

PAYMENT OF ANNUITIES FOR MAINTENANCE OF PATENTS IN LATIN AMERICA

1. ARGENTINA

In the Argentinean case, patents also constitute an exclusive right that the state grants the inventors to make available the results of their research.

In Argentina patents of invention, utility model and industrial design may be granted and in all of these cases, the registration of a patent involves the payment of an annuity that if not payable the patent right can be lost.

Once granted the patent, annuities must be paid for its maintenance:

ANNUITIES FOR PATENTS	PRICE
1 to 3 year, per year (Patent legal/p)	\$ 150.-
1 to 3 year, per year. (Patent physical/p)	\$ 75.-
1 to 3 year, per year (Mod.Ut. legal/p)	\$ 75.-
1 to 3 year, per year (Mod.Ut. physical/p)	\$ 37,5
4 to 6 year, per year (Patent legal/p)	\$ 375.-
4 to 6 year, per year. (Patent physical/p)	\$ 187,5-
4 to 6 year, per year (Mod.Ut. legal/p)	\$ 187,5-
4 to 6 year, per year (Mod.Ut. physical/p)	\$ 93,75-
7th year onwards, each year (Patent legal/ p)	\$ 750.-
7th year onwards, each year. (Patent physical/p)	\$ 375.-
7th year onwards, each year (Mod.Ut. legal/p)	\$ 375.-
7th year onwards, each year (Mod.Ut. physical/p)	\$ 187,5-



SURCHARGE FOR FAILURE OF PAYMENT

1 to 3 year, per year (Patent legal/p)	\$ 195.-
1 to 3 year, per year. (Patent physical/p)	\$ 97,5.-
1 to 3 year, per year (Mod.Ut. legal/p)	\$97,5.-
1 to 3 year, per year (Mod.Ut. physical/p)	\$ 48,75-
4 0 to 6 th year, per year (Patent legal/p)	\$ 487,5-
4 to 6 year, per year. (Patent physical/p)	\$ 243.75.-
4 to 6 year, per year (Mod.Ut. legal/p)	\$ 243,75-
4 to 6 year, per year (Mod.Ljt. physical/p)	\$ 121,88.-
7th year onwards, each year (Patent legal/p)	\$ 975.-
7th year onwards, each year. (Patent physical/p)	\$ 487,5.-
7th year onwards, each year (Mod.Ut. legal/p)	\$ 487,5.-
7th year onwards, each year (Mod.Ut. physical/p)	\$ 243,75

Utility Models: FIFTY PERCENT (50%) of the corresponding patent fee, numbered from item 1 to item 7 inclusive.

Small and medium enterprises (SMEs), private, national or provincial public universities and institutions of non-profit purposes, will pay fees equivalent to the half of the fees herein established, numbered from item 1 to 7 inclusive.

If once granted the patent, the corresponding annuity is not paid, the patent law provides that operates the lapsing of right that is the patent expires.

2. WITHIN THE ANDEAN COMMUNITY FRAME

According to article 80 of Decision 486 of the Andean Community of Nations, to keep a patent in force or, where appropriate, a patent application pending, advanced annual fees must be paid, determined by the provisions of the national office of each country.



The date of expiration of each annuity will be the last day of the month in which the application was filed, being possible to pay two or more annual fees in advance.

According to Decision 486 of the Andean Community of Nations an annual fee may be paid within a grace period of six months from the date of commencement of the corresponding annual period, provided that the prescribed surcharge is paid on the understanding that during the period grace the patent or patent application remains in full force.

Failure to pay an annual fee produces the expiry of the patent or patent application.

3. PERUVIAN CASE

Since the validity of Article 89 of Legislative Decree 823, it is possible to assert that to keep a patent in force or, where appropriate, the pending patent application, regular fees or annuities must be paid, as from the third anniversary of filing of the application.

Subsequently, the Legislative Decree 1075, which expressly repealed Legislative Decree 823, made no reference to any provision with respect to annuities payable, keeping intact then this practice.

In August 2010, exactly on August 19, 2010, the new Single Text of Administrative Procedures (TUPA) of INDECOPI was approved by Supreme Decree 085-2010-PCM. In the process of maintaining in force a patent application or a granted patent ordered by the TUPA, it is established a phased annuity payment schedule as from the first year of filing of the application.



According to the Single Text of Administrative Procedures of this body, annuities for pending patent applications will be paid from the first year after the filing according to the parameters shown in the following table:

Annuities		230.75 nuevos soles
Applications from the first year until the grant	Before deadline	140.00 nuevos soles
	Within the grace period	172.00 nuevos soles
From the grant to 10 years Since the grant from 11 until effectiveness	Before deadline	274.93 nuevos soles
	Within the grace period	306.91 nuevos soles
	Before deadline	405.99 nuevos soles
	Within the grace period	435.65 nuevos soles

With regard to patent applications entered into National Phase in accordance with the Patent Cooperation Treaty (PCT), for the payment of annuities it will be taken into account the date of International filing of the PCT application.

In this case, such applications will make the payment as from their entry into nacional phase for the current year, taking as reference the international filing date.

4. THE PARTICULAR ECUADORIAN CASE

In Ecuador, annuities are counted from the date of international application. Thus, the year of annuity and deadline for payment is calculated on the basis of the PCT international application (month, year, day). For example, for a patent entering the national phase in October 2008, the third annuity had been paid in October 2010. Now, however, it should be taken into account the international filing date that is March 2006. This means that the sixth annual fees are due in March 2011.

Both the due date as the number of annuity is calculated from the PCT international application. In Ecuador, annuities must be paid in advance, and must be paid before the end of the month from the date of international application. In accordance with

Article 80 of Decision 486 of the Andean Community a grace period of 6 additional months is granted. If the annuity is not paid within the period, the patent is automatically abandoned. It is not possible to revive a patent after its abandonment.

The number of annuity and date of payment (from the international application), and the amount payable is determined according to the new rates set by the regulation:

ANNUITY	AMOUNT *
1-2	US\$104
• 3-7	US\$148
• 8-11	US\$228
• 12-14	US\$320
• 15-17	US\$428
• 18-20	US\$572

* If the payment is made within the grace period is necessary to add a surcharge of 5% per month

5. IN THE CASE OF MEXICO

In order to maintain in force patent rights, it is compulsory the payment of annuities. When the Mexican national entity consents, payments start from the filing date, not being necessary the payment of annuities for periods prior to the granting of the patent. Subsequent periods must be paid in advance on the anniversary month of the filing date.

A six-month grace period after the due date, is possible for the belated payment by paying the respective surcharge.



For annual maintenances of the rights conferred by a patent, the following rates (in pesos) shall be paid:

From first to fifth, per each;	\$1,055.18
From the sixth to the tenth, per each, and	\$1 ,282.78
From the eleventh, per each.	\$1,51 7.47

Trademark Maintenance

It is possible to add that in the case of trademarks, in accordance with Article 95 of the current law of the Industrial Property Law of Mexico, the trademarks are granted for a period of 10 years counted from the date of filing and renewable for a same period, by paying the corresponding fees prior to the six months of expiration of the trademark.

6. IN THE DOMINICAN REPUBLIC

Invention patent annuities

To achieve the effective maintenance of both patent applications and patents, as such, in the Dominican Republic annual fees must be paid. This payment must be made before the relevant annual period and the first payment should be made before the start of the third year, counted from the filing date of the patent application.

The law grants a grace period of six months for payment of annuities.

In the absence of such payment, there is a full revocation of the patent or patent application.

Annuities for utility models

Annuity payments incurred regarding utility model must begin from the fifth year and tenth year counted from the filing date of the application. This payment will be regulated under the provisions of payment of annual fees for patents of invention.



MAINTENANCE OF TRADEMARKS

The trademark has a duration of ten years counted from the granting date of the registration. This period may be renewed for successive periods of ten years counted from the date of expiration of the previous period.

INDUSTRIAL DESIGN RENEWAL

The registration of an industrial design lasts five years counted from the filing date of the application. This term may be extended for two additional periods of five years each.

Annuity rates in Dominican Pesos

EFFECTIVE MAINTENANCE OF PATENT OF INVENTION FROM 1 TO 4 YEARS (Art. 28, LAW 20-00)	RD\$ 3,885.00
EFFECTIVE MAINTENANCE OF UTILITY MODEL FROM 5TH YEAR TO 9TH YEAR (ARTICLE 28 AND 53, LAW 20-00)	RD\$ 5,828.00
EFFECTIVE MAINTENANCE OF UTILITY MODEL FROM 10th YEAR AHEAD (ARTICLE 28 AND 53, LAW 20-00)	RD\$ 7,770.00
EFFECTIVE MAINTENANCE OF PATENT OF INVENTION FROM 5 TO 9 YEARS (ARTICLE 28, LAW 20-00)	RD\$ 5,828.00
EFFECTIVE MAINTENANCE OF PATENT OF INVENTION FROM 10 TO 15 YEARS (ARTICLE 28, LAW 20-00)	RD\$ 7, 77000
EFFECTIVE MAINTENANCE OF PATENT OF INVENTION FROM 16 OR MORE YEARS (ART 28, LAW 20-00)	RD\$ 9,713.00

