

BY [ABRAHAM DÍAZ](#)

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On January 25, 2006, the Mexican Law of Industrial Property (LIP) was amended. Among other changes, these included a new infringement cause which provides as follows:

Art. 213: The following constitute administrative infringements:

...

XXVI. To use combination of distinctive signs, operative and image elements, that allows to identify products or services equal or confusingly similar to others protected under this Law and that by means of its use causes or leads the public to confusion, error or deceit, by making it believe or presume the existence of a relationship between the owner of the protected rights and the non authorized user. The use of such operative and image elements in the above mentioned form constitutes unfair competition in accordance with clause 1 of this Article.

Although lawmakers considered that the above provision would help to better protect against trade dress, in reality the vague wording of the amendment makes it impossible to validly obtain an infringement declaration based on this provision. The main mistakes are that:

1. Nowhere in the LIP is a concept for operative and images elements:
2. The text seems to suggest that what is protected by the law are the products or services and not the distinctive signs or operative and image elements.

Since the LIP is of strict application, these deficiencies prevent rights owners

from obtaining a valid infringement declaration from the Mexican Trade Mark Office.

Even if it did issue a decision declaring an infringement based on Section XXVI, the inconsistencies in the law would make it very easy to have the decision revoked by the courts. Consequently, this amendment is inapplicable and will become a useless provision in the Mexican LIP.