



Can my TM be ® in Central America?

©Ricardo Anibal Mejia Mejia



Trademark Related Treaties that Govern the Region

- ☐ TRIPS

- ☐ Paris Convention (1883)

- ☐ Trademark Law Treaty

- ☐ DR-CAFTA

- ☐ General Inter American Convention for Trademark and Commercial protection 1929 –
except El Salvador and Belize

- ☐ **Lisbon Agreement** – only Costa Rica and
Nicaragua



How Can I Protect my Trademark?



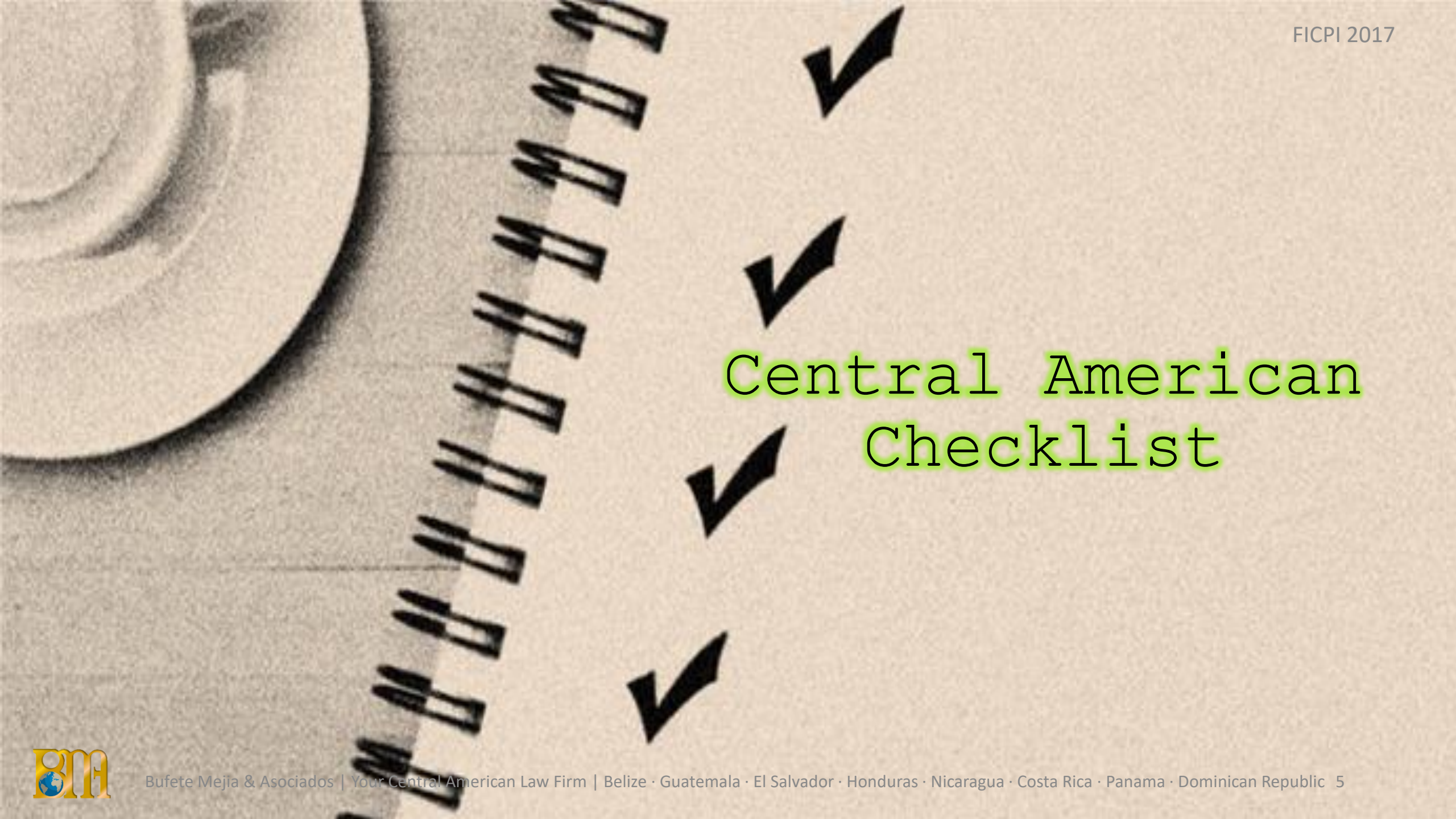
Steps...

1. Define **where** in Central America you wish to register

Belize?, El Salvador?, Guatemala?, Honduras?, Nicaragua?, Costa Rica?, Panama?

2. **Trademark Searches** ARE available – upon request to the PTOs **ONLY**

3. Comply with all **requirements**



Central American Checklist



POWER OF ATTORNEY

Duly **Notarized and Legalized** by the **Apostille**

Apostille is *not* a requirement *in ALL* countries

Exceptions:

× Belize

× Panama

× Costa Rica

[***NOTE:** It is **possible to file** an application **without a POA** as a De-facto Agent **however**, all POA's **must be submitted within the following month** upon filing]



Multi-Class Filings?

Yes

× **Except** in Honduras and Guatemala

Does Use of a TM have to be Claimed
Before a Registration is Granted?

No



Is Protection Granted to Unregistered Trademarks?

No

**If notorious, must be proven to be so.*





How Long do I Have to Wait
for my Registration to Come
Into Effect?





PANAMA

COSTA RICA
Pura Vida

NICARAGUA

SAN SALVADOR

GUATEMALA

Belize

Fly To
HONDURAS

How Long does Protection Last?

10 Years

From granting date and **renewable** every 10 years

Exception: PANAMA: Time starts on date of filing **not** grant



MAINTENANCE

Honduras

- Annuity Taxes
- Rehabilitation Tax

Oppositions

**Applications are
published for opposition**

**The opposition period
has a duration of
2 months after publication**





Grounds for opposition

A third party considers that the trademark published is similar/identical or is likely to cause confusion to its trademarks and consequently, the registration of the new trademark infringes its trademark rights.

Are they subject to appeal?

Yes

Grounds for Rejection

- Customary or common form** of the goods to which it applies
- A form which **confers a functional or technical advantage**
- A **sign or indication which can be used in business to qualify** or describe a characteristic of the goods or services in question
- A **simple color considered in isolation**
- A **letter or digit considered in isolation**, unless it is present in a special, distinctive form
- It offends or ridicules**

- ❑ It is **contrary to morality** or public policy
- ❑ Can cause deliberate misrepresentation or confusion
- ❑ A geographical indication (must be filed as such)
- ❑ It reproduces or imitates, an official sign adopted by a State or public entity,
- ❑ It reproduces coins or banknotes or other commercial documents
- ❑ It consists of the **name of a plant variety**
- ❑ **Any sign that affects a third party right may not be registered or used as a trademark****

Can the applicant take measures to rectify the application?

Yes

APPEAL

Can rejected applications be appealed?
YES



Non-Traditional Trademarks

- ❑ Color or combination of colors-Except Honduras, Panama and Guatemala *only combination of colors*
- ❑ Visual appearance externally or internally
- ❑ Trade dress-Except Belize
- ❑ Motion-In Costa Rica & El Salvador 🇵🇸
- ❑ 3-D trademarks
- ❑ Sound-Except Panama, Belize & Honduras
- ❑ Scent- Costa Rica, Guatemala, El Salvador 🇵🇸
- ❑ Taste- Costa Rica & El Salvador 🇵🇸
- ❑ Touch- Costa Rica 🇵🇸

Protection of Well-Known Marks

Yes

**Must be proven to be well-known in
the respective market place**



Questions?

rmejia@bufetemejia.com

www.bufetemejia.com