

GUIDE FOR THE REGISTRATION OF A PATENT

Developed by
the Intellectual Property team at LatinAlliance

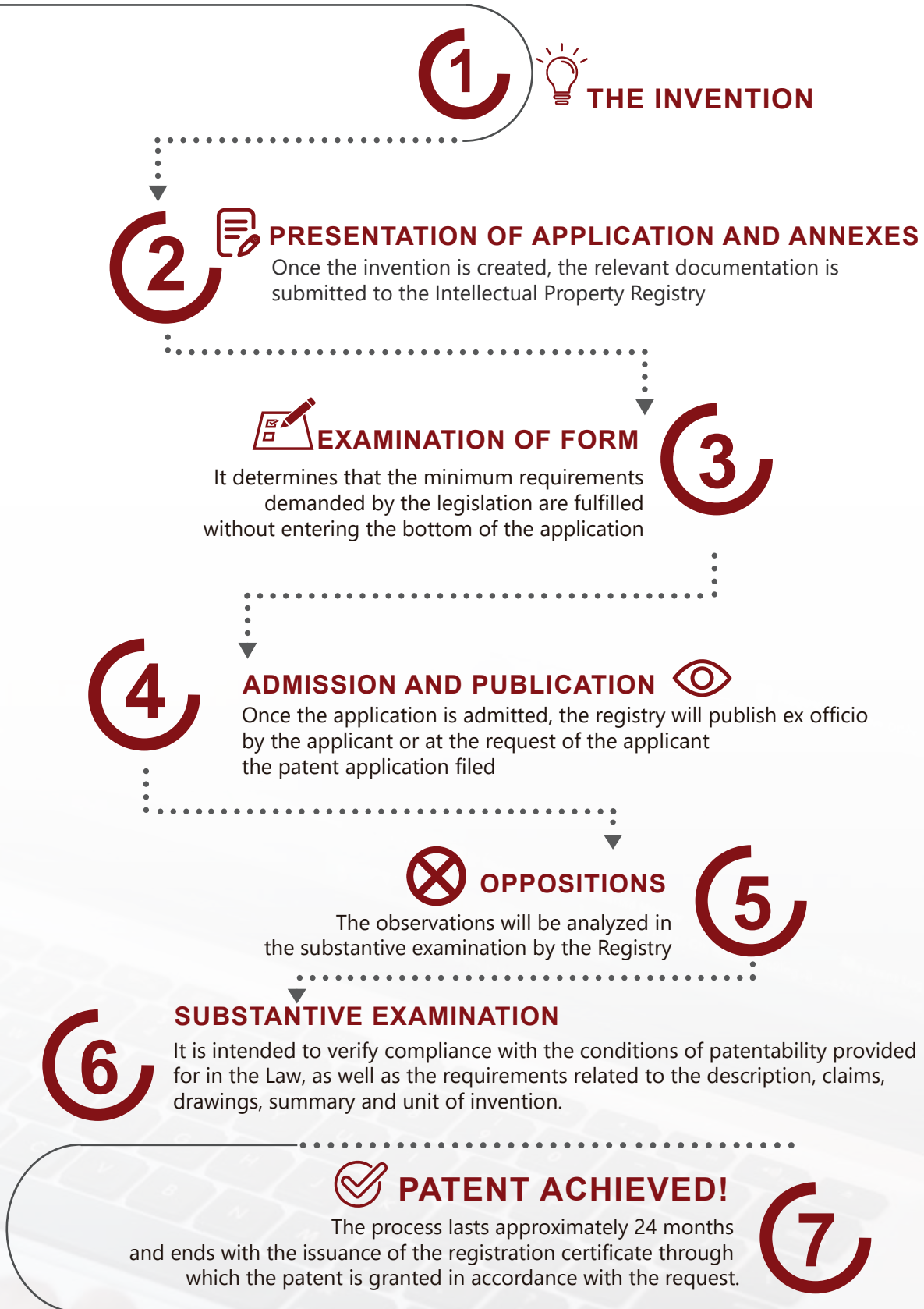
| CENTRAL AMERICA



LATINALLIANCE
ABOGADOS • ATTORNEYS
TRAYECTORIA REGIONAL CON INTEGRIDAD

REGISTRATION PROCESS OF A PATENT

EL SALVADOR



Guide for patent registration in Guatemala

To patent an invention means to protect it. Obtaining a patent is very important for today's competitive market:

- Patents generate exclusive rights to their owner, and this allows them to negotiate and obtain an economic compensation.
- Patents offer exclusivity to a business which is of paramount importance to an investor.
- The owner of a patent can negotiate his invention or technology with third parties and exploit it in a safe way.
- The follow-up of competing patents allows the entrepreneur to have certain information on where trends in their sector are moving and to make decisions that commercially allow them to maximize their profits.
- In order to grow and consolidate in the market it is necessary to patent innovation to protect yourself from competition.
- Ensures the inventor the protection and exploitation of his invention or innovation, during a period of twenty years, during which time the patent can be exploited economically.

In resume, patenting offers competitive advantages to companies, assuring them a market position.

What is a patent?

The Industrial Property Law in Guatemala doesn't have a definition, however we can define it as "The title granted by the State that protects the right of the inventor or the owner respect to an invention whose effects and scope are determined in the Law of Industrial property".

The World Intellectual Property Organization (WIPO) defines the patent as "An exclusive right granted over a product or process that generally offers a new way of doing something or a new technical solution to a problem.

The patent holder may authorize or grant a license to third parties to use their invention, in accordance with mutually agreed terms. The owner may also assign the right to the invention to a third party, who will become the new owner of the patent. When the patent expires, the protection conferred ends and the invention goes into the public domain; it means that the invention can be commercially exploited without infringing the patent.

A patent is an exclusive right that is granted over an invention. The patent entitles its holder to decide if the invention can be used by others, in that case, in which way.

In return for that right, in the published patent document, the patent holder makes the technical information related to the invention available to the public. ”

According to data provided by the Intellectual Property Registry between 2012 and 2017, 795 patent registration certificates had been granted.

Inventions can be of products or processes. The Industrial Property Law, Decree 57-2000, establishes three patentability requirements:

1. Novelty: An invention is considered novel if it is not in the state of the art. The state of the art will include everything that has been disclosed or made accessible to the public anywhere in the world and by any means, before the date of filing of the patent application in the country or, where appropriate, before the applicable priority date.

2. Inventive Level: An invention is considered to have an inventive level if, for a person ability in the technical field, it is not obvious nor would it have been derived from the prior art.

3. Industrial Application: An invention is considered susceptible of industrial application when its object can be produced or used and has a specific, substantial and credible utility in any type of industry or productive activity.

What is not considered an invention?

- Simple discoveries.
- Matters or energies in the way they are found in nature.
- Biological procedures as they occur in nature and do not involve human intervention, except for microbiological procedures.
- Scientific theories and mathematical methods.
- Purely aesthetic creations, literary and artistic works.
- The plans, principles, rules or economic methods, of advertising or business, and those referring to purely mental or intellectual activities or to matters of play.
- Computer programs in isolation.

Are all inventions patentable?

The Industrial Property Law, Decree number 57-2000, establishes in its article 92, that it cannot be patented:

- Diagnostic, therapeutic and surgical methods for the treatment of people or animals;
- An invention whose exploitation would be contrary to public order or morality, with the understanding that exploitation will not be considered contrary to public order or morality only because it is prohibited, limited or conditioned by any legal or administrative provision.

Applicable legislation

- Decree number 57-2000, Industrial Property Law.
- Government Agreement number 862-2000, Tariff of the Intellectual Property Registry, in Industrial Property Matters.
- Government Agreement number 148-2014, Reforms to Government Agreement number 862-2000.
- Patent Cooperation Treaty, Guatemala since July 14, 2006.
- Decree Number 17-73, Criminal Code.
- Decree Law Number 107, Civil and Commercial Procedural Code

What is the Patent Cooperation Treaty?

The Patent Cooperation Treaty is a multilateral treaty, in force since 1978 and is administered by the World Intellectual Property Organization -OMPI-. The States adhering to the PCT constitute a union for cooperation in the submission, search and examination of applications for inventions.

The PCT allows to request protection for an invention in each of the states parties to the International Treaty, by means of a single application called an international application. It facilitates the processing of applications for the protection of inventions when said protection is desired in several countries, establishing a system whereby the submission of a single application produces the same effects as if said application had been submitted in each of the countries designated by the interested party.

There are two phases of the PCT procedure:

1. International Phase, which is carried out before the receiving Office, the International Office of -OMPI- and the Administration responsible for international search and international preliminary examination.

2. National Phase, which takes place before the national offices of the designated States.

PCT Procedure

The national phase is the second of the two main phases of the PCT procedure and takes place after the international phase. It consists of the processing of the international application before each of the offices of the contracting States, or acting on behalf of the contracting states designated in the international application.

PCT Procedure

The national phase is the second of the two main phases of the PCT procedure and takes place after the international phase. It consists of the processing of the international application before each of the offices of the contracting States, or acting on behalf of the contracting states designated in the international application.

Main Phases of the PCT Procedure

1. Presentation of the Application for registration of a National Phase PCT Patent before the authority in charge together with the presentation of the documentation detailed below:

a) Application Form: clearly identifying the type of patent requested, name of the inventor and his address, name of the invention, name of the representative and his address, address to receive notifications, date, number and country of all applications for patent or other title of protection that has been filed or obtained before a foreign Industrial Property authority and that refers partially to the same invention, claiming in the application filed in Guatemala, the form must be signed by the applicant and additionally signed, stamped and sealed by the assistant lawyer.

b) Rate Receipt: Receipt of the rate established by the Registry of Intellectual Property must be attached.

c) Description: The description must disclose the claimed invention in a sufficiently clear and complete manner, that a person skilled in the corresponding technical field can execute it.

It should include reference in the state of the art to understand the invention or the problem, it can refer to documents, patents, etc. After the detailed description, indicate how the invention is reached, solution of the problem or satisfaction of the need in order to support the inventive level or the improvements. It is important that the technical characteristics of the invention can be identified and that it contains the claimed material. (Original and 1 copy).

d) Claims: They will define the invention to be patented, clearly and concisely and must be entirely supported by the description. (Original and 1 copy).

e) Summary: A synthesis of the technical disclosure contained in the description of the patent application and the main use of the invention. It should be included in this section, when it has the chemical formula or drawing that best characterizes the invention. (Original and 1 copy).

f) Drawings: Drawings should be submitted when necessary to understand or execute the invention. The drawings will be considered part of the description. (Original and 1 copy)

g) Foreign priority document: translated to Spanish.

Term to obtain a Patent Registration in Guatemala

The average time in Guatemala to obtain the Registration of a Patent is three years, the annual fees begin to be paid from the third year, to keep the patent in force, and annual fees must be paid according to the Intellectual Property rate plan which must be paid before beginning each corresponding annual period.

Patents Term of Protection

The patent is granted for a term of twenty (20) years, counted from the date of filing of the patent application.

It is important to mention that a six (6) month thanks period is granted for the payment of an annual fee for a patent, which, during the grace period, the patent will remain valid.

Failure to pay any annual fee in accordance with the provisions of the Industrial Property Law of the Republic of Guatemala will result in full expiration of the patent.

Nullity Cases

Guatemalan legislation contemplates cases in which the patent is considered void. These are:

1. When the patent material object cannot be patented.
2. When the patented invention fails to meet the requirements of novelty inventive level and industrial application.
3. Cancellation of a patent for illegal documentation, when it has been granted to an individual or legal entity that is not entitled to obtain it.

Patents and certificates will expire in the following cases:

1. Upon expiration of the maximum period of validity provided by the Law;
2. Waiver of the patent by the holder;
3. For not making the payment of the rights. Or not to pay the right in the grace period (6 months).

The invention that is the object of a patent that has been extinguished for any reason, or a published application that had been abandoned, will enter to public domain.

APPENDIX

Official Expenses

Concepto	Official Expenses USD
Submission Fee	USD\$ 335.00
Substantive Examination Fee	USD\$ 400.00
Power of Attorney Legalization	USD\$ 30.00
Official Journal Publication	USD\$ 30.00 - 70.00 (It depends of the number of words)
Registration Fee	USD\$ 70.00

Annuity

Una patente para mantener su registro, su titular debe de cancelar antes del año de su vencimiento la anualidad correspondiente de conformidad al detalle siguiente:

Annuity	Official Expenses USD
1st Annuity	USD\$. 0.00
2nd Annuity	USD\$. 0.00
3rd Annuity	USD\$.30.00
4th Annuity	USD\$.30.00
5th Annuity	USD\$.30.00
6th Annuity	USD\$.30.00
7th Annuity	USD\$.30.00
8th Annuity	USD\$.70.00
9th Annuity	USD\$.70.00
10th Annuity	USD\$.70.00
11th Annuity	USD\$.70.00
12th Annuity	USD\$.70.00
13th Annuity	USD\$.108.00
14th Annuity	USD\$.108.00
15th Annuity	USD\$108.00
16th Annuity	USD\$108.00
17th Annuity	USD\$108.00
18th Annuity	USD\$108.00
19th Annuity	USD\$108.00
20th Annuity	USD\$108.00

REGISTRATION PROCESS OF A PATENT

EL SALVADOR



The digital transformation has radically modified the processes of research and development of products and services in the world. Innovation in the industry through the use of large volume of information and algorithms has led to what is known as "the fourth Industrial Revolution."

This has generated a great impact on Intellectual Property in general and particularly in the case of patents; Therefore, it is essential to know what it is and how this right can be acquired. Legislation is being coupled to this change because it is essential to provide protection to those innovations that are patentable.

What is a patent?

It is an exclusive right granted by a State to an invention that may refer to a product or procedure, that gives a new and original solution or improvement to a problem.

By law it must be novel, have an inventive level and it must be susceptible to industrial application.

According to data provided by the Intellectual Property Registry between 2015 and 2019, only 461 patent registration certificates have been granted.

Are all inventions patentable?

An invention is patentable when it is capable of industrial application, is novel and has an inventive level. To be entitled to patent protection, an invention must meet several requirements, these include, in particular, that the claimed invention: Does not consist of an invention whose patentability is excluded by national law, be new and involve inventive activity, be capable of industrial application, and be disclosed clearly and completely in the patent application.

An invention will be considered susceptible of industrial application, when its object can be produced or used in any type of industry or productive activity. It will be novel when it does not exist before in the state of the art, and it will include everything that has been disclosed or made accessible to the public, anywhere in the world, through a tangible publication, oral disclosure, sale or commercialization, used, or by any other means, before the date of filing of the patent application in the country or, if applicable, before the date of filing of the foreign application whose priority will be claimed.

An invention will be considered to have an inventive level if, for a person normally versed in the corresponding technical matter, the invention is not obvious nor would it have been derived in an obvious manner from the relevant prior art.

It is not patentable according to the Law of Intellectual Property of El Salvador (art.107):

- Discoveries, scientific theories and mathematical methods;
- The plans, principles or economic methods of advertising or business, those referring to purely mental or intellectual activities and those relating to gaming;
- The surgical, therapeutic or diagnostic treatment methods applicable to the human or animal body; except products intended to implement any of these methods; and,
- Inventions whose publication or industrial or commercial exploitation would be contrary to public order or morality; the exploitation of the invention will not be considered contrary to public order or morality only for a reason of being prohibited or limited such exploitation by any legal or administrative provision.

The applicable legislation

- Intellectual Property Law (Legislative Decree No. 604)
- Paris Convention
- Patent Cooperation Treaty or PCT
- Law of Administrative Procedures (Legislative Decree No.856)
- Law of Uniform Procedures for presentation, processing and registration or deposit of instruments in the Registers of Real Estate and Mortgages, Social Property, Commerce and Intellectual Property (Legislative Decree No.257)

PCT Patent

The PCT is an international treaty ratified by more than 152 contracting states. With the PCT you can request the protection of an invention by patent by filing a single "international" patent application in several countries without having to execute several national or regional patent applications separately.

Main phases of the PCT procedure:

1. International Phase, which is the submission of an international application to a regional or national patent office or in WIPO.
2. National Phase

Registration of a PCT - National Phase

1. Application submission and annexes:

Contains information on the title of the invention, the date of submission of the application, the priority date and bibliographic data such as the name and address of the applicant and the inventor. The application must contain at least the following elements: Data of the Applicant, Authorized representative legal information, owner information, inventor data and data of the invention.

**See the detailed annexes in Appendix 1*

2. Examination

It determines that the minimum requirements demanded by the legislation are fulfilled without entering the substantive part of the application.

3. Admission and publication

Once the application has been admitted, the registry will publish the invention patent application ex officio, at the expense of the applicant, at the end of 18 months from the filing date or from the applicable priority date, if applicable. In any case before this period has elapsed, the applicant may request in writing that his application be published.

4. Oppositions

The submission of observations will not suspend the processing of the application and whoever submits them will not become part of this procedure. The observations will be analyzed in the substantive examination phase by the Registrar in charge.

5. Substantive review

It is intended to verify compliance with the conditions of patentability provided for in the Law, as well as the requirements related to the description, claims, drawings, summary, and unit of invention.

The registration orders that the substantive examination be carried out. For this the applicant must request that said examination be carried out, at any time after the date of submission has been assigned, but it cannot be done six months later from the date it was published on the official gazette; the patent application shall

be accompanied by proof of payment of the corresponding examination fees, and which is exclusive to each case. If the request for the exam is not submitted within the indicated period, the request will be considered abandoned and filed, therefore immediately passing into the public domain.

6. Granting of the Patent

Registration certificate is issued by which the patent is granted in accordance with the request.

Duration of the Procedure:

Approximately 24 months.

Deadlines and fees

The invention patents will be granted for a period of twenty non-extendable years, counted from the date of filing of the application in the Registry. (Art. 109 LPI)

It is important to mention that a grace period of six months is also granted for the payment of an annual fee for a patent, which, during the grace period, the patent or the patent application, as the case may be, shall maintain its full validity.

Procedure	Official expenses USD \$
by application for patents utility model and industrial design	\$ 57.14
Per application publication	\$22.77 Approximately, the price may increase due to the number of lines contained in the publication
By substantive examination	From 1 to 10 claims USD \$ 300.00 plus VAT For each additional claim US \$ 11.00 plus VAT

Maintenance

To maintain a patent registration, its owner must cancel the corresponding annuity per year in according to the annuity.

**See the detail of every annuity in Appendix 2*

Transfer

Patents can be transferred by act between the living and transmitted due to death, the documents proving the transfer or transmission will not take effect against third parties, as long as they are not registered.

Nullity and expiration

Patents and certificates will be extinguished in the following cases:

- For the judicial declaration of nullity;
- Due to the expiration of the deadlines set in this Law; and,
- For partial or total written resignation.

A patent or certificate registration is void in the following cases:

- If granted for an invention, utility model or industrial design that does not meet the requirements of the Law;

- If the disclosure of the invention in the patent is not clear enough so that a person versed in the corresponding technical matter can execute it, or the claims are not based on that disclosure;
- If, following a modification or division of the application, the granted patent contained claims that are based on matter that was not disclosed in the initially filed application; and,
- If the patent or certificate was granted to a person who had no right to obtain it.

Patents and certificates will expire in the following cases:

- Upon expiration of the maximum period of validity provided by the Law. In this case, the expiration will take place in full, without declaration; and,
- For not making the payment of the rights and, if applicable, the established surcharge, in the manner stipulated by Law. The declarations of expiration will be made by the Registrar.

The effects of the declaration of nullity, expiration and resignation, are that inventions, utility models or industrial designs, pass into the public domain.

Advantages of the Registration of a Patent

The patent will confer on its owner the right to prevent third parties from exploiting the patented invention. The patent holder will have the right to act against a person who without his consent:

- 1.- Manufacture the patented product and offer it for sale, sell it or use the product; if it imports or stores it for any of these purposes or if it prevents the transit of the product through the country.
- 2.- Use the patented procedure and offer it for sale, sell it or use the product obtained directly from the procedure; if it imports or stores it for any of these purposes or if it prevents the transit of the product through the country with respect to a product.

It is important to mention that the correct presentation of the patent application is essential, since once the process has been initiated if it is not concluded, said patent cannot be applied again.

APPENDIX

Appendix 1

Annexes included in the submission of a patent:

- Description of the invention or descriptive report, it must disclose the invention in a clear and complete way to be able to evaluate it and so that a person versed in the technical matter in question can execute it;
- Original and 1 copy of the Claims document, these determine the scope of protection of a patent. These define the subject for which protection is desired by means of the patent; these must be clear and concise, and be supported by the description;
- Original and 1 copy of the Summary document, which will include a synthesis of what is disclosed in the description and a summary of the claims and drawings that may exist, and where appropriate, will include the chemical formula or drawing that best characterizes the invention. The summary will allow us to understand the essentials of the technical problem and the solution provided by the invention, as well as the main use thereof. The summary will serve exclusively for technical information purposes and will not be used to interpret the scope of protection;
- Original and 1 copy of the drawings (if necessary);
- Cession of rights; (If necessary)
- Translations, which can be submitted up to 6 months after the application is submitted;
- Priority application abroad (if necessary)
- In case of a corporation the legal documents that demonstrate their existence• Payment receipt canceled for \$ 57.14

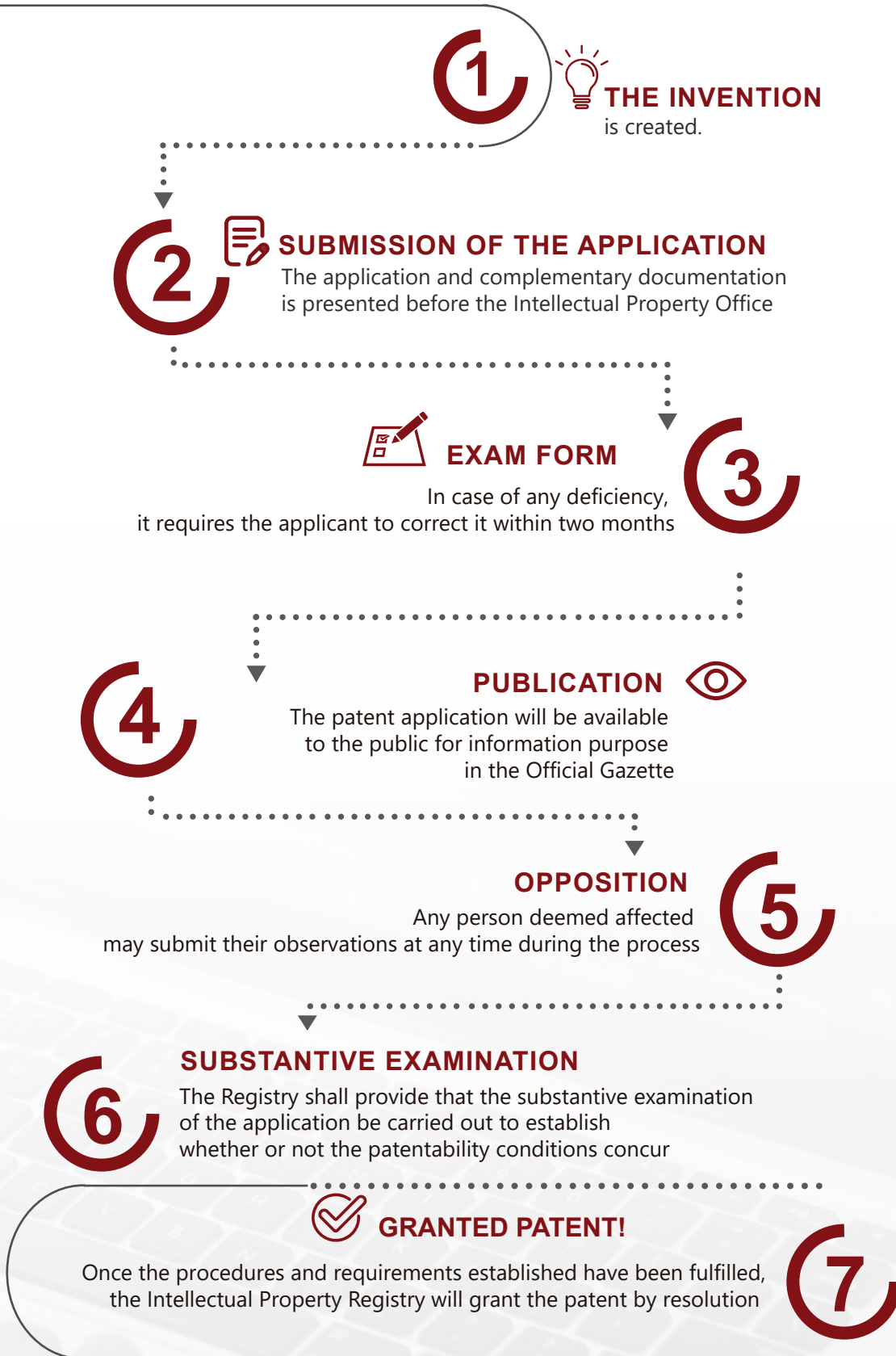
Appendix 2

Una patente para mantener su registro, su titular debe de cancelar antes del año de su vencimiento la anualidad correspondiente de conformidad al detalle siguiente:

Annuity	Official expenses USD
1 st Annuity	\$ 11.43
2 nd Annuity	\$ 17.14
3 rd Annuity	\$ 22.86
4 th Annuity	\$ 28.57
5 th Annuity	\$ 34.28
6 th Annuity	\$ 40.00
7 th Annuity	\$ 45.71
8 th Annuity	\$ 51.42
9 th Annuity	\$ 57.14
10 th Annuity	\$ 62.85
11 th Annuity	\$ 68.57
12 th Annuity	\$ 74.29
13 th Annuity	\$ 80.00
14 th Annuity	\$ 85.71
15 th Annuity	\$ 91.43
16 th Annuity	\$ 97.14
17 th Annuity	\$ 102.86
18 th Annuity	\$ 108.57

REGISTRATION OF A PATENT

NICARAGUA



When talking about patents, the State grants the inventor, for a specific term, the right of exclusivity over his invention, during which time the inventor can obtain benefits from the patent, negotiating its sale, granting use licenses in favor of third parties, or commercially exploiting their invention directly.

The United States, China and Japan, are the countries that top the list with more patent applications, with computer technology as its main activity, thus creating a close relationship between patent registration and the economic, technological and industrial development.

In Nicaragua there is current legislation and easy access procedures, which are intended to provide the necessary support for those who need to protect their inventions as well as promote innovation and creativity, so that the number of patents granted increases and the inventors can enjoy benefits that it brings and obtain the protection of its creation.

What is a patent?

It is the exclusive right recognized by the State, with respect to an invention whose effects and scope are determined by the Law. Its essential function is to constitute an incentive for those who invest time, dedication and creativity in the creation of new products and allow their growth, patents are granted in all fields of technology, both in products and procedures.

When is an invention patentable?

For an invention to be patentable it must be novel, inventive and capable of industrial application.

-It is innovative if it is not in the current state of the art, that is, everything that has been disclosed or made accessible in public anywhere in the world and in any way, before the date of filing of the patent application in Nicaragua;

- It is inventive if, for a person skilled in the corresponding technical matter, the invention is not obvious nor would it have been derived from the current state of the art;

-It is susceptible of industrial application when its object can be produced or used in any type of industry or productive activity. For this purpose, it will be understood in a broad sense and will include, among others, handicrafts, agriculture, livestock, manufacturing, construction, mining, fishing and services and if it has a specific, substantial and credible utility.

Are all inventions patentable?

Nicaraguan patent legislation establishes that the following are not considered as inventions:

- a) The simple discoveries;
- b) Matters or energies in the way they are in nature;
- c) Biological procedures as they occur in nature and do not involve human intervention to produce plants and animals, except for microbiological procedures;
- d) Scientific theories and mathematical methods;
- e) Purely aesthetic creations, literary and artistic works;
- f) The plans, principles, rules or economic, advertising or business methods, and those referring to purely mental or intellectual activities or game material, computer programs considered in isolation.

In the same way it establishes, the subject excluded from patent protection:

- a) Animal breeds;
- b) The therapeutic, surgical or diagnostic methods applicable to people or animalsLas invenciones cuya explotación comercial debe impedirse para proteger el orden público o la moral;
- c) Inventions whose commercial exploitation must be prevented to protect human, animal or plant health or life or preserve the environment; To this end, the exclusion of patents is not considered applicable because of the prohibition, limitation or condition of exploitation by any legal or administrative provision

The Applicable legislation

- a) Law No. 354 Law on Invention Patents, Utility Model (sic) and Industrial Designs;
- b) Law 579 Law on Reforms and Additions to Law 354 Law on Invention Patents, Utility Model (sic) and Industrial Designs;
- c) Law 634 Law of Reform and Addition to the Law of Invention Patents, Utility Models and Industrial Designs
- d) Criminal Code of the Republic of Nicaragua

- e) Decree 88-2001 Regulation to the Law of Invention Patents, Utility Models and Industrial Designs
- f) Decree 16-2006 Reform of Decree 88-2001 Regulation of the Law on Invention Patents, Utility Models and Industrial Designs
- g) Patent Cooperation Treaty (PCT)
- h) Regulation of the Patent Cooperation Treaty
- i) Estranburg Agreement International Patent Classification

What is the Patent Cooperation Treaty? What does it consist of?

The Patent Cooperation Treaty (PCT) is an international treaty ratified by more than 152 contracting states, which allows to seek patent protection for an invention in several countries at the same time, through a single international patent application.

Main phases of the PCT procedure:

- 1. International Phase, which is the submission of an international application to a regional or national patent office or with WIPO.**
- 2. National Phase**

Submission Process of a National Phase PCT

The national phase is the second of the two main phases of the PCT procedure and takes place after the international phase. It consists of the processing of the international application before each of the offices of the contracting States, or acting on behalf of the contracting states designated in the international application. It is done after 30 months from the date of submission of the first application, whose priority is claimed.

Procedure for requesting the registration of a National Phase PCT Patent

1.-Submission of the application

The request for the grant of a patent is made in writing, for this purpose the registry provides users with specially designed forms that provide the legally required information, which must contain:

- a) Request for patent grant with the data of the applicant and the inventor, and name of the invention.
- b) Description of the invention
- c) One or more claims
- d) Corresponding drawings
- e) Technical summary
- f) Proof of payment of the application fee
- g) Place to hear notifications

- h) Signature of the applicant
- i) The power of attorney or the document that proves the representation as the case may be
- j) When this is the case, a proof of deposit of the biological material, issued by the depository institution

2.- Exam Form

Due compliance with the requirements is verified, in case of any deficiency, it requires the applicant to correct it within two months, with the warning of considering the application abandoned and filing ex officio; or the publication of a notice is accepted and ordered.

3.-Notice for publication in La Gaceta. The patent application will be available to the public for information purposes, for a period of eighteen months from the date of filing or when a right of priority has been invoked, after this period has elapsed, the notice must be published in Gazette, Official Gazette.

4.- Opposition

Any person deemed affected may submit their observations at any time during the process, before the final resolution of the application and the applicant will be given the opportunity to express himself and offer additional information.

5.- Substantive examination

The Registry shall provide that the substantive examination of the application be carried out to establish whether or not the patentability conditions concur, for which the applicant must prove that he has paid the amount corresponding to the substantive examination of the patent, within a period of six months counted from the date of publication of the notice and the application. If that period expires without paying the amount, the application will be deemed abandoned and will be filed ex officio. In case if any of the requirements or conditions for the patenting of the invention are not met, the Intellectual Property Registry will notify the applicant so that within three months he completes the documentation, corrects, modifies or divides the application, or presents the comments that It suits you in support of it. Otherwise the request will be denied by reasoned resolution.

6.-Grant of the patent

Once the procedures and requirements established have been fulfilled, the Intellectual Property Registry will grant the patent by resolution and send its registration and deliver the concession certificate with a copy of the patent document.



Term to Obtain a Patent Registration in Nicaragua and its validity

The average time in Nicaragua for registering a patent is two and a half years and the granting of the exclusive rights of a patent is valid for 20 years, counted from the date of submission of the respective application, this period does not It is subject to renewal and to keep it in force it is necessary to pay annual fees.

Nullity of a Patent

In Nicaragua, the nullity of a patent must be declared by a competent judicial authority, at the request of an interested party or ex officio, its nullity operates when the object of a patent does not constitute an invention; when the patent was granted for an invention included in the prohibitions established by law; when the patent does not disclose the invention in accordance with the provisions of the law; when the claims included in the patent do not meet the requirements established by law; when the granted patent contains a broader disclosure than the one contained in the initial; or when the patent has been obtained through fraud or false representation.

APPENDIX

Annex I: Statistics on the Registration of Patents in Nicaragua, provided by the Patent Registration Office of the Intellectual Property Registry of the Republic of Nicaragua

Type of protection granted during 2018	Nacional	Extranjero	Total
Invention Patent	1	66	67
Utility Model Patent	0	1	1
Industrial design	1	16	17

Annex II: Fees for Patent Registration

PATENT NATIONAL PHASE	
Concept	Fees
Submission Fee	\$ 240.00
In-depth exam fee	\$ 350.00
Publication	\$ 70.00
Registration Fee	\$ 70.00
Patent Title	\$ 25.00

Annex III: Annuity Rates

ANNUALES PATENT NATIONAL PHASE	
Concept annual	Fee
Third year	\$60.00
Fourth year	\$65.00
Fifth year	\$70.00
Sixth year	\$ 80.00
Seventh year	\$90.00
Eighth year	\$110.00
Ninth year	\$140.00
Tenth year	\$ 160.00
Eleventh year	\$ 190.00
Twelfth year	\$220.00
Thirteenth year	\$250.00
Fourteenth year	\$ 280.00
Fifteenth year	\$ 310.00
Sixteenth year	\$ 360.00
Seventeenth year	\$410.00
Eighteenth year	\$ 460.00
Nineteenth year	\$520.00
Twentieth year	\$620.00

EXECUTIVE SUMMARY

PATENT'S REGISTRATION

- HONDURAS

This guide's purpose is to establish the definition of a patent, the process to carry out a registration in Honduras, benefits of carrying out this type of protection and the effects on third parties. This document will contain, as well, the steps and requirements established to obtain the Certificate of Registration of a Patent in Honduras.

This guide was created to establish the requirements and standards in order to facilitate the interpretation and guidance required by the authorities in Honduras to carry out the registration of a patent, as well as the procedure involved in the presentation of a patent until it is granted.

A patent can be defined as "the special rights granted by the State in relation to acts of exploitation of an invention." It is the degree, certificate or official document issued by the State, through the office in charge in Honduras, in which the inventor, or who has acquired the rights of the invention, is granted the exclusive rights.

We understand as "invention" any product, device, chemical, pharmaceutical, or procedure in which exclusive rights over the patented process is granted. An invention is patentable only when an industrial application is noble and involves an inventive statement.

Honduras has various applicable legislations in the area of Industrial Property, since it is part of several international treaties that reassure a proper application and legal certainty on the international and national processes.

It is important to mention that the law in Honduras establishes that inventions must be excluded from patent protection.

A patent is granted for a period of twenty years without extension so the holder may enjoy the right to exclude third parties from exploiting the patented invention without prior authorization which shall be granted by an operating license that must be authorized and registered by the competent authority so that it can have legal effects against third parties.

REGISTRATION PROCESS OF A PCT PATENT

HONDURAS



What is a patent?

Industrial Property Law in Honduras defines it as "the special rights granted by the State in relation to acts of exploitation of an invention."

The World Intellectual Property Organization (WIPO) defines a patent as "The right granted to an inventor by a State or a regional office acting on behalf of several States, and that allows the inventor to prevent others from exploiting by means commercial his invention for a limited period of time."

Inventions can be products (devices, chemical, pharmaceutical compounds), or procedural and patentable when:

1. It is capable of industrial application: when it can be produced or used in any industry.

2. It's innovative: It hasn't existed before and has not been disclosed or made available to the public anywhere in the world, by publication in tangible form, oral disclosure, sale or marketing, used or any other means before the filing date of the patent application in Honduras.

3. It has a degree of invention: It's not a derivate from a previous technique or art.

Are all inventions patentable?

Not all inventions are patentable according to the Honduras legislation, as established in the Articles 5 and 7 of the Industrial Property Law the following products are not considered inventions and therefore are excluded from patent protection:

- Theoretical or scientific principles;
- Discoveries that consist in making known or revealing something that already existed in nature, even though previously was unknown to man;
- The biological material that exists in nature;
- Schemes, plans, rules and methods for performing mental acts, games or businesses;
- The computer programs in isolation;
- The reporting forms;
- Aesthetic creations and artistic or literary works;
- Methods of surgical, therapeutic or applicable to the human and animal body relative to diagnostic treatment;
- The juxtaposition of known inventions or mixtures of known products, variations in shape, dimensions or materials, except that in reality they are combined or merged such that they cannot function separately or

that the qualities or functions of same are modified to obtain an industrial result not obvious to one skilled in the art.

- Essentially biological processes for obtaining or reproducing plants, animals or their varieties, including genetic or related material capable of conducting its own duplication, by itself or by any other indirect processes, when they consist of selecting or isolating biological material available and let it act under natural conditions;
- Varieties and plant and animal species and breeds.

The applicable legislation

- Industrial Property Law, approved by Decree 12-99-E, 2000.
- Application project registration fees arising from the Industrial Property Law, Decree 2-2011.
- Property Act, approved by Decree 82-2004, 2004.
- Patent Cooperation Treaty, Honduras since 19 June 2006.
- Administrative Procedure Code, Republic of Honduras
- Paris Convention, Honduras since February 4, 1994.
- Convention of the World Intellectual Property Organization, Honduras from November 15, 1983.

What is the Patent Cooperation Treaty? What does it consist of?

The PCT is an international treaty ratified by more than 152 contracting states. With the PCT inventors may request protection of a patent by filing a single "international" patent application in several countries without having to separately run several applications for a national or a regional patent.

The procedure for a PCT is:

1. International phase, which is the filing of an international application at a regional or national patent office or with WIPO.
2. National phase

Submission of a PCT National Phase

The national phase is the second of the two main phases of the procedure and PCT takes place after the international phase.

It involves the processing of the international application to each of the offices of the contracting parties, or acting on behalf of the contracting states designated in the international application estate. This process must be done 30 months after the presentation date of the first request.

Registration of a PCT - National Phase

1. Submission of the application for the registration of a patent PCT - national phase before the authority, along with the presentation of the documents listed below:

a) Application form: must contain complete data for the applicant, the inventor and the agent (name, address, nationality, address etc.) and the name of the invention which should be clear and short (preferably two to seven words) and technical information.

b) Power of Attorney given the legal representative.

c) Description: should detail the invention clear and complete to assess after consulting a technician skilled in the art. (2 copies)

d) Claims: You should define clearly and concisely the matter for which protection is sought defining the technical characteristics to be protected. They must be fully supported by the description. (2 or more copies). They are interpreted in light of the description and drawings.

Example: Corkscrew

A corkscrew is characterized by being composed of a main body or lever with a helical thread in the intermediate portion or folding. At the end of this main body is an axis through which a pivot arm grooved finish form convex to serve as a support for the bottle neck and having in its sides and facing each grooves by the projections provided for this purpose said axis slide.

a) Claim: It contains the object of the invention CORKSCREW and indicates the new features that are being provided.

b) Summary: It must include a synthesis of the invention, which provides some insight content. It should indicate the technical field to which the invention belongs to, the essence of the technical problem and the solution provided by the invention and its primary use.

c) Examples of formulas or drawings: should facilitate the understanding of the claim and in turn provide more information to third parties when being published (two or more drawings).

d) Foreign priority document: translated into Spanish. The priority right may be invoked in the submission of the application or, if applicable, at any time within the period specified in national legislation.

e) PCT form RO / 101: It must include the transfer of rights of the inventor and the payment of annuities.

f) Fee Payment for patent application.

g) Fee for payment of examination.

2. Exam form: The Registry of Industrial Property should consider any omission or deficiency in notifying the applicant to make the necessary corrections within two months upon request to be considered and filed.

3. Substantive examination: It's necessary to verify the compliance with the requirements of novelty, inventive degree and industrial application. Once the application has been submitted, the Registry of Industrial Property must examine it with public or private, national or foreign entities, suitable for this purpose and that must agree that the invention is patentable and if the description, claims, drawings and abstract are appropriate to the requirements of the Act.

At this stage we proceed to analyze clearly conciseness of claims qualities important to measure the extent of the patent.

4. Publication: If the request meets the requirements established by the Intellectual Property Registry, it proceeds to be published along with the summary of the invention in the Registry's web portal for a period of ninety days.

5. Opposition: Since the application is published, any interested person may submit an opposition to the Registry of Industrial Property making observations concerning the patentability of the invention.

6. The granting of the patent: When the ninety-day term is finalized, and no opposition is presented, the Registry proceeds to issue the corresponding decision to grant the patent.

What is the average duration of a registration process in Honduras?

The average time in Honduras is about two and a half years.

What is the term of protection of a patent?

In Honduras patents are granted for a period of twenty years without extension, counting from the very first date of the submission of their application in the Registry Office of Industrial Property in Honduras. To keep in force a patent or a pending patent application an annual fee must be paid.

It is important to note that a six-month grace period is granted in order to pay the annual fee, during this period the patent or the patent's application remain in full validity.

What causes loss of ownership of a patent?

a) Non-payment of any annual fee in accordance to the provisions of the Law on Industrial Property of the Republic of Honduras may produce a full revocation of the patent or patent application

b) By an "Invalidation request" granted by the authority if someone demonstrates that the patent was granted in violation of any provision of the law.

Benefits of the registration of a patent in Honduras

The patent gives its owner the right to exclude third parties from exploiting the patented invention. The patent gives its owner the right to exclude third parties from exploiting the patented invention. As such, and with the limitations provided by the Industrial Property Law, the patentee is entitled by law to act against anyone without your consent or authorization to manufacture or produce the patented product, use the product or use the patented product, offer it for sale or sell the patented product or process, import or store the patented product or the purpose of offering for sale.



PATENTS STATISTICS IN HONDURAS

In Honduras, from 2008 to 2017, 1343 patents applications have been filed, 596 of them have been granted, and 2,232 patents are in full validity in the national and international field:

<u>Process</u>	<u>Approximate amount</u>
Search of the Patent's Invention	\$ 45.00
Fund examination request	\$ 65.00
Registration Application PCT	\$ 65.00
Patent Annuity (per year)	\$ 10.00
Merger, assignment or transfer	\$ 12.5
Grant of a patent and registration	\$ 30.00