Can my ™ be ® in Central America?

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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
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?
6 months
8 - 10 months
7 - 8 months
8 - 12 months
14 months
6 - 8 months
2 - 4 months
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
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
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