
THE IPR REGIME IN MEXICO: ACHIEVEMENTS AND CHALLENGES



AMCHAM IPR COMMITTEE (2007)

Composition: right-holders, lawyers, academics and public authorities that work together in order to strengthen the various aspects of the intellectual property regime in Mexico.

The **Action Plan** of the Committee includes four different themes of IPR enforcement:

- measuring the impact of IP violations,
- training,
- awareness campaigns,
- and strategic alliances.

Efforts to promote IPR enforcement in Mexico.



Examples include

1. **LOBBYING GROUP** to promote legislative reforms and improve the legal framework for IP protection.
2. **“Consumption Habits Survey of Pirated and Counterfeit Products in Mexico”** :platform for the development of the public awareness campaigns carried out in cooperation between public and private sectors.
3. **Training programs** for Mexican customs officers (Customs Administration and the U.S. Embassy in Mexico City)



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Executive Summary

- ✓ Intellectual property rights (IPR) are an essential element in the competitiveness of our country, as competitiveness can only be achieved through innovation.
- ✓ Without an adequate and effective system of IPR protection, innovation is discouraged and the development of a sustainable economy cannot be realized.



AIM OF THE DOCUMENT

1. To describe the **current legal and political IPR regime in MEXICO.**
2. To emphasize the role of promoting IPR enforcement in increasing foreign investment, employment, and competitiveness, in generating economic wealth and consequently in boosting the **gross domestic product (GDP)**
3. To develop proposals to **confront the new challenges of globalization in IPR.**
4. To encourage the creation of a **culture of respect for IPR: to raise awareness among all the stakeholders involved in the creation, management, use, protection and enforcement of IPR.**



1. Legal and political IPR regime in Mexico

- The legal and institutional framework for the protection of intellectual property in Mexico has been gradually but modernized since the early 1990s.
- This process has spurred by the opening of the Mexican economy to foreign investments, and Mexico's ratification of various free trade agreements with provisions relating to intellectual property.
 - North American Free Trade Agreement, or NAFTA, between Mexico, Canada, and the United States (1993),
 - Agreement on Trade-Related Aspects of Intellectual Property Rights, or TRIPS (1994).



YEAR	LAW	INSTITUTION THAT ADMINISTRES
1991	Mexican Industrial Property Law	
1993	The Federal Copyright Law	Inter-institutional committee (IMPI, INDAUTOR, the Federal Attorney General's Office, the Customs Service, and the private sector.)
1994	IP Law amended in 1994 in response to TRIPS and NAFTA.	Mexican Institute of Industrial Property (IMPI)
1996		National Copyright Institute (INDAUTOR)



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- Widespread and largely undeterred commercial IPR infringement cause **huge losses to Mexican** and other nationalities' IP right-holders.
 - The federal government and a small number of Mexican states have **ramped up their IPR protection** and enforcement efforts, their intra-governmental coordination and their international cooperation.
 - Cooperation between government agencies and the industry has greatly improved



Links to **organized crime**, **legislative loopholes**, a **cumbersome judiciary process**, **corruption**, and a widespread **cultural acceptance** of illegal commerce continue = hinder the effective deterrence of piracy and counterfeiting.

“the criminal networks in order to defray their expenses have incurred in other criminal e actions such as kidnap, extortion, Human trafficking piracy and counterfeiting and y theft with violence”

(October 2008, Federal Attorney General Eduardo Medina Mora)



Crime indicate that drug traffickers are deeply involved in the importation and sale of counterfeit, pirated and smuggled goods. *14 people connected with drug trafficking arrested in an antipiracy raid in Monterrey: Agencia EFFE 20/06/2009. Monterrey.*

The Federal Attorney General's Office warns that as a result of the aggressive prosecution of drug traffickers, organized crime is migrating their activities towards counterfeit and pirated goods. **Trafficking moves towards other illicit activities: El financiero. 22/07/09.Mexico.**



- cooperative strategies with the European Union.

The Impact of Counterfeiting on International Trade 2008/2133(INI):

“The saturation of traditional markets and the opening up of new ones, such as those in the emerging countries, also calls for a new operational strategy which does not confine itself to prosecuting counterfeiting in Europe but which tackles the problem in those areas in which counterfeiting is more deeply rooted, taking action also in third countries which are often the recipients of counterfeit European goods produced elsewhere.”

(Committee on International Trade of the European Parliament)



Headline findings-Mexico

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2. the role of promoting IPR enforcement :foreign investment, employment, and competitiveness, economic wealth,

- ✓ Intellectual property rights nurture an innovator's efforts to create and offer solutions to particular problems confronted by society. Creators are rewarded for their ingenuity
- ✓ In light of the current global economic downturn, protecting intellectual property rights is paramount, as countless studies demonstrate their contribution to economic growth.
- ✓ Counterfeit products pose serious health risks, and strong enforcement of intellectual property rights protects the consumer.



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3. To develop proposals to confront the

new challenges of globalization in IPR.

The Mexican government continues to make significant advances in the protection and enforcement of intellectual property rights.

- ↑ Raids, arrests, indictments, prosecutions, convictions, and the level of penalties.
- **2DB** Customs enforcement efforts against the import of counterfeit and pirated goods (2007-2008)
- Mexican authorities conduct and **increasing number of inspections** throughout Mexico.



INFORMAL ECONOMY IN MEXICO : FACTS AND FIGURES

12.1 million people
Work in the Informal economy

28.2%
of the active
population



Data from the "National Survey on Occupation and Employment"(ENOE) January march 2009. INEGI (National Institute of Statistics and Geography)



AMERICAN CHAMBER
MEXICO

4. To encourage the creation of a culture of respect for IPR

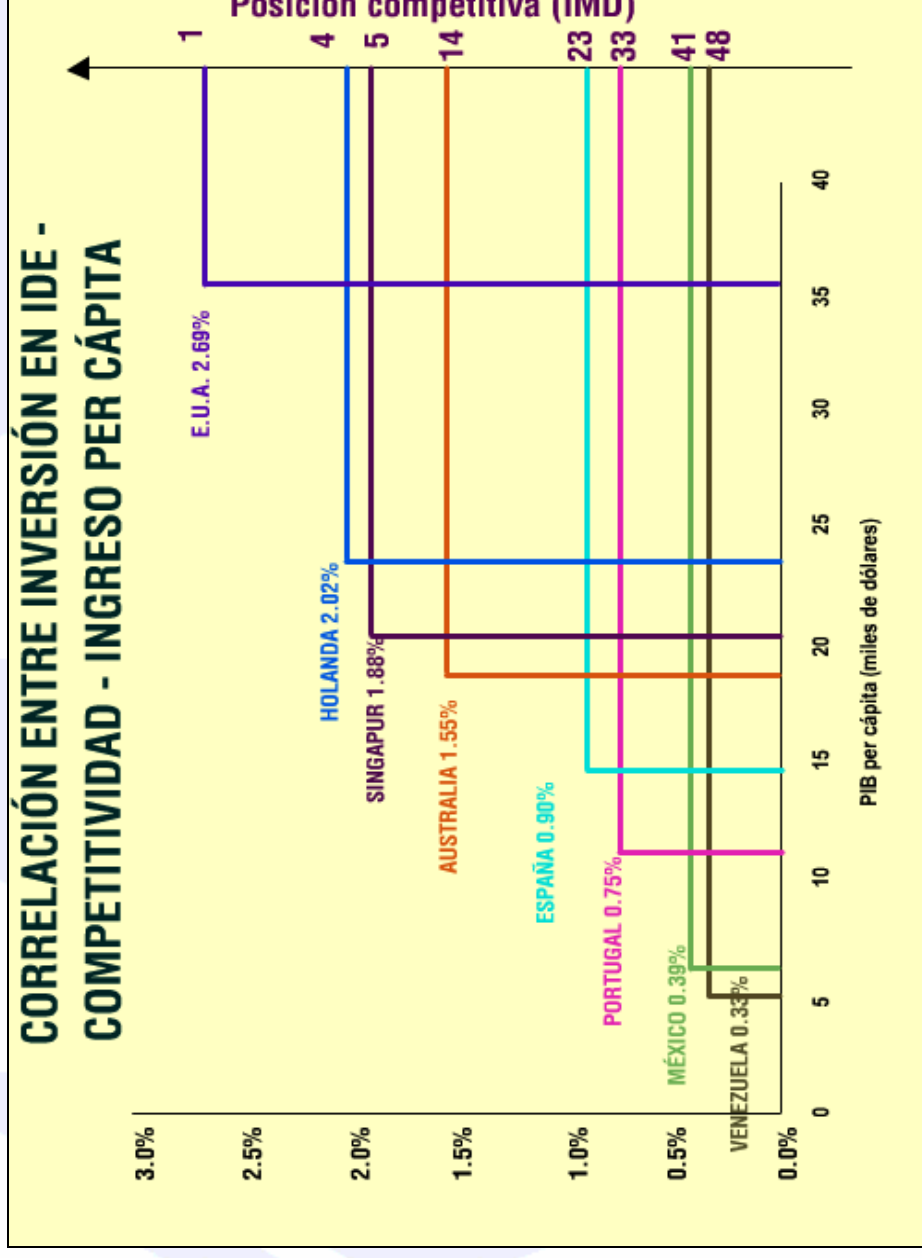
- Mexico is home to many artists, authors, musicians, composers, actors, entertainers, scientists, and inventors who have made considerable contributions to the world.
- We must work together to ensure their creations, creative efforts, and the contributions of future Mexicans, are respected.
- No society can safeguard creativity without a culture of respect for intellectual property.
- The need for fostering an awareness and appreciation of intellectual property in Mexico is clear.



The role of IP in fostering economic growth

The Average Annual Growth Rate (AAGR) in R&D and Innovation should reach THE 18% to reach a self-sufficiency level. In Mexico, from 2000 to

2004 the AAGR did not reach the 4%.



R&D as factor for competitiveness

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The young people sensitization towards IP is discouraging. According to several surveys applied to Mexicans from 13 to 15 years old:

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Recommendations

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- 2. Administrative measures**
- 3. Social policy measures**
- 4. Technical measures**
- 5. Other**



1. Legal Measures

- Granting “**ex-officio**” authority for intellectual property cases to the Prosecutor’s Office in Mexico.

(Approved by the Mexican Senate in April 2009, but must be approved by the Lower House before it becomes law.)

AIM: to eliminate the requirement that a right-holder file an accusation of an IPR offense with PGR in order for the government to act.

- speed up the process
- reduce the cost of prosecutions for IPR crimes.

Corruption and how the Prosecutor’s Office will use this tool remain a concern.



- **Customs reform. The creation of a customs database.**
 - Law does not allow for the detention of counterfeit and pirated merchandise,
 - Customs authorities do take such actions as calling counterfeit and pirated products to the attention of the right-holders.

AIM: ~~customs officials will be able to identify fraudulent~~ products more efficiently and effectively.

- **Revisions to the Industrial Property Law.** To strengthen the mechanisms for protection and enforcing IPR.

AIM : ~~As the primary watchdog agency, IMPI should be given~~ sufficient authority and effective sanctions to ensure the protection of IPR.



2. Administrative measures.

Disposal of seized goods.

- The success of the actions carried out by the Attorney General's Office (PGR) has been **overshadowed** by the lack of an effective procedure for the storage of seized goods

“more than 700 millions products are currently in storage throughout Mexico.”

AIM: the development of an effective mechanism that allows for the **destruction of seized goods** before the completion of a judicial proceeding, once an examination of the total goods seized is conducted and recorded and sample items are kept as evidence for the duration of the judicial proceeding



3. Social Policy Measures

- **Education and raising awareness.**
 - Strengthen awareness campaigns (especially those geared towards the education of children)
 - Launching new strategies for effective IPR management.
- **Public-private cooperation.**
 - Increase training programs
 - Implement cooperative IPR efforts with other Chambers of Commerce in Mexico
 - Create an Anticrime Sub-Committee within the Interinstitutional Coordination Committee
 - Create committees to continue the efforts launched under the Strategic Partnership for Prosperity (SPP)
 - Follow up the works carried out in cooperation with Internet Service Providers to combat internet piracy
- **Private-Academic cooperation.**
 - Link the “New Creators and Innovators” program to IP
 - Create an IP observatory



4. **Technological Measures.**

- Promote a dialogue between authentication device service suppliers and right-holders in order
- To improve the creation and implementation of effective anti-piracy devices.



5. Other

Change IP protection System

IPR are protected under an **administrative system**, =
INFRINGEMENT has the potential to affect the consumer and =
consumers must be protected under public legal provisions.

To obtain compensation for damages, the process may last up to as many as 10 years.

A right holder who declares an IP infringement must go through a first appeal at IMPI and then a second and third appeal before the federal tribunals before he/she can claim for damages or compensation. !!!

Bring the protection of intellectual property rights under civil jurisdiction, as Mexico does with other property rights.



No economy can grow without **innovation** and the creation of new products and processes.

No country can develop properly on the **foundation of illegality.**



**It is time for Mexico to put into
place and sustain a strong intellectual
property regime.**



THANK YOU

Marta Martín Núñez
mmartin@aml.com.mx



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