

CHILE: MAIN CHANGES IN TRADEMARKS TO THE INDUSTRIAL PROPERTY LAW.

- 1. Incorporation of the non-use cancellation action.** The total or partial cancellation of a trademark registration will be applicable if the trademark has not been used within a period of five years from the date of grant or if such use has been uninterruptedly suspended for that period. The declaration of cancellation may not be made ex-officio and must be requested by a party with legitimate interest.
- 2. Registering non-traditional trademarks, such as 3D, olfactory and position marks.** This amendment is relevant since it broadens the range of registrable trademarks, eliminating the requirement of graphic representation.
- 3. Collective and certification marks.** These are currently recognized only in a circular issued by the National Institute of Industrial Property (INAPI) and are now legally incorporated.
- 4. Elimination of types for commercial and industrial establishments.** The registrations that protect these types, at the moment of their renewal, should be applied for as services in classes 35 and 40, respectively, in accordance with global standards.
- 5. A new offense for trademark counterfeiting is introduced, which includes possible prison sentences of up to three years.** The law also creates a special form for determining compensation of damages for trademark counterfeiting violations. Trademark offenses did not previously include prison sentences, only fines for the benefit of the tax authorities.
- 6. Suing for revocation on the grounds of loss of distinctiveness.** The law also foresees the possibility of suing for revocation of trademarks that have become the common designation in trade of a product or service for which they are registered, on the grounds of loss of its distinctiveness.