



**IP COSTA RICA** Costa Rica **Contact us**

## Bulletin August 2013

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### Patenting Antibodies in Costa Rica

In the last years the Costa Rican Patent Office (CRPO) has seen a significant increase in the number of biotech patents filed. Among these the number of antibody patents is relevant. What is needed to obtain a patent on an antibody in Costa Rica?

The Costa Rican Patent Law (CRPL) does not contain any specific provision with regards to antibodies or biotech patents in general. The Biodiversity Law makes a specific patentability exclusion of DNA as found in nature, but other than that no specific provision exists in Costa Rican laws or regulations.

Given that applications for antibody patents continue to be filed and examined regularly, and most important, granted (not as regularly), some informal guidelines have been taking shape in the last years. The process to obtain such patents, including interviews with examiners, has given us the necessary information to identify this set of informal guidelines in place now at the CRPO.

Costa Rican examiners are requiring the disclosure of the function and pharmacological effect of the antibody, not as its description, but mostly to overcome a rejection for lack of inventive step. [Read more](#)

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### Board of Appeals Lessens Requirements for Country Name Trademark Registration

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In a recent decision favorable to one of our clients, the Board of Appeals (Administrative Court) overturned a rejection by the Trademark Office of a trademark application containing a country name. The Trademark Office had based its rejection on the fact that authorization of the country to use the name as part of the trademark was not submitted.

As previously reported in our bulletin, the Costa Rican Trademark Law specifically prohibits the registration of signs that include "the reproduction or imitation, in whole or in part, of a denomination or abbreviation of any State or international organization, without permission of the competent authority or organization". This is clearly a form of protection for country names against registration by parties unconnected with the constitutional authorities of the country. The law, however, does not specify who the competent authorities to grant the required authorization are. Therefore, the authorization requirement becomes an obstacle for registration of this type of signs, when there is not an identified authority or organization capable of fulfilling the requisite. [Read more](#)

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## In our Firm

### Castro & Pal Continues Leadership in Patent Prosecution

This week IP attorneys of Castro & Pal Abogados participated in one of the first oral trials in patent prosecution in Costa Rica, presenting a very complex patent case before the Court of Appeals. The case may become a precedent for examiners, as it would be relevant in cases of rejection of patent claims without proper reasoning.

For Castro & Pal this case is significant since there have been only a few oral trials for patent cases so far under the new Administrative Code. The new code established oral hearings for patent appeals, encompassing new challenges for patent practitioners without trial experience.

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