

*MANAGING INTELLECTUAL PROPERTY, APRIL 2004*

On September 19, 2003, a Decree was published in the Official Gazette of the Federal Government, with amendments to the Regulations of the Health Law as well as to the Regulations of the Law on Industrial Property. The purpose of the amendments is to establish coordination rules between the Ministry of Health and the Mexican Institute of Industrial Property (IMPI), in connection with the granting of pharmaceutical product registrations for marketing approval, when the making and/or selling of the product might trigger the infringement of a patent.

In the case of the Regulations to the Law on Industrial Property, they have been amended, imposing upon IMPI an obligation to publish a special Gazette listing those patents relating to allopathic drugs, and their correspondence to an international non-proprietary name (INN). The catalogue will consider patents that cover “substances or active ingredients”, but will exclude other types of patents such as those covering processes.

IMPI has interpreted these amendments, particularly the language “substances and active ingredients” as synonymous. Thus only the patents that cover molecules that could be used as active ingredient in its pure form should be considered to be covered by this publication.

Under this consideration, on November 17, 2003 IMPI put into circulation an Extraordinary Gazette, with a list of 89 active ingredients covered by different patents. IMPI is now working on another list of active ingredients covered by patents, which will be published in the next few months.

In the past, due to lack of coordination between IMPI and the Mexican health authorities, a number of registrations relating to products were granted which were covered by patents belonging to parties other than the patentee, producing confusion or conflict. This new regime will be of benefit to patent owners, as from now on the Mexican health authorities will not grant health

registrations for products coating the active ingredients as published in the Gazette, until the expiry of the patent.