

Examining the Intersection of Traditional Knowledge and Genetic Resources in Mexico and in the Americas

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Marina Hurtado Cruz leads the Patent Practice as a partner in Baker McKenzie, Mexico. With more than a decade of experience handling sophisticated intellectual property matters, she advises on a broad range of areas including licensing, prosecution and litigation of patents, utility models, industrial designs and trademarks. In addition to this, she practices in the area of health law and regularly advises clients on advertising and promotion law.

Marina is an alumna of the Munich Intellectual Property Law Center (Class of 2008/09). She also holds a Diploma in Sanitary Regulation for the Pharmaceutical Industry and advises the Mexican Ministry of Foreign Affairs on intellectual property issues.

Abstract

There has always been a certain tension between trade and environmental protection. Trade policies undoubtedly affect the environment. Environmental policies surely influence trade. The subject matter of Industrial Property cannot escape this friction. For example, biological and genetic diversity constitute a natural resource with potential for industrial application in sectors such as life sciences and biotechnology. As a result, both issues have been linked in international fora such as the Convention on Biological Diversity and the World Intellectual Property Organization.

For companies endeavoring to generate inventions in areas related to genetic resources and traditional knowledge, it is important to be familiar with local environmental regulations and the protection of industrial property on living matter. Mexico is an excellent example of a country that seeks to implement local regulations aimed at protecting these rights and complying with international instruments like the Nagoya Protocol, among others.

In her presentation, Maria will discuss the regulation of genetic resources and associated traditional knowledge in Mexico and LATAM (at a glance) in order to highlight the importance of the environmental regulations that may affect intellectual property rights. For instance, some patents have been invalidated due to a failure of recognition of these rights.