priority, applicants must submit a certified copy of the priority document along with its Spanish translation within three months from the filing date of the Mexican application. Failure to meet this requirement means the priority claim will not be recognized, which can significantly impact the scope of protection and the applicant's competitive position.

The amendments introduce a new corrective mechanism: if IMPI detects that the certified copy or translation is missing or deficient after the three-month period, it may issue a notice granting the applicant five business days to provide the required documentation. This mechanism is a positive step, as it offers a last opportunity to remedy omissions that would otherwise result in the loss of priority rights.

However, the practical challenge lies in the extremely short timeframe. Obtaining a certified copy from a foreign office and

The amendments introduce a mechanism to restore priority rights within two months after the original deadline has passed.

preparing an accurate Spanish translation often requires more than five days. Additionally, although Mexico participates in the WIPO Digital Access Service (DAS), not all countries use this system, and access to certified copies of the priority documents is limited to patent offices, not applicants. These factors make the five-day corrective period even more restrictive in practice.

While the measure reflects an effort to make the system more flexible, it may be insufficient in certain cases.

Conclusions

The amendments to Mexico's patent law represent a significant and positive step toward modernizing the system and aligning it with international practices. By introducing mechanisms such as provisional applications, restoration of rights, and defined examination timelines, the initiative seeks to provide greater legal certainty and efficiency for applicants. The transitory provisions of these legislative changes establish that they entered into force on the day following their publication, while pending applications and proceedings will continue to be prosecuted under the legal framework in force at the time they were initiated, without prejudice to the intervention of the Specialized Technical Committee in such cases once it is duly constituted.

That said, as with any major legislative change, certain aspects will require further clarification through the corresponding implementing regulations to ensure their effective application in practice, which are expected to be issued shortly. At OLIVARES, as part of various intellectual property associations, we have been submitting comments and proposals to clarify and strengthen the amendments, with the goal of contributing to a robust and well-functioning patent system.

Sergio L. Olivares Sr. joined OLIVARES in 1987 and has been practicing IP law for more than three decades. He has been a partner since 1994 and Chairman of the firm's Management Committee since 2009. He is proficient across all areas of IP law but works most closely with the firm's Patent Group. Sergio is highly recommended by leading industry publications and directories as a leader in IP. He has been integral to OLIVARES' expansion into new and innovative practice areas and has been at the helm of cases that are helping to shape the standard for evaluating inventive step and novelty for pharmaceutical patents.

Daniel Sánchez joined OLIVARES in 2000, became a partner in 2011, and co-chairs the firm's Litigation and Patent Teams. He is one of the leading IP and administrative litigators in Mexico and is recognized by industry rankings and publications, including Chambers Latin America, IAM Patent 1000, and WTR 1000. He is also one of the few regulatory and administrative litigation experts in Mexico.

Rommy Morales, a biologist with a master's in molecular biomedicine and a specialist in IP, has more than 16 years of experience in the field. As a partner at OLIVARES, she is an expert in patents and pharmaceutical patent litigation. Her successful career positions her as a distinguished leader in this area.

Jorge Juárez has over 20 years of experience in the field of intellectual property. Since 2016, he has been part of the Patent Department at OLIVARES, where he coordinates the Mechanical, Electrical, and Industrial Design practice group. His practice focuses on the technical-legal analysis of patents, utility models, and industrial designs, advising both domestic and international clients on the protection of their inventions in Mexico and abroad. He has extensive experience in patent prosecution, including substantive examination matters, patent searching, and drafting, as well as in providing technical support in patent litigation. Jorge is actively involved in various national and international intellectual property associations and served as President of the Patents and Plant Varieties Committee of the Mexican Association for the Protection of Intellectual Property (AMPPI) from 2023 to 2025.

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