

Doing Business in Chile

Guide 2025

INTELLECTUAL AND INDUSTRIAL PROPERTY - DOMAIN NAMES



Executive Summary

Chilean law offers strong protection for intellectual property (“IP”) rights, encouraging innovation and entrepreneurship. Both Chilean and foreign individuals, as well as legal entities can benefit from this legal framework.

The main areas of IP protection in Chile are:

1. Industrial Property: Patents, utility models, trademarks, industrial designs, layout designs of integrated circuits, geographical indications, and designations of origin.
2. Copyright and Related Rights: Governed by a separate law and protects creative works like literary and artistic expressions.

Key points about Industrial Property in Chile:

- Registration: The National Institute of Industrial Property (“INAPI”) is the state agency responsible for performing the corresponding annotations in the industrial property registry and protecting industrial property rights.
- Foreign Applicants: foreign individuals or entities are allowed to apply for registration and do not need to legalize their power of attorney.
- Trademarks: Must be distinctive and registrable for specific goods or services. Use is not currently required for registration, but a legal reform has been introduced to the Chilean Congress to change this.
- Patents: Granted for inventions that are new, inventive, and have industrial application. The protection lasts for 20 years.
- Utility Models: Protect new and industrially applicable objects or parts thereof. The protection lasts for 10 years.
- Industrial Designs: Protect the ornamental or aesthetic aspects of a product. The protection lasts for 10 years.
- Enforcement: Holders of IP rights can take legal action against infringers, through the means detailed in the “Observance” section below.

Key points about Intellectual Property in Chile:

- Registration: Copyright and related rights in Chile are governed by Law No. 17,336 on Intellectual Property. The registration process for these rights is handled by the Intellectual Rights Department of the Directorate of Libraries, Archives, and Museums (DIBAM). Applications for registration can be submitted in person, online, or by mail.



- Copyright: a copyright protects artistic and literary works, original software, databases and other intellectual property.
- Related Rights: Related rights, covering artists, performers, phonographic producers, and broadcasting organizations, provide protection to individuals or entities who, while not authors, contribute creativity, skill, or organizational input to making a work accessible to the public. Their primary purpose is to safeguard the legal interests of those who play a key role in bringing works to the public or in creating productions.
- Enforcement: Copyright holders are entitled to seek judicial protection for the duration of the author's lifetime and for 70 years following their death. This protection can be pursued through the means outlined in the "Observance" section below.

Overall, Chile provides a comprehensive legal framework for intellectual property protection, making it an attractive location for businesses and individuals involved in innovation.



INTELLECTUAL AND INDUSTRIAL PROPERTY

Intellectual property plays a crucial role in fostering innovation and entrepreneurship. Chile has consistently focused on strengthening its regulations to ensure the recognition and protection of intellectual property rights. Today, both Chilean and foreign individuals and entities benefit from a solid legal framework that safeguards their intellectual and industrial property assets, enabling them to develop economic activities with confidence. In many cases, these intangible assets may hold greater value than physical assets.

CURRENT INTELLECTUAL PROPERTY LEGAL FRAMEWORK

The following are the main domestic laws and regulations on Intellectual Property:

- Constitution of the Republic of Chile of 1980.
- Civil Code of the Republic of Chile.
- Law 19,039 (Industrial Property Law) of 30 September 1991. The latest amendment was implemented through Decree with Force of Law No. 4, which published a consolidated, coordinated, and systematized version of Law No. 19,039 on Industrial Property as of August 6, 2022. This updated text integrates all previous amendments, creating a unified regulatory framework for industrial property.
- Law 19,342 (Law on the Rights of the Breeders of New Plant Varieties) of November 1994.
- Law 17,336 (Intellectual Property Law) of 2 October 1970, last amended on November 3, 2017
- Law 19,912 (Law on Border Measures for the Enforcement of Intellectual Property Rights) of 4 November 2003, last amended as of March 12, 2017.
- Decree with Force of Law No. 3 – Effective as of July 21, 2022: This decree established a consolidated, coordinated, and systematized version of Law No. 20,254, which created the National Institute of Industrial Property (INAPI). The updated text integrates all amendments to Law No. 20,254, providing a comprehensive framework for the operation and governance of INAPI.
- Law 20,169 (Unfair Competition Law) of 16 February 2007, which was last amended as of July 4, 2019.

Chile is also part of the following International Treaties on Intellectual Property:

- The Paris Convention, effective in Chile as of September 1991.
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), in force in Chile since 1995.
- Berne Convention, applicable in Chile since 1975.



- Free Trade Agreement with the European Union, effective in Chile since 2003.
- Free Trade Agreement with the United States of America (FTA), in force in Chile as of January 2004.
- International Union for the Protection of New Varieties of Plants (UPOV) 78.
- Chile – Korea Treaty in effect since February 2004.
- Chile – Japan Treaty, applicable in Chile since September 2007.
- P4 Treaty (Trans-Pacific Strategic Economic Partnership Agreement), effective in Chile since January 2006.
- Patent Cooperation Treaty (PCT), in force in Chile as of June 2009.
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, applicable in Chile since August 5, 2011.
- Trademark Law Treaty (TLT), in effect in Chile as of 5 August 2011.

In Chile, intellectual property rights are constitutionally recognized and protected, providing a solid legal foundation for both national and foreign individuals and entities. The country's intellectual property framework is primarily organized under two key laws:

1. The Intellectual Property Law, which governs copyrights and moral rights.
2. The Industrial Property Law, which covers patents, utility models, trademarks, industrial designs, integrated circuit topographies, geographical indications, and appellations of origin.

There are also specific protections for certain categories, including the rights of breeders of new plant varieties under Law No. 19,342, which grants exclusive rights to a variety that meets set criteria. Other protections extend to undisclosed information, domain name registration, and measures against unfair competition.

INDUSTRIAL PROPERTY LAW – GENERAL MATTERS

The Industrial Property Law in Chile primarily addresses creations with commercial applications, including patents, utility models, industrial designs, integrated circuit layouts, trademarks, geographical indications, and designations of origin, collectively referred to as Industrial Property Privileges.

The National Institute of Industrial Property (INAPI) is the Chilean agency responsible for developing and managing the industrial property system by protecting rights, promoting knowledge dissemination, and fostering a balanced approach to IP.



Eligibility for Industrial Property Privileges extends to any individual or legal entity, both national and foreign. Foreign applicants or entities must appoint an agent or representative in Chile. Since Chile's adoption of the Trademark Law Treaty (TLT), a simple power of attorney suffices for IP applications, with no need for legalization or consular authentication.

The power of attorney should be presented as an original document or an authorized copy, signed and clearly identifying both the principal and representative. Foreign applicants have 60 days post-application to comply with this requirement, while Chilean residents have 30 days.

Similar conditions apply for assigning applications or transferring registrations, where a private document in Spanish is adequate, without the need for notarial or consular authentication. Industrial property rights are transferrable upon the holder's death and can be managed through various acts and contracts.

TRADEMARKS

A trademark in Chile refers to any sign that can be graphically represented and can distinguish the goods, services, or business establishments of one entity from those of others, ensuring consumers can identify the origin of these goods or services. Trademarks can include various forms such as words (including personal names), letters, numbers, images, graphics, symbols, colour combinations, or any mix of these elements. If a sign lacks inherent distinctiveness, it may still qualify for registration if it has gained distinctiveness through sustained market use (known as "secondary meaning").

Slogans or advertising phrases can also be registered but must be associated with a registered trademark for the relevant good, service, or business establishment they promote.

The Industrial Property Law permits registration of trademarks containing terms or segments that are generic, indicative, or descriptive, such as common prefixes, suffixes, or root words. However, registration protects only the trademark, with a formal disclaimer in the registration indicating that no independent protection is granted to these common elements.

The Industrial Property Law specifies certain grounds that disqualify specific expressions or signs from trademark registration, including:

- Coats of arms, flags or other emblems; the name or acronym of a state, international organization or public service state agency.
- In respect of a sign's subject matter, the technical or scientific denominations, the name of plant varieties, the common denominations recommended by the World Health Organization, and those indicating a therapeutic action.
- The name, pseudonym or portrait of any individual, unless with the individual's or their heirs' consent, if they're deceased. However, it is possible to register the names of historical celebrities if at least 50 years have elapsed since their death and if this registration does not affect their honour.
- Those utilized to indicate the gender, nature, origin, nationality, source, destination, weight, value or quality of the



products, services or establishments; the expressions or signs commonly used in commerce to designate certain class of products, services or establishments, and those that are not distinctive or describe the products, services, or establishments they refer to.

- Those that may lead to error or deceit as to the origin, quality or gender of the goods, services or commercial or industrial establishments, including those that belong to other classes but have related coverage, or that indicate a connection with the respective product, service or establishment.
- Those that are equal or phonetically similar in such a way that it may create confusion with another trademark registered abroad, because it is used to distinguish the same goods, services or commercial establishments.
- Those that are equal, or graphically or phonetically similar, to other registered trademarks and whose registration is in effect for identical or similar goods or services.
- Those that may be confused with those signs that, although not registered, are being really and effectively used prior to the registration application filed in Chile.
- Those that reproduce or imitate official guarantee control stamps or signs adopted by a State without said State's authorization; and those that reproduce or imitate medals, diplomas or awards granted in national or foreign exhibitions whose registration is requested by someone other than the person or entity that obtained them.
- Those that possess the form or colour of the goods or packaging, as well as the colour itself.
- Those that may lead to error or confusion among consumers in respect of the origin or attributes of the product to be distinguished in Chile, known as Denomination of Origin or Geographical Indication.
- Those that are contrary to moral codes, norms of good behaviour and public order, including the principles of fair competition and business ethics.

Foreign trademarks are protected if they are widely recognized and known by the relevant public, either in their country of origin or in Chile, where they may also be well-established. This recognition allows the trademark holder to prevent the registration of similar marks for identical or related goods, services, or establishments. If an infringing trademark has already been registered, the foreign trademark holder can seek its cancellation.

If a registration application is denied or cancelled on these grounds, the foreign trademark holder has 90 days to reapply for its registration. After this period, the registration becomes open to anyone, with priority given to the party who originally contested the application or sought its cancellation.

The Nice Agreement establishes the International Classification of Products and Services, which is applied in Chile for trademark registration. When applying for trademark registration, applicants must specify the goods or services to which the trademark will apply, identifying the relevant class or classes under the International Classification system. A trademark



can only be applied for and registered in connection with specific products or services within their designated class or classes.

Once a trademark registration application is filed with INAPI the Trademarks Registrar verifies that it meets all formal requirements. If the application complies, it is accepted for processing. Third parties then have 30 working days to file oppositions against the application.

After the opposition period expires, the Director of INAPI evaluates the merits of the application. If there are grounds for rejection, INAPI issues observations to the applicant. The applicant can respond to these observations and address any third-party oppositions within the prescribed response period.

If the application is denied, the applicant may appeal the decision to the Tribunal de Propiedad Industrial (Industrial Property Court). Additionally, an extraordinary appeal for annulment, known as a Recurso de Casación, may be filed with the Supreme Court if the appeal decision involves a legal error that impacts the final ruling.

The Industrial Property Law also allows for the cancellation of trademark registrations. However, cancellation lawsuits must be filed within five years of the registration date, unless the registration was obtained in bad faith, in which case no time limitation applies.

Chile stands out as the only Latin American country—and one of the few globally—where use is not a requirement for registering or maintaining a trademark. However, proposed reforms to Industrial Property Law No. 19,039, currently under discussion in Congress, aim to introduce trademark use as a validity requirement. These reforms would allow for the cancellation of trademark registrations based on non-use.

Regarding the proposed cancellation action based on non-use under the Bill currently being discussed, the following key aspects are established:

- **Five-Year Non-Use Rule:** A trademark registration may be cancelled if it has not been used for a continuous period of five years from the date of granting, or if its use has been suspended for more than five years.
- **Real and Effective Use:** To avoid cancellation, the trademark must demonstrate real and effective use within Chilean territory.
- **Third-Party Use:** Use of the trademark by an authorized third party is considered valid for preventing the cancellation action.
- **Judicial Action Requirement:** The cancellation for non-use requires initiating a court action before the Director of the (INAPI). There is no provision for ex officio cancellation.
- **Burden of Proof:** The current owner of the trademark is responsible for proving its use to counter the cancellation action.
- **Interest of the Claimant:** The party initiating the cancellation action must demonstrate a real and effective interest in using the trademark, or that the registered trademark constitutes an impediment to registering another trademark.



The registration of a trademark grants its owner the exclusive right to use it in business activities, as granted, to distinguish goods, services, and commercial or industrial establishments.

However, it does not permit the owner to prohibit third parties from using the same mark for products legitimately sold under the trademark in any country by the owner or with the owner's explicit consent.

As a result, the holder of a trademark registration may validly prohibit unauthorized third-party use of identical or similar marks in business activities if such use creates a risk of consumer confusion or deception.

To prevent unauthorized use, the owner must initiate civil and/or criminal actions before the Common Courts. These actions aim to stop the infringement, impose fines on the violator, and obtain compensation for damages incurred by the trademark holder. Licensees may also initiate these actions if the license agreement is properly recorded with the relevant trademark registration.

Trademark registrations are valid for 10 years from the registration date. Owners may request renewals for successive 10-year periods during the validity term or within 30 days after expiration. Expired trademarks cannot be reactivated; a new application must be submitted.

All registered trademarks in commerce must display the words "Registered Trademark," the initials "M.R.," or the "®" symbol. Although failing to display these does not invalidate the trademark, it precludes initiating criminal actions for trademark infringement.

INVENTIONS

An invention is defined as any solution to a technical problem that can lead to industrial activity. It may pertain to a product, process, or be related to these. A patent grants the inventor exclusive rights issued by the State to protect their invention, with the rights, obligations, and limitations outlined in the Industrial Property Law.

Patent rights are applicable throughout Chile's national territory and remain valid for a non-renewable 20-year term, starting from the application filing date with INAPI. This validity is contingent upon the payment of annual maintenance fees. Importantly, patent protection applies only in the country where it is granted.

Patents may be granted for inventions across all technological fields if they meet the following criteria:

1. Novelty: The invention must not form part of the existing state of the art.
2. Inventive Step: The invention must not be obvious or deducible by someone skilled in the relevant technical field.
3. Industrial Application: The invention must be capable of being produced or used in an industrial context.



Disclosures made within 12 months prior to the patent application filing may not compromise the invention's novelty or inventive step if:

- The disclosure was made or authorized by the applicant.
- The disclosure arose from abuse or unfair practices involving the applicant or the inventor.

In such cases, the applicant must provide documentation justifying the disclosure when submitting the patent application.

Once granted, a patent provides the owner with exclusive rights to manufacture, sell, or market the product or invention, and commercially exploit the invention in any form. For process patents, protection also extends to products obtained directly from the patented process. These exclusive rights ensure that the patent owner can control the use and commercialization of their invention during the patent term.

If, during the patent application process, the holder demonstrates that the procedure faced unwarranted administrative delays the holder may request a supplementary protection period. This applies specifically if the patent grant date occurred more than five years after the application filing date or three years from the request for examination. This request must be submitted within six months following the patent grant date. The supplementary protection period corresponds to the duration of the demonstrated delay.

A patented invention is considered infringed if it is used commercially without the holder's authorization. In such cases, the patent holder is entitled to initiate legal action against violators, which may include fines imposed on the violator and monetary compensation for damages caused by the infringement.

To indicate a patented object, it must display the expression "Patent of Invention" or the initials "P.I.", followed by the patent registration number. This marking should appear visibly on the product or its container. Process patents, which by their nature cannot comply with this requirement, are exempt.

Failure to include the required marking does not invalidate the patent. However, it limits the holder's legal remedies to exercise Criminal actions under the Industrial Property Law. The holder's only recourse would be to file a civil damages lawsuit to seek compensation.

On 2 June 2009, Chile became a member of the Patent Cooperation Treaty (PCT), an international treaty administered by the World Intellectual Property Organization (WIPO). The PCT, currently adopted by 151 Member States, serves as a system for filing patent applications rather than granting patents. Its primary purpose is to streamline and encourage cooperation in filing patent applications, conducting searches and examinations, and disclosing technical information. However, the PCT does not grant "international patents"; the responsibility for granting patents remains solely with the national or regional patent offices where protection is sought.

Any Chilean and/or person domiciled in Chile may file a PCT international application with the INAPI as the Receiving Office. The PCT international application can claim priority one or more earlier applications filed in any country that is a



member of the Paris Convention for protection of Industrial Property.

A PCT application has the same effect as a regular national application (or certain regional applications) in all PCT contracting states, provided it satisfies the minimum requirements for obtaining an international filing date.

The PCT procedure consists of two main phases. The first is the International Phase, which requires: Filing of the International Application, International Search, International Publication (performed by the World Intellectual Property Organization, WIPO, on its website) and the International Preliminary Examination (which is optional). The second is the National Phase, where the applicant goes directly to the designated National Offices authorized to grant or reject the patent application. The deadline for undertaking the national phase in Chile is 30 months from the priority date, regardless of any delays in the international phase.

In 2012, INAPI was designated as both an International Searching Authority (ISA) and an International Preliminary Examining Authority (IPEA) under the PCT system. This distinction places INAPI among the top 18 Patent Offices globally, and makes it the second regional PCT authority, alongside Brazil.

It also establishes INAPI as the second Spanish-speaking authority worldwide, after Spain, authorized to issue international patentability search reports and International preliminary examination reports, offering a comprehensive analysis of patent application compliance with patentability requirements.

This designation highlights INAPI's growing influence in the global patent system and reinforces its role in supporting innovation within Chile and beyond.

UTILITY MODELS

Utility models encompass instruments, apparatus, tools, devices, and objects or their components, characterized by features in external appearance or operation that enhance their utility. These improvements must provide a benefit, advantage, or technical effect that was previously unavailable for their intended function.

A utility model is patentable if it meets two primary conditions: novelty and industrial application. To be considered new, the utility model must not form part of the existing state of the art. Its industrial application means it must be capable of being produced or used in industry. However, a utility model will not be granted if it presents only minor or secondary differences that do not result in a discernible or useful improvement over prior inventions or utility models.

Applications for utility models must refer to a single object, although multiple elements or aspects of the object can be included within the application.

Utility models are granted for a non-renewable period of 10 years from the date of application. Once registered, the titleholder has the right to pursue legal action against any unauthorized commercial use of the protected model. Violators may face fines and be liable for compensation claims for damages.



All utility models must display the phrase “Modelo de Utilidad” (Utility Model) or the initials “MU”, followed by the registration number. This labelling can also appear on the product’s packaging, provided the packaging is sealed in such a way that accessing the product requires breaking the seal. This ensures that the protection of the utility model applies specifically to the product and not the packaging.

Failure to include the required labelling does not affect the validity of the utility model. However, non-compliance prevents the titleholder from pursuing criminal actions for infringement. In such cases, the only available remedy is to file a civil damages lawsuit.

INDUSTRIAL DRAWINGS AND DESIGNS

The term industrial design refers to any three-dimensional form, with or without color, and any industrial or handcrafted product that serves as a pattern for manufacturing identical products. It must distinguish itself from similar items through its form, geometrical shape, decoration, or a combination of these features, provided they impart a visually perceptible uniqueness, resulting in something new.

In contrast, industrial drawings encompass arrangements, collections, or combinations of figures, lines, or colours that create a two-dimensional diagram intended for incorporation into an industrial product. The purpose is to decorate the product and give it a distinct appearance.

Industrial designs and drawings are considered new if they significantly differ from existing designs or drawings, or from combinations of characteristics present in known designs or drawings. Containers, one of the most common forms of industrial design, are protected if they satisfy this originality requirement. Similarly, printed fabrics, cloths, or laminated materials qualify for protection as industrial drawings if they meet the novelty standard.

However, designs or drawings whose appearance is dictated solely by technical or functional considerations, without any arbitrary input from the designer, are ineligible for registration. Additionally, garments and designs whose exact reproduction is essential for mechanical assembly or connection with another product as part of a whole cannot be registered as industrial designs or drawings.

The Industrial Property Law grants protection to industrial designs and drawings for a non-renewable term of 10 years, starting from the filing date of the application.

Both industrial designs and drawings must display the phrases “Diseño Industrial” (Industrial Design) or “Dibujo Industrial” (Industrial Drawing), or the initials “DI”, followed by the registration number. This marking can also appear on the container if the container is sealed such that accessing the product requires breaking the seal.

Failure to include this marking does not invalidate the industrial design or drawing but prevents the owner from pursuing criminal actions for infringement. In such cases, the owner may only file a civil lawsuit seeking an injunction and compensation for damages in a civil court.



SERVICE INVENTIONS

Under the Chilean Industrial Property Law, the ownership of inventions created under work or service contracts is determined by the nature of the employment relationship and the use of resources provided by the employer.

For contracts involving inventive activity, the law stipulates that the employer holds the exclusive right to apply for registration of the invention and to utilize any resulting industrial property rights. This is the default rule unless the parties agree otherwise through an explicit agreement.

For employees whose roles do not involve inventive or creative functions as defined by their employment contracts, the right to apply for registration and to use any resulting industrial property rights rests with the employee.

However, if the invention is developed using knowledge or resources obtained from the company—such as materials, tools, or proprietary information—then the rights to the invention will transfer to the employer, even if the employee's job description does not explicitly include inventive activities. In such cases, the employer must compensate the employee for their contribution. The amount of compensation is subject to mutual agreement between the employer and employee.

This principle also extends to instances where an employee creates an invention that exceeds the scope of their assigned duties but still benefits significantly from the company's resources or environment.

TRADE SECRETS

A trade secret is defined as any knowledge related to industrial products or procedures that, when kept confidential, provides its owner with a competitive advantage or innovation breakthrough.

Violations of trade secrets occur under specific circumstances. One form of violation is the illegitimate acquisition of a trade secret, such as obtaining it through unauthorized means like theft, espionage, or bribery. Another form is the unauthorized disclosure or exploitation of a trade secret without the consent of its rightful holder. Additionally, a breach of confidentiality obligations, where trade secrets are disclosed or used despite legitimate access under a confidentiality agreement, also constitutes a violation.

These actions are deemed unlawful if they are committed with the intent to gain an unfair advantage for oneself or a third party, or to cause harm to the rightful holder of the trade secret.

UNDISCLOSED INFORMATION

Information submitted to the Institute of Public Health or the Agriculture and Livestock Service regarding the safety and efficacy of agro-industrial or pharmaceutical products that utilize a new chemical element, or other previously unapproved data, is classified as confidential. This confidentiality ensures that proprietary data provided by the submitting party is protected from unauthorized disclosure or use.



Such confidential information cannot be disclosed or used by the relevant authorities to grant health registrations or authorizations to third parties who do not have explicit authorization. This protection is time-bound, lasting five years for pharmaceutical products and ten years for agricultural products.

GEOGRAPHICAL INDICATIONS AND DESIGNATIONS OF ORIGIN

Geographical indications (GIs) and designations of origin (DOs) provide legal protection to products originating from a specific country, region, or locality, provided these products possess qualities, reputations, or characteristics directly attributable to their geographical origin. For DOs, the protection also extends to products whose characteristics are influenced by natural or human factors inherent to the region.

The recognition and protection of GIs and DOs are managed by INAPI. These are formally recorded in a specialized Registry of Geographical Indications and Designations of Origin maintained by INAPI for this purpose.

The process of registering a GI or DO can be initiated by any natural or legal person representing a significant group of producers, manufacturers, or artisans. These individuals or entities must operate within the demarcated zone associated with the requested GI or DO and satisfy other legal requirements. Their lands or facilities for extraction, production, processing, or preparation must also be located within the delimited area defined by the GI or DO.

Additionally, national, regional, provincial, or local authorities may seek recognition of GIs or DOs for products originating from their respective jurisdictions.

PROCEDURE

When a registration application for a trademark, patent of invention, utility model, industrial design, layout design (topography) of integrated circuits, geographical indication, or designation of origin is filed and accepted for processing, publication of a corresponding extract in the Official Gazette (Diario Oficial) is mandatory.

Interested parties may file a notice of opposition to the application with INAPI. The notice must be submitted within 30 days of the application's publication for trademarks. For patents, utility models, industrial designs, layout designs (topographies) of integrated circuits, and label wording referring to geographical indications or designations of origin, the opposition period is 45 days.

If an opposition is filed, the applicant has 30 days to respond for trademarks and 45 days for patents, utility models, industrial designs, layout designs (topographies) of integrated circuits, geographical indications, and designations of origin. During these disputes, all parties must be represented by an authorized lawyer.

For cases involving patents, utility models, industrial designs, and layout designs of integrated circuits, a case examiner is appointed to prepare a report on the application. The examiner has 60 days to complete this report from the date of acceptance of their appointment, which may be extended by an additional 60 days by the INAPI Director. Once the report is prepared, it is sent to the parties involved, who have 60 days to submit observations. This observation period may be extended once by an



additional 60 days upon request. The examiner then has 60 days to respond to these observations.

Decisions issued by the INAPI Director in the first instance may be appealed, whether or not an opposition has been filed. The appeal must be lodged within 15 days of notification of the decision and will be heard by the Industrial Property Tribunal.

PLANT VARIETIES

A breeder's right is a form of acknowledgment granted by the State to natural or legal persons through the registration of a new plant variety in the Register of Protected Varieties. The variety can originate from natural processes or intentional breeding, and any genus or species is eligible for registration.

Under the Rights of Breeders of New Varieties of Plants Law, breeders are granted exclusive rights over their variety, allowing them to multiply and trade seeds or plants of the protected variety during the protection period. To qualify for protection, a variety must meet specific criteria: it must be new, distinct, uniform, and stable.

This right is a form of ownership over the variety, giving the breeder the authority to reproduce and commercially exploit it within a defined timeframe. The protection period is 18 years for trees and grapevines and 15 years for all other plant varieties.

COPYRIGHTS – AUTHOR'S RIGHTS

Copyright, or Author's Rights, is a legal domain that protects creative or artistic works, such as literature, music, and other artistic expressions. Uniquely, copyright protection is automatically recognized from the moment a work is created, eliminating the need for formal registration. However, creators may register their work with the Copyright Department to document the creation date and authorship, which is particularly useful for proving ownership and is required for transferring economic rights.

Chile's copyright framework is enshrined in Article 19 Nº. 25 of the Chilean Constitution, the Intellectual Property Law (Law No. 17,336), and international agreements like the Berne Convention. The Intellectual Property Law has undergone multiple amendments, the latest being Law No. 21,045 on November 3, 2017. This law protects both moral and economic (patrimonial) rights associated with creative works.

Under Chilean law, copyright protection extends for the author's lifetime plus 70 years after their death. If the work belongs to a legal entity as the employer, protection lasts for 70 years from the first publication.

According to Article 17 of Law No. 17,336, no one may publicly use a copyrighted work without the explicit consent of the copyright owner. Consent, referred to as "authorization," must detail the rights granted, including duration, payment terms, the number of permitted uses, the territorial scope, and any restrictions.

Transfer of economic copyright rights, whether in whole or in part, must be formalized through a public deed or a notarized private instrument. This transfer must also be recorded in the Copyright Registry within 60 days of the contractual agreement.

Chile's copyright laws include robust enforcement mechanisms. Unauthorized use of copyrighted works may result in severe penalties, including criminal fines and sanctions. The law also places limits on the liability of Internet Service Providers (ISPs), with decisions about the removal of online content left to the jurisdiction of ordinary courts.



OBSERVANCE

Disputes and breaches of intellectual property (IP) rights in Chile are handled by ordinary courts, either civil or criminal, depending on the nature of the case.

Law No. 19,039 (Industrial Property Law) provides for criminal and civil actions against violations of industrial property rights. This includes infringements related to patents, trademarks, utility models, appellations of origin, industrial designs, geographical indications, layout designs, and trade secrets.

Law No. 17,336 (Copyright Law) traditionally penalizes unauthorized use of copyrighted works. Amendments under Law No. 20,435 expanded the scope of infringement definitions and introduced additional penalties for individuals involved in associations violating the law. This amendment also allows rights holders to pursue both civil and criminal actions for copyright infringements.

If a breach of IP rights is linked to the violation of a constitutional right through arbitrary or illegal actions, the *Recurso de Protección* (Constitutional Protection Action) may be filed with the Court of Appeal. This legal remedy seeks to restore the infringed constitutional right and must be submitted within 30 days of the alleged violation, as established by Article 20 of the Chilean Constitution.

Chilean Customs is authorized to temporarily detain goods suspected of infringing industrial property rights. This measure allows time for disputes to be resolved and prevents the circulation of potentially infringing products, thereby reinforcing the protection of IP rights.

DOMAIN NAMES

GENERAL MATTERS

Country code

Chile's country code top-level domain (ccTLD) is .CL.

Registration authority

Currently the ccTLD .CL is administered independently by the designated national registration authority, which is NIC Chile, (Network Information Center). This is part of the Department of Computer Science of the University of Chile.

Legal framework

The regulation that governs .cl domain names is:

- The Rules for the Operation of the .CL Domain Names Registry (Reglamentación para el Funcionamiento del Registro de Nombres del Dominio .CL), which was last amended on July 2020.



- Syntax policy for domain names under . CL
- Dispute Resolution Policy by Domain Names . CL
- Resolution No. 357 issued as of June 2020, regarding the prohibition of domain names for phishing purposes, and the authority of NIC for canceling such registrations

Domain Name Registration

NIC Chile allows the registration of all types of names. Originally it started by permitting the registration of domain names that use only Latin or “Roman” characters. However, as of September 2005, NIC Chile incorporated Internationalized Domain Names (IDN’s). The new IDNs enable characters inherent in the Spanish language to be used. These are the “u” with a dieresis and the letter “ñ”. Applicants can now also register domain names that contain vowels with an accent.

Who can register a domain name?

Any natural or legal, national or foreign person may hold domain names in .CL.

How to contact the owner of a domain name?

In the past NIC Chile used to provide addresses, phone numbers or email addresses for contacting the owner of a web domain. Currently that option is no longer available, and it provides a service to send them a message through a web form.

The registration process

Applications for registration of domain names are received electronically through www.nic.cl.

The registry applicant should include contacts that may intervene in the management of the domain name, according to the current procedure for such purposes. The appointment of an administrative contact, who will have the quality of domain holder representative for all regulatory purposes, will always be mandatory.

An application for registration of a domain name will be deemed validly filed when confirming the payment of the respective fee (approximately U\$16 per year), following which NIC Chile sends the registration and enables the operation of the domain name registered.

When a domain name has been registered, it is published by NIC Chile in a list of “registered domains” and remains on that list for an advertising period of thirty (30) calendar days after such publication.

Revocation of a domain name.

Any natural or legal person who considers their rights are affected by the registration of a domain name may request the revocation of the registration; this is subject to the .CL Domain Names Dispute Resolution Policy.

To start the procedure for revocation of a registered domain, the interested party must make an electronic request to NIC Chile



and pay the appropriate fee.

During the revocation process, the domain name in question is blocked. Blocking a domain name prevents its deletion from the registry or the transfer of ownership, ensuring that no changes are made while the revocation application is being processed.

If the revocation application is submitted within the 30-day publication period, the applicant may invoke a preferential interest to support the claim. However, if the application is filed after this period, the applicant must demonstrate that the domain name registration was abusive. For the registration to be deemed abusive, the following three conditions must all be met:

1. The domain name is identical or confusingly like a name by which the claimant is known, a trademark, or another expression to which the claimant asserts prior rights.
2. The assignee of the domain name lacks rights or legitimate interests in the domain name.
3. The domain name was registered or used in bad faith.

The demonstration of bad faith on the part of the assignee of a disputed domain name can be supported by one or more of the following circumstances, which, while not exhaustive, serve as clear indicators:

- **Intent to Profit from Resale:** Evidence shows that the domain name was registered primarily to sell, lease, or otherwise transfer the domain registration to the claimant or their competitor for a price far exceeding the direct costs associated with the registration. This is particularly relevant if the claimant owns the related trademark, goods, or services.
- **Blocking a Trademark Owner:** The domain name was registered to prevent the rightful trademark or service mark owner from using the domain name to reflect their mark online. This becomes especially significant if there is an established pattern of such behaviour by the domain name assignee.
- **Disrupting Competitors:** The registration or use of the domain name was undertaken with the primary aim of disrupting or adversely affecting the business operations of a competitor.
- **Misleading Use for Profit:** The domain name is being used to intentionally attract internet users for commercial gain by creating a likelihood of confusion with the claimant's trademark. This confusion could mislead users into believing they are accessing the claimant's website or related online presence.

The following circumstances, while not exhaustive, can serve to demonstrate and establish that the assignee of the disputed domain name has not acted in bad faith:

- **Legitimate Use or Preparations:** The assignee can demonstrate that they are actively using the domain name or making genuine preparations to use it with the intention of offering goods or services under that name.
- **Common Association with the Domain Name:** The assignee is widely recognized or commonly known by the domain



name, even if they do not hold a registered trademark for it.

- Fair Use for Non-Commercial Purposes: The assignee is making legitimate, non-commercial use of the domain name, also known as “fair use,” without attempting to gain commercially or cause confusion among consumers.

Disputes regarding domain names are resolved through arbitration as stipulated in the .CL Domain Name Dispute Resolution Policy. The parties involved may mutually agree on an arbitrator. If no agreement is reached, NIC Chile appoints an arbitrator from a publicly available list on its website.

Arbitration proceedings.

Disputes subject to arbitration are handled exclusively online, using an electronic format for the entire process.

The arbitration procedure relies on an electronic case file, which logs all actions taken by the arbitrator, including their dates and times. This file also includes all communications related to the proceedings and all documents submitted by the parties, along with the exact date and time of their submission.

The costs of arbitration are initially covered by the revocation applicant(s). However, the arbitrator’s final decision may allocate arbitration costs differently, depending on the case’s outcome.

To initiate arbitration, the revocation applicant(s) must electronically file their application with the arbitral tribunal, including all supporting evidence. The defendant then has 10 days from the date of notification to submit their response and any evidence.

Following the review of submissions and evidence, the arbitrator will decide either to reassign the domain name to the applicant or to uphold the current assignment.

Recourse against the decision of the arbitrator.

Under the Política de Resolución de Controversias por Nombres de Dominio .CL (Policy for Dispute Resolution for .CL Domain Names), decisions rendered by arbitrators are generally final, and no specific recourse is allowed. However, Chilean general procedural rules permit an exception. In cases of serious abuse in the arbitrator’s decision, a complaint or appeal can be filed with the competent Court of Appeals.

Responsibility for applying for a domain name.

The responsibility for ensuring that a domain name registration adheres to legal and ethical standards lies solely with the domain name holder. This includes respecting the right to freedom of expression and information, the principles of fair competition and business ethics, and the rights validly acquired by third parties.

Transfer and renewal of a domain name.

A change of domain name holder may occur in cases such as assignment, inheritance, or a decision by a competent authority, in accordance with the procedures established for these situations. However, the assignment of a domain name is prohibited if it



has been suspended by a court order or other authoritative directive.

In the event of the domain name holder's death, a change of holder requires the submission of the official certificate of registration issued by the court or administrative entity granting effective possession. If there are multiple heirs, the domain name will be registered under the name of a representative appointed for this purpose.

Additionally, domain names can be renewed indefinitely, ensuring continued ownership and use if renewal conditions are met.