WTR

The Trademark Prosecution Review

2027

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The fourth edition of the *WTR Trademark Prosecution Review* takes a wide-ranging view of best strategies for securing trademarks in the key regions of the Americas, the Asia-Pacific, and Europe, the Middle East and Africa. The review combines on-the-ground knowledge and analytic insight to offer an unparalleled deep dive into the prosecution landscape in specific key markets.

Generated: September 17, 2026

WTR World Trademark Review

Mexico: modernised industrial property regulations set new course for trademark strategy

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Summary

IN SUMMARY

DISCUSSION POINTS

REFERENCES IN THIS ARTICLE

PUBLICATION AND ENTRY INTO FORCE

KEY DEVELOPMENTS AFFECTING TRADEMARK PRACTICE

PRACTICAL CONSIDERATIONS: TRANSITION TO THE NEW RULES

CONCLUSION

IN SUMMARY

After six years of anticipation, the Regulations to Mexico's Federal Law for the Protection of Industrial Property have finally been published. The Regulations entered into force on 22 July 2026, making this a good time to revisit some of the most significant developments affecting trademark practice in Mexico.

The new Regulations provide much-needed clarity by translating the broad legal principles into concrete procedural rules that will shape how trademark rights are obtained, managed, enforced and defended before the Mexican Institute of Industrial Property (IMPI).

This article highlights several of the most relevant changes to trademark owners and practitioners, including the formal recognition of coexistence agreements, the introduction of conciliation mechanisms within infringement proceedings, the acceptance of electronic signatures and the new framework governing non-traditional marks and acquired distinctiveness. It also discusses the transitional provisions that will determine how the new rules apply to pending matters and ongoing proceedings.

DISCUSSION POINTS

- Publication and entry into force of the Regulations to the Federal Law for the Protection of Industrial Property
- Key developments affecting trademark practice
- Practical considerations
- Conclusion

REFERENCES IN THIS ARTICLE

- Regulations to the Federal Law for the Protection of Industrial Property (RFLPIP)
- Federal Law for the Protection of Industrial Property (FLPIP)

PUBLICATION AND ENTRY INTO FORCE

The Regulations to Mexico's Federal Law for the Protection of Industrial Property were published in the Federal Official Gazette on 28 April 2026 and entered into force on 22 July 2026. As of that date, the previous Regulations to the Industrial Property Law, which had been in force since 1994, were repealed and ceased to apply.

Although Mexico's industrial property framework was substantially reformed with the enactment of the Federal Law for the Protection of Industrial Property in 2020, practitioners have spent the last six years navigating many procedural issues without a dedicated regulatory framework. In practice, this often required reliance on provisions designed for the former law, IMPI criteria and administrative practice. The new Regulations finally provide the clarity and procedural guidance needed to align day-to-day practice with the current legal framework.

KEY DEVELOPMENTS AFFECTING TRADEMARK PRACTICE

Of the many procedural rules introduced by the Regulations, four stand out for their direct bearing on trademark practice:

- regulation of express consents to coexistence;
- introduction of conciliation as an alternative dispute resolution mechanism within infringement proceedings;
- formal recognition of electronic signatures;
- new framework for non-traditional marks and acquired distinctiveness;
- Indigenous and Afro-Mexican cultural heritage; and
- dissolution of linked trademarks.

Regulation Of Express Consents To Coexistence

One of the most significant changes introduced by the Regulations is the formal recognition of letters of consent, which are now expressly governed by articles 88 to 91. Although consent agreements have long been used in Mexican practice as a valuable tool for overcoming trademark conflicts, they previously lacked a clear legal framework.

Under the new rules, IMPI may accept the express written consent of the owner of an earlier application or registration allowing the coexistence of a later trademark or slogan mark, even where a likelihood of conflict may exist.

To ensure that coexistence will not lead to consumer confusion, consent agreements may include specific measures aimed at distinguishing the parties' respective rights and commercial activities. The Regulations establish minimum requirements for these agreements, including (1) the identification of the trademarks involved, (2) the goods or services covered by each mark and any limitations or exclusions, (3) the relevant market sectors or consumer groups and (4) any additional provisions designed to prevent confusion or mistaken association.

A letter of consent (LoC) and/or coexistence agreement may be submitted either at the time of filing or in response to an office action citing a prior right as an obstacle to registration. Importantly, once accepted, the validity of the consent may only be challenged through judicial proceedings, providing a greater degree of certainty to the parties.

These provisions bring Mexico closer to other jurisdictions, such as the United States, where LoCs are widely recognised and frequently used. However, unlike US practice, the Mexican framework establishes specific content requirements that must be satisfied for the consent to be effective before IMPI. As a result, parties should ensure that consent agreements are drafted with these statutory requirements in mind rather than relying on templates developed and drafted for other jurisdictions.

The practical benefit of the new framework is greater predictability. Applicants and trademark owners now have clearer guidance regarding the information that should be included in a consent agreement, which should facilitate prosecution, reduce objections from IMPI and increase the likelihood that coexistence arrangements will be accepted without further requirements.

Introduction Of Conciliation As An Alternative Dispute Resolution Mechanism Within Infringement Proceedings

Another relevant development is the introduction of a formal conciliation mechanism within infringement proceedings before IMPI. Under the new Regulations, IMPI may encourage the parties to explore a settlement at any stage of the proceeding before a final decision is issued, provided it does not affect third-party rights or contravene public-order provisions. Settlement agreements reached through this mechanism may bind the parties and, once ratified, acquire the effect of ***res judicata*** in the administrative sphere.

From a practical perspective, this is one of the most significant changes introduced by the Regulations. Until now, parties involved in infringement proceedings generally had to either continue litigating until a final resolution was issued or seek to resolve the dispute outside the administrative process. The new framework creates an alternative path, allowing parties to reach a legally binding settlement without waiting for IMPI to decide the merits of the case.

This approach brings Mexico closer to the dispute resolution mechanisms available in other jurisdictions, including the United States and the European Union, where settlements and negotiated resolutions play an important role in intellectual property disputes. While the Mexican mechanism is limited to ongoing infringement proceedings, it offers the advantage that a ratified settlement may carry the legal effect of a final and binding administrative decision.

As a result, trademark owners should consider conciliation as part of their enforcement strategy. In appropriate cases, an early settlement may provide a faster, more cost-effective and commercially tailored solution than a fully contested proceeding.

That said, the Regulations provide that IMPI may promote conciliation, but do not require it to do so in every case. Accordingly, parties interested in exploring a negotiated resolution should be prepared to raise the possibility proactively when it aligns with their commercial objectives.

Express Recognition Of Electronic Signatures

Article 6 of the Regulations authorises IMPI (through the issuance of administrative guidelines and implementation measures) to recognise any electronic signature that complies with applicable law, for the purposes of the filings and procedures governed by the FLPIP and the Regulations. This complements, rather than replaces, the existing rules on IMPI's own electronic signature standards referenced in FLPIP.

This is a modernisation measure rather than a substantive change, but it matters in practice. It gives IMPI the flexibility to accept commercially available electronic signature platforms rather than confining applicants to a single government-issued signature standard, which should simplify the filing of powers of attorney, consents and other documents that previously required either a Mexican advanced electronic signature (e.firma) or wet-ink execution with apostille or legalisation for foreign-executed documents.

Rights holders with global signature workflows (eg, DocuSign, Adobe Sign and other similar platforms) stand to benefit most, though the practical scope will depend on IMPI´s specific guidelines and implementation measures, which had not yet been published at the time of writing this article.

For trademark owners, this development has the potential to simplify routine processes that have historically relied on documents bearing wet-ink signatures. The benefits may be particularly significant for multinational companies managing large trademark portfolios across multiple jurisdictions, where obtaining original signed documents can introduce avoidable delays and administrative costs.

The change also reflects a broader international trend (mainly since the covid-19 pandemic). In recent years, intellectual property offices around the world have increasingly adopted electronic filing systems and digital authentication mechanisms to facilitate access to administrative procedures. By formally incorporating electronic signatures into its regulatory framework, Mexico moves closer to the standards already embraced by several leading intellectual property offices.

From a practical perspective, rights holders should closely monitor any implementing guidelines issued by IMPI to determine which signature platforms and authentication systems will be accepted. Once those parameters are clarified, rights holders may wish to review their internal trademark management processes to identify opportunities for greater efficiency and reduced document-execution times.

The full impact of this reform will depend on how broadly IMPI chooses to implement the new framework. Nevertheless, the Regulations establish an important foundation for a more modern, efficient and digitally integrated trademark system, one that is better aligned with the needs of both domestic and international rights holders.

Non-traditional Marks And Acquired Distinctiveness

For the first time, the Regulations provide a clear framework for representing and describing non-traditional marks such as sound marks, scent marks, position marks, motion marks, multimedia marks and combinations of these. Applications for such non-traditional marks must include a clear and precise description, which may be accompanied by material or electronic support (eg, audio files, video files or other media, depending on the type of mark).

The Regulations also provide new guidance on acquired distinctiveness, commonly known as "secondary meaning". Articles 86 and 87 of the Regulations now establish clear criteria and guidance on the evidence needed to prove that a mark that was not originally distinctive has become distinctive through use. A mark may qualify for protection if the applicant can show long-term and exclusive use of the sign and demonstrate that consumers associate it with a particular source of goods or services.

To demonstrate acquired distinctiveness, applicants may submit evidence such as advertising and promotional materials used in Mexico during the past three years, consumer surveys, market studies, evidence of the mark's presence in the media and online platforms, as well as any other relevant supporting documentation. IMPI may also request additional evidence if deemed necessary.

This approach aligns Mexico more closely with international practice. The evidence required to prove acquired distinctiveness is similar to that used in other jurisdictions, including the United States and the European Union, particularly with respect to advertising records, consumer surveys and market studies. As a result, companies that have already compiled evidence for trademark filings in those jurisdictions may be able to rely on much of the same material when seeking protection in Mexico. One notable feature, however, is the explicit recognition of search-engine visibility and online presence as relevant evidence, reflecting IMPI's focus on consumer recognition in the digital environment.

Before these rules were introduced, applicants seeking to register marks with reduced inherent distinctiveness, such as product shapes, single colours or descriptive terms, had little guidance on how to prove that the mark had become distinctive through use. As a result, they often relied on evidence and arguments from foreign jurisdictions, with no certainty that IMPI would consider them sufficient.

By way of example, an individual/company seeking protection for a single colour used consistently on the packaging of its products may previously have relied on foreign recognition studies, foreign advertising expenditures and evidence of use in other jurisdictions, with no assurance that IMPI would consider such materials sufficient. Under the new Regulations, the applicant now has clearer guidance and can focus on compiling evidence specifically applicable to the Mexican market, such as local advertising, consumer surveys, market studies and proof of consumer recognition in Mexico.

Businesses seeking to rely on acquired distinctiveness should begin documenting their use of the mark in the Mexican market, including local advertising, consumer recognition and market presence, rather than attempting to compile evidence only after an objection has been issued.

Indigenous And Afro-Mexican Cultural Heritage

The new Regulations also introduce a formal filing requirement for trademark applications that incorporate elements drawn from Indigenous or Afro-Mexican cultural heritage. Applicants seeking to register such signs, whether as trademarks, trade names or slogan marks, must now submit, together with the application, the original certificate of authorisation issued by the relevant community's general assembly, evidencing that the community has consented to the commercial use and exploitation of the cultural element in question.

This requirement operationalises, at the regulatory level, the broader protective framework established under the Federal Law for the Protection of the Cultural Heritage of Indigenous and Afro-Mexican Peoples and Communities, which treats such heritage as collective property belonging to the community rather than to any individual. In practical terms, IMPI examiners will be expected to analyse incoming applications for potentially protected cultural content (eg, names, symbols, patterns, textiles or other traditional expressions) and to request the corresponding assembly authorisation before the application can proceed. Applicants operating in sectors where traditional designs, motifs or denominations are commercially significant (textiles, handicrafts, gastronomy, cosmetics and similar industries) should anticipate additional due diligence and lead time to secure the requisite community consent before filing.

For trademark owners and IP practitioners, this development signals a broader shift towards free, prior and informed consent as a precondition for the commercial appropriation of collective cultural assets, and it aligns Mexico's industrial property framework with international instruments on the protection of traditional knowledge and cultural expressions.

Dissolution Of Linked Trademarks

The Regulations also sets out, in detail for the first time, the formal requirements applicable to requests for the dissolution of linked trademarks. Under the new rules, a request to dissolve the link between two or more trademarks must:

- be filed by the trademark owner itself and third parties may not request dissolution on the owner's behalf;

- clearly identify each of the trademark registrations, or pending applications, involved in the link to be dissolved; and
- expressly state the owner's intent and will to dissolve the existing link.

By expressly regulating these formal requirements, the Regulations are expected to simplify what has previously been a procedurally ambiguous process before IMPI, giving trademark portfolio managers and registrants greater certainty as to the documentation and content needed to successfully unlink registrations, which is a step that is often necessary when a business restructures its trademark architecture, divests a product line or otherwise no longer wishes to maintain the linkage between related marks.

PRACTICAL CONSIDERATIONS: TRANSITION TO THE NEW RULES

One of the most important aspects of the new Regulations is the transitional regime, as it determines which procedural rules will apply during the transition to the new framework.

Generally, proceedings and applications already pending when the Regulations entered into force on 22 July 2026 will continue to be governed by the rules that were in effect when they were filed. In other words, the new procedural provisions do not apply retroactively. As a result, matters initiated before the effective date will generally continue to be processed under the prior regulatory framework until they are concluded.

An important exception relates to the newly introduced conciliation mechanism. Even where a matter remains subject to the former procedural rules, parties involved in pending infringement proceedings may benefit from the new alternative dispute resolution provisions once the Regulations become effective. Likewise, dispute resolution mechanisms available before the Federal Court of Administrative Justice (FCAA) may be invoked in accordance with the applicable rules once the new Regulations enter into force.

From a practical standpoint, this creates a valuable opportunity for parties currently involved in infringement proceedings. Cases already pending before IMPI may be suitable candidates for conciliation without requiring the proceedings to be refiled or restarted under the new framework. Accordingly, trademark owners and practitioners should review active matters to identify disputes that could benefit from an early negotiated resolution.

CONCLUSION

The entry into force of the Regulations on 22 July 2026 constitutes one of the most significant developments in Mexican trademark practice in the past few years. By providing long-awaited procedural guidance and introducing new tools such as formalised letters of consent, conciliation mechanisms, recognition of electronic signatures and clearer rules for non-traditional marks and acquired distinctiveness, the Regulations bring greater certainty and predictability to trademark prosecution and enforcement in Mexico.

Although many practical questions will ultimately be resolved through IMPI's application of the new rules and future administrative and judicial precedent, the Regulations represent a welcome modernisation of Mexico's industrial property system. Most importantly, they provide clearer procedures in areas that for years relied heavily on administrative practice and interpretation, helping align Mexican trademark practice more closely with international standards and the expectations of rights holders operating in a global marketplace.

While the new Regulations represent a significant step forward and provide long-awaited guidance in several areas of trademark practice, they should also be viewed as part of a broader process of modernisation rather than its final stage. Trademark law and practice continue to evolve rapidly in response to technological developments, new forms of branding, digital commerce and changing consumer behaviour.

To ensure that Mexico remains an attractive and efficient jurisdiction for rights holders, it will be important for the country to continue adapting its industrial property framework to international best practices and emerging trends in leading jurisdictions. Ongoing alignment with global standards not only enhances legal certainty for trademark owners, but also strengthens the competitiveness, predictability and overall effectiveness of the Mexican industrial property system.

In that sense, the new Regulations are both a welcome achievement and an important foundation for future developments. Their success will depend not only on their implementation by IMPI and the courts, but also on Mexico's continued willingness to modernise its legal framework in step with the evolving needs of brand owners and innovators in an increasingly global and digital economy.

It remains to be seen in day-to-day practice, how these important changes will actually play out now that these Regulations have come into force. Their real-world implementation before IMPI will undoubtedly warrant continued monitoring and will surely give rise to future articles and materials as practical experience develops.

In the meantime, businesses, trademark owners and applicants alike are encouraged to review their current filings and strategies in light of these reforms, ensuring timely compliance while remaining attentive to forthcoming guidelines, criteria and administrative practices that IMPI is expected to publish very soon.

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