

EXPORT TO PANAMA

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Panama, the Opportunity...

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At Almanza & Almanza we provide legal services in an agile, professional and efficient manner, to both companies and individuals - local and foreign-, in four broad areas:

- *Litigation,*
- *Investment,*
- *Corporate law and securities,*
- *Maritime law and logistics.*



Our customers, with whom we maintain strong and sustained relationships, turn to us as their trusted business partners, due to our ability to identify opportunities and solutions that help them compete in an ever changing global market.

INTELLECTUAL PROPERTY IN PANAMA

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Intellectual Property in Panama

What's Intellectual Property?

Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce.

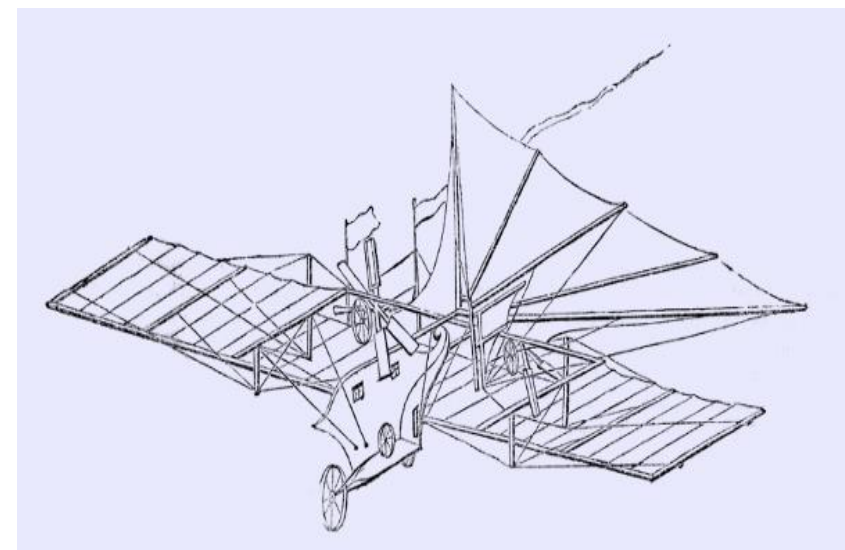
Trademark

A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises. Trademarks date back to ancient times when craftsmen used to put their signature or "mark" on their products.



Patents

A patent is an exclusive right granted for an invention



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What's Intellectual Property?

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Copyrights

Copyright is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture and films, to computer programs, databases, advertisements, maps and technical drawings.



Intellectual Property in Panama

Panama Legal Framework

The most recent and relevant developments related to intellectual property (IP) in Panama have been the amendment of Law 35 of 1996 (Panama's Industrial Property Law) through Law 61 of 2012, and the amendment of Law 15 of 1994 (Copyright Law) through Law 64 of 2012.

Panama is signatory of the Paris Convention for the Protection of Industrial Property, the General Inter-American Convention for the Protection of Industrial Property, the Trademark Law Treaty, the Agreement on Trade-Related Aspects of Intellectual Property Rights, the Patent Cooperation Treaty, and the Berne Convention for the Protection of Literary and Artistic Work, among others.

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Trademark in Panama

A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises. Trademarks date back to ancient times when craftsmen used to put their signature or "mark" on their products. By definition, a 'trademark' is "any sign or word or combination thereof or any other form that may be capable of distinguishing a product or service on the market".

Ownership

The owner of a mark can be an individual or a public or private legal entity, and need not be a Panamanian national.



Intellectual Property in Panama

Trademark Registration Requirements

- Power of Attorney granted by the trademark owner.
- If the trademark was already registered in another country, Registration Certificate of the trademark in the country of origin, authenticated by Notary Public and legalized by the Panamanian consul at the place of issuance, or by Apostille.
- Classification of products and services protected by the trademark, according to the International classification of Trademarks for Products and Services. Nice Classifications. Multiclass registration is allowed in Panama.
- Trademark Sample (can be sent via email).

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Trademark Registration Procedure



Step 1: Submission of the Trademark application

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Trademark Registration PROCEDURE



Step 2: Publication in the Borpi

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Trademark Registration PROCEDURE



**Step 3. Certificate of
Registration**

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TRADEMARK REGISTRATION TIME FRAME

Approximately it takes 7 months to obtain the official registration certificate, Nevertheless, the trademark is protected retroactively since the day of its application.

TRADEMARK COSTS AND PROFESSIONAL FEE

The total cost, including government rights and Professional Fee is between US\$520.00 to US\$600.00

Note: Each Additional Class pays US\$112.00

Intellectual Property in Panama

License of use or Convention of use

License agreements may be registered in Directorate General of the Registry of the Industrial Property of the Ministry of Commerce and Industries.

A licensor may grant permission to a licensee to distribute products under a trademark

Panamanian law recognizes the concept of sublicensing, but the specific authorization granting permission to execute a sublicense agreement must be established in the original license agreement.

Requirements for Registry

1. Power of Attorney from Licensor.
2. License agreement document signed by both parties or similar document, with Spanish translation, legalised by the Panamanian Consulate or apostille stamp.



**Trademark
Licensing**

Intellectual Property in Panama

Trademark Registration before the Colon Free Zone and Customs Authority.

Trademark owners may submit their certificates for registration to The Colón Free Zone Intellectual Property Department and the Intellectual Property Department of the National Customs Authority. Both keep databases of registered trademarks in the country to have access to updated and verifiable information regarding the owner of a certain trademark.



This becomes relevant for the import, export and transport of goods through Panamanian ports. Since the Customs Authority performs random inspections of shipping containers, suspected counterfeit goods may be apprehended until their authenticity can be clearly verified.

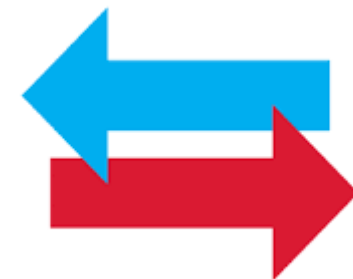
DISTRIBUTOR CONTRACTS

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Distributor contracts between exporters and distributors in Panama

Contractual Facts for Exporting to Panama

- There is no law regulating the relationship between international suppliers and local agents and distributors
- Agency, distribution and franchise agreements are all common in Panama.
- Joint Ventures are valid and frequent in Panama
- The Constitution of Panama provides that foreigners who are in the national territory will receive the same treatment as nationals.



Distributor contracts between exporters and distributors in Panama

General Contractual Clauses in Panama for Distributor Contracts

- A) Clause on the territory and products.
- B) Clause of non-competition
- C) Clause on sales, advertising and promotions.
- D) Clause of minimum volume of sales;
- E) Product supply clause
- (F) Use of Trademarks.
- G) Confidentiality.

Distributor contracts between exporters and distributors in Panama

General Contractual Clauses in Panama for Distributor Contracts

H) Free Choice of Law

I) Free Choice of Jurisdiction.

J) Exclusivity

K) Clause of early termination of contract;

L) Compensation clause;

M) Resolution of disputes (Arbitration, Mediation or Judicial)

O) Other Clauses. Authorization to the Distributor to submit Sanitary Registration of Products.

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Conclusions

- Due to its open economy, Panama has few market access problems and restrictions.
- Before start making business in Panama you should analyze and decide which structure is better for exporting your goods to Panama; Appoint an Agent, a Distributor, or establishing a Joint Venture with a Local Partner or even Start the business yourself in Panama.
- Crucial is to make a good due diligence of the partner (Agent or Distributor) you will work with.
- Take appropriate steps to protect your intellectual property (IP) should be a top priority, as well.
- It is important to have legal council for guiding you during all the process.

Starting a Business

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ALMANZA & ALMANZA provides the following services to nationals and international clients:

Sanitary Registration

- To verify the classification and requirements of the products to be imported
- Write down the powers and other necessary documents
- Carry out the authentications of the documents that come from abroad
- Submit on behalf of the producer or the importing company the application for registration of food
- Submit tag updates when appropriate Represent the manufacturer and / or importer to the authorities of the Panamanian Authority for Food Safety (AUPSA) before any sanction or unforeseen that has to do with the registration and / or product.

Distributor Contracts

- Constitution of comercial companies
- Notice of operations
- Commercial contracts
- Joint Ventures
- License of Use
- Free zones
- Multinational Corporation Headquarters

Intellectual Property

- Trademarks
- Patents
- Utility models
- Industrial designs,
- Slogans,
- Copyrights,
- Intellectual Property Litigations



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Thank you!