

New Mexican trademark landscape as partial non-use cancellation actions considered.

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Three years after a new industrial property law took effect, the time has come for an important action to become available regarding contested trademark registrations. Emmanuel Chávez of Olivares heralds a ‘positive’ development.

The Mexican Federal Law for the Protection of Industrial Property (the New IP Law) entered into force on November 5 2020, in response to the entering into force of the United States–Mexico–Canada Agreement.

The New IP Law introduced partial non-use cancellation actions, which may only be initiated against registrations that were applied for, and granted, under the New IP Law.

To initiate these actions, it is necessary that a term of three years has passed since the date of registration. Thus, as it has been three years since the entering into force of the New IP Law, the first partial non-use cancellation actions are to be initiated and decided soon.

Commentary on Mexico's new system on trademark use.

These new actions will have a positive impact on the legal system in Mexico, eliminating trademarks covering the 'heading class', or general headings, but allowing new trademarks for organisations in specific sectors that are interested in using their trademark effectively, which will provide incentives for further creativity.

It will be interesting to see how the Mexican Institute of Industrial Property (IMPI) will analyse the evidence to determine if a trademark has been used for a product or service.

It will take some time to establish a criterion for these kinds of actions, since there will be decisions from IMPI, the Federal Court for Administrative Affairs, Federal Circuit Courts, and even the Supreme Court of Justice.



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