

Confidentiality of Communication between Clients and their Patent Advisors

Guatemala

Guatemala provides for confidentiality of communications both in the Law on Judicial Organization and in the Code of Ethics.

In Guatemala, pursuant to Articles 200 and 201 (c) and (d) of the Law on Judicial Organization (Decree No. 2-89), it is forbidden for lawyers to reveal their client's secrets and to abandon without good reason cases that they have begun to defend, thus failing to comply with the obligations prescribed by the laws and regulations.

Patent lawyers must protect the information disclosed to them by their clients in order to maintain the confidentiality of the content of the patent. They must advise their clients on the procedure established in the relevant law (Decree No. 57-2000, Industrial Property Act), as well as the deadlines for compliance with administrative processes and the associated fees in order to complete all administrative steps.

It is preferable for the patent lawyer to be a specialist in patent law and to be able to provide appropriate legal advice during the administrative processes, as well as at the procedural or litigation stage where necessary, and he or she must therefore be qualified under the relevant law.

The client-patent advisor confidentiality is protected as a professional secrecy, in accordance with Article 5 of the Code of Ethics of the College of Attorneys and Notaries of Guatemala, which provides:

“Professional secrecy is one of the attorney's duties and rights. It is a duty to clients that subsists even after the cessation of services to clients. It is an inalienable right before judges and other authorities. The professional secrecy obligation covers all matters confided in connection with a case”.

Legislation in Guatemala provides for oral hearing in intellectual property law cases (Code of Civil and Commercial Procedure, Article 199 and Decree No. 57-2000, the Industrial Property Act, Article 182. Patent advisors are under a confidentiality obligation not to disclose information relating to the counselling that they provide in their professional capacity.