

CHECK-LIST OF ISSUES ON ENFORCEMENT¹

Replies by Costa Rica

Civil and administrative procedures and remedies

- (a) Civil judicial procedures and remedies

1. Specify the courts which have jurisdiction over IPR infringement cases.

Pursuant to Law No. 7979 of 6 January 2000, which amends Article 420 of the Code of Civil Procedure, and Article 37 of the Law on Procedures for the Enforcement of Intellectual Property Rights (*Ley de Procedimientos de Observancia de los Derechos de Propiedad Intelectual*) (Law No. 8039 of 12 October 2000), intellectual property matters are heard by the civil courts in the course of abridged proceedings. This procedure is more expeditious than ordinary proceedings (see Articles 420 *et seq.* of the Code of Civil Procedure). In cases of unfair competition relating to trademarks and distinctive signs, however, the legislation stipulates that these are dealt with in summary proceedings pursuant to Article 17 of the Law on the Promotion of Competition and Effective Protection of Consumers (*Ley de Promoción de la Competencia y Defensa Efectiva del Consumidor*) (Law No. 7472 of 20 December 1994), and Article 37 of the aforementioned Law on Enforcement Procedures.

2. Which persons have standing to assert IPRs? How may they be represented? Are there requirements for mandatory personal appearances before the court by the right holder?

Owners of intellectual property rights or their representatives have standing to assert their rights (see Article 102 of the Code of Civil Procedure). Legal persons must act through their representatives in conformity with the legislation, their constitution or articles of association.

Pursuant to Article 118 of the Code of Civil Procedure, in order to act as a representative, the power of attorney must be signed by the principal, or if he is unable to do so or is prevented from doing so, by a person designated; in both cases, the power must be duly authenticated by an attorney other than the person to whom the power has been granted. If a power of attorney is granted abroad, it must be certified by the consulate.

In accordance with Articles 335 and 336 of the Code of Civil Procedure, a party is obliged to respond in person to questioning when required to do so by the opposing party or ordered to do so by the competent judge or if the attorney is not conversant with the facts. If the party called on to respond fails to appear without justification, refuses to make a statement or responds evasively – despite receiving a warning – in the final judgement he may be considered guilty of the facts referred to in the written questions. If there have not been any written questions and the person wishing to

¹ Document IP/C/5.

pose questions has appeared – but not the plaintiff – the judge may consider that these facts in the statement have been proven.

3. What authority do the judicial authorities have to order, at the request of an opposing party, a party to a proceeding to produce evidence which lies within its control?

According to the Code of Civil Procedure and the Law on Procedures for the Enforcement of Intellectual Property Rights (Law No. 8039), at the request of the opposing party, the judicial authorities may order a party to a proceeding to produce the evidence which lies within its control. Article 39 of the Law, for example, states that "In abridged proceedings or in cases of unfair competition in the context of summary proceedings, where a party has identified any relevant evidence to substantiate its claims and this lies within the control of the opposing party, the judge shall be empowered to order him to produce it."

4. What means exist to identify and protect confidential information brought forward as evidence?

With regard to undisclosed information (trade or industrial secrets), Article 39 of Law No. 8039 on Enforcement Procedures states that when evidence within the control of the opposing party is requested it must be produced, provided that its confidentiality is guaranteed.

In addition, Article 9 of the Law on Undisclosed Information (*Ley de Información no divulgada*) (Law No. 7975 of 4 January 2000) provides that "In any administrative or judicial proceedings in which one of the parties is required to present undisclosed information, the authority hearing the case shall take all necessary steps to prevent its disclosure to third parties not involved in the dispute. None of the parties to the proceedings may disclose or use this information."

5. Describe the remedies that may be ordered by the judicial authorities and criteria, legislative or jurisprudential, for their use:

- **Injunctions;**
- **damages, including recovery of profits, and expenses, including attorney's fees;**
- **destruction or other disposal of infringing goods and materials/implements for their production;**
- **any other remedies.**

Injunctions

Article 186 of the Code of Civil Procedure provides that where a judicial measure has to be executed in a place other than the place of the proceedings or has to be implemented by a judge or court other than the judge or court which ordered the measure, the latter shall ensure compliance by making a request, sending a petition or issuing an injunction, the form depending on the status of the judge to whom it is addressed. The Article also states that an injunction is the form to be used for ordering the issue of certificates or testimonies and the conduct of any judicial procedure to be carried out by the registrars, notaries, assistants or junior officers of the jurisdictional body (see Articles 186 *et seq* of the Code of Civil Procedure).

Damages, including recovery of profits, and expenses, including attorney's fees

Pursuant to Article 221 of the Code of Civil Procedure, in judgements when the case examined has been resolved definitively by means of a ruling on the claim made in the complaint, and in orders with the status of judgements when deciding on exceptions or incidental claims which terminate the proceedings, the losing party shall be ordered to pay the personal and procedural costs, including attorney's fees.

Moreover, Articles 8 and 9 of the Law on Procedures for the Enforcement of Intellectual Property Rights (Law No. 8039) provide that if a preventive measure was requested prior to the proceedings and a petition is not presented within one month from notification of the relevant decision or if the preventive measure is annulled or for any other reason becomes without effect, any person claiming the right to compensation for injury caused as a result of imposition of the measure shall make a request within one month to the body hearing the initial case. If he does not make such a request within this period or does not prove his right, an order shall be issued for the return of the security for damages deposited.

Destruction or other disposal of infringing goods and materials/implements for their production

Article 41 of the Law on Enforcement Procedures provides that, at the request of a party or ex officio, the judicial authorities may order the seizure of the counterfeit or illegal goods that are the subject of the request, either in the form of an interlocutory order or in a ruling. The destruction of the goods or the materials/implements for their production, however, may only be ordered in a ruling.

In addition, the Law allows the possibility of donating the counterfeit or illegal goods to charities or educational institutions, provided that the right holder has given his prior consent.

6. In what circumstances, if any, do judicial authorities have the authority to order the infringer to inform the right holder of the identity of third persons involved in the production and distribution of the goods or services found to be infringing and of their channels of distribution?

Articles 316 *et seq* of the Code of Civil Procedure regulate matters relating to the furnishing of evidence in civil proceedings. Article 316 states that the judge shall ex officio order the production of evidence available which is relevant and which is deemed necessary. Article 318 indicates that evidence includes statements by the parties and by witnesses. In addition, Article 333 imposes on the parties the obligation to give evidence and provides that, at any stage of the proceedings, the judge may order the parties to appear in order to question them regarding the facts of the case.

Article 15 of Law No. 8039 contains a provision according to which, when the judicial authorities have proof of infringement and upon request by the right holder or his representative, the customs authorities must communicate the name and address of the shipper, the importer or exporter and the consignee of the goods, as well as the volume and description of the goods withheld.

7. Describe provisions relating to the indemnification of defendants wrongfully enjoined. To what extent are public authorities and/or officials liable in such a situation and what "remedial measures" are applicable to them?

Article 8 of Law No. 8039 provides that where a preventive measure has been adopted but no petition is subsequently presented within the prescribed period or where it is determined that no intellectual property right has been infringed, the preventive measure shall be deemed to have been annulled and the party which requested it shall be liable for the injury caused. The injury shall be compensated in accordance with the procedure established for executing the ruling.

In addition, Article 16 of the aforementioned Law – referring to ex officio action by the customs authorities – states that, within 24 hours following the withholding of goods, the customs authorities must inform the Public Prosecutor's Office that one of the offences covered by the Law on Enforcement Procedures has been committed. If they fail to do so, the goods shall be returned and the customs authorities shall be liable for the injury caused in conformity with the provisions of the General Public Administration Law (*Ley General de Administración Pública*) (Law No. 6227 of 2 May 1978).

With regard to the liability of public officials, Articles 199 *et seq* of the General Public Administration Law establish the liability of civil servants *vis-à-vis* third parties. The Law also states that any civil servant who has acted fraudulently or maliciously in carrying out his duties or in the course of his work, even if he only uses the means and opportunities afforded by his work, shall be personally liable *vis-à-vis* third parties. Such cases also include officials who issue manifestly unlawful acts and those who obey such acts, in conformity with the aforementioned Law. In addition, Article 201 of the General Public Administration Law provides that the Administration shall be jointly liable with the official *vis-à-vis* third parties for the injury caused by the official under the conditions specified in the Law.

8. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost.

According to the provisions on abridged proceedings laid down in Articles 420 *et seq* of the Code of Civil Procedure, any intellectual property case brought before the civil jurisdiction should last for approximately four and a half months. Nevertheless, depending on the complexity of the case and the evidence, many such cases may last for around one or more years.

Regarding the cost of proceedings, there are no official figures, but it could be estimated that this type of case might cost between US\$500 and US\$1,000 depending on the complexity of the case and the evidence.

Personal costs are determined on the basis of the amount claimed in the proceedings and are usually a percentage that ranges from 20 to 25 per cent of this amount.

(b) Administrative procedures and remedies

9. Reply to the above questions in relation to any administrative procedures on the merits and remedies that may result from these procedures.

In view of the need to strengthen administrative procedures in intellectual property cases and thus avoid recourse to judicial channels, Articles 19 *et seq* of the Law on Procedures for the Enforcement of Intellectual Property Rights (Law No. 8039) provide for the creation of the Administrative Registration Court (*Tribunal Registral Administrativo*), which is a highly decentralized body attached to the Ministry of Justice and Pardons with its own functional legal status, operational and administrative independence, and its rulings exhaust administrative channels.

This Court will be composed of five permanent members and five alternates appointed for four years. They must have recognized expertise in registration and other similar matters and their impartiality must be guaranteed.

The principles governing the Court's decisions are that the procedures are oral, of an official nature, and are rapid, and that evidence must be produced in order to disprove statements or charges

resulting from a registration in the National Register, including the Register of Industrial Property and the National Register of Copyright and Neighbouring Rights.

Cases relating to patents, industrial designs and models, trademarks and distinctive signs, integrated circuits and undisclosed information are brought before the Industrial Property Register, whereas those relating to copyright and neighbouring rights come before the National Register of Copyright and Neighbouring Rights.

The Law on Enforcement Procedures authorizes the Director of the National Register of Copyright and Neighbouring Rights and the Director of the Industrial Property Register to order the preventive measures established in Costa Rica's legal system.

Decisions by the Court must be taken within a period not exceeding 30 working days, which can be extended by a further 30 days as of the date on which the case came before the Court.

In addition, paragraph 4 of Article 17 and Article 50 of the Law on the Promotion of Competition and Effective Protection of Consumers (Law No. 7472 of 20 December 1994) authorizes the Technical Support Unit of the National Consumers' Commission to hear complaints of unfair competition relating to trademarks and other distinctive signs when such acts cause prejudice to consumers.

In order to bring an action before the National Consumers' Commission, a complaint must be submitted by a consumer, not necessarily the consumer injured by the alleged act. Complaints are not subject to any formalities and do not require authentication of the complainant's signature.

The Technical Support Unit must investigate the complaint, after which it transmits the file to the National Consumers' Commission for a decision. The Commission must take its final decision within the ten days following receipt of the file and must notify the parties accordingly.

Provisional measures

(a) Judicial measures

10. Describe the types of provisional measures that judicial authorities may order, and the legal basis for such authority.

Preventive measures are adopted taking into account the interests of third parties and the principle of proportionality. Article 37 of Law No. 8039 on Enforcement Procedures refers to the provisions of the Code of Civil Procedure, although measures that may be requested include, *inter alia*, cessation of the acts constituting infringement, an embargo, suspension of the circulation of the goods, and furnishing of security.

Other provisional measures that may be applied and are included in Articles 245 *et seq* of the Code of Civil Procedure include confession, presentation of documents or movable assets, judicial recognition, expert evidence and testimony and a summons to the opposing party.

11. In what circumstances may such measures be ordered *inaudita altera parte*?

The second paragraph of Article 6 of the Law on Enforcement Procedures (Law No. 8039) provides that "in cases where hearing the parties might nullify the effects of the measure, the judicial authority, the Register of Copyright and Neighbouring Rights or the Industrial Property Register shall decide upon the need for the preventive measure requested within 48 hours of the request".

Notwithstanding the preceding paragraph, if a preventive measure is imposed without giving the other party a hearing, the authority which ordered the measure shall notify the party affected within three working days of its imposition. The party affected may appeal against the measure imposed.

12. Describe the main procedures for the initiation, ordering and maintenance in force of provisional measures, in particular relevant time-limits and safeguards to protect the legitimate interests of the defendant.

Articles 242 *et seq* of the Code of Civil Procedure provide that preventive proceedings may begin before or during the principal proceedings, of which they form part.

Within 48 hours of the submission of a request for a preventive measure, the judicial authorities shall grant the parties a hearing so that, within three working days, they can express their opinion on the request. Whether or not there is an objection, after the expiry of this period, within three days the competent court shall take a decision on whether or not to impose a preventive measure. The decision taken by the judicial authority must be carried out immediately. An appeal does not suspend the effects of imposing the measure.

Where a judge has a justified fear that one of the parties, prior to the judgement, may cause serious injury to the right holder which it would be difficult to remedy, he may decide on the preventive measures he deems necessary. In order to prevent the injury, the judge may authorize or prohibit the carrying out of certain acts, order the deposit of assets or impose the furnishing of security.

A party must submit its petition within one month of the date on which the preventive measure was imposed when it has been granted in the course of the preparatory proceedings.

The preventive measure shall cease to have effect if the party does not present a petition within one month or if, without justification, the measure is not imposed within the same period. After the measure ceases to have effect, the party may not present a further petition unless there are new grounds.

In order to protect the legitimate interests of the defendant, Article 8 of the Law on Procedures for the Enforcement of Intellectual Property Rights (Law No. 8039) provides that where a preventive measure has been adopted but no petition is subsequently presented within the prescribed period or where it is determined that no intellectual property right has been infringed, the preventive measure shall be deemed to have been annulled and the party which requested it shall be liable for the injury caused, which shall be compensated in accordance with the procedure established for executing the ruling.

13. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost.

Article 6 of Law No. 8039 lays down a procedure for examining and approving requests for preventive measures which fixes very short time-limits. As this is relatively new legislation, there is no information regarding its duration in practice.

The cost of imposing a provisional measure in civil proceedings can be grouped under two headings: procedural costs and personal costs. The major procedural cost for imposing preventive measures is the security or guarantee which the person requesting the measure must deposit in order to protect the alleged infringer against any abuse. The amount of the security is at the judge's discretion and is determined taking into account the nature of the measure. In the case of an embargo on money or assets, the security will consist of a percentage of its value (around 25 per cent).

If the furnishing or presentation of prior evidence is required for the imposition of such a measure, for example, expert opinion or preventive recognition, the cost of the evidence has to be met and this may range from US\$100 to US\$300.

As regards attorneys' fees, if the preventive measure is requested prior to presenting the principal case, the fees will be determined as a percentage. If it is requested during the course of the principal proceedings, the fee is usually calculated on the basis of the numbers of hours of work.

(b) Administrative measures

14. Reply to the above questions in relation to any administrative provisional measures.

Pursuant to the Law on Procedures for the Enforcement of Intellectual Property Rights (Law No. 8039), the Directors of the National Register of Copyright and Neighbouring Rights and the Industrial Property Register respectively are empowered to order the adoption of preventive measures on the same terms as those described above (see the replies to questions 10 to 13).

As is the case for judicial proceedings, Law No. 8039 allows the competent administrative bodies only a short time in which to examine and impose preventive measures. Nevertheless, as this is relatively new legislation, there have been no cases so far and there are no data which allow the actual duration to be determined. Moreover, the Administrative Registration Court has not yet been set up because transitional provision II of Law No. 8039 gives the Executive one year (as of 27 October 2000) in which to establish and initiate the functioning of the Court.

Professional fees in cases of preventive measures coming before the competent administrative authority will be calculated on the basis of a table of fees and may be around US\$1,000. There are no official figures concerning the amount of procedural costs, although it is estimated that these may range from US\$50 to US\$150.

Special requirements related to border measures

15. Indicate for which goods it is possible to apply for the suspension by the customs authorities of the release into free circulation, in particular whether these procedures are available also in respect of goods which involve infringements of intellectual property rights other than counterfeit trademark or pirated copyright goods as defined in the TRIPS Agreement (footnote to Article 51). Specify, together with relevant criteria, any imports excluded from the application of such procedures (such as goods from another member of a customs union, goods in transit or *de minimis* imports). Do the procedures apply to imports of goods put on the market in another country by or with the consent of the right holder and to goods destined for exportation?

The Law on Procedures for the Enforcement of Intellectual Property Rights (Law No. 8039) states that measures at the border can be applied to any goods that infringe any intellectual property right and not solely to goods with counterfeit trademarks or pirated goods that infringe copyright. Article 11 of the Law in particular provides that "The owner of an intellectual property right who has substantiated knowledge of the arrival or clearance of goods which infringe his right may request the Industrial Property Register, the National Register of Copyright and Neighbouring Rights or the judicial authorities to order the customs authorities to suspend their clearance." It is thus clear that measures at the border can be applied to goods for export if they infringe any intellectual property right.

Under Costa Rica's legislation, there is no obligation to apply measures at the border to imports of goods put on the domestic market by the right holder or with his consent or to goods imported by persons authorized by the State or in accordance with Costa Rican legislation if the right holder or his representative has lawfully introduced them into Costa Rica or abroad. Measures at the border do not apply either to goods that form part of the personal effects of travellers.

16. Provide a description of the main elements of the procedures relating to the suspension of the release of goods by customs authorities, in particular the competent authorities (Article 51), the requirements for an application (Article 52) and various requirements related to the duration of suspension (Article 55). How have Articles 53 (security or equivalent assurance), 56 (indemnification of the importer and of the owner of the goods) and 57 (right of inspection and information) been implemented?

The provisions on measures at the border and the procedure for their application are based on Article 10 of Law No. 8039. This Article provides that when a preventive measure is requested at the time of customs clearance of counterfeit or illegal goods (whether for import or export) the administrative decision taken by the Industrial Property Register, the National Register of Copyright and Neighbouring Rights or the judicial decision ordering the measure shall be communicated immediately to the customs authorities and to the defendant.

Any owner of a protected intellectual property right, or his representative, requesting the suspension of clearance of goods will be required as a minimum:

- To prove that he is the owner of an intellectual property right or the owner's representative;
- to provide security of a reasonable amount before the measure is ordered in order to protect the alleged infringer and prevent abuse;
- to furnish information on the goods and a description that is as detailed as possible so that the customs authorities can easily identify them.

After clearance of the goods has been suspended, the Industrial Property Register, the National Register of Copyright and Neighbouring Rights or the judicial authorities shall immediately notify the importer or exporter of the goods and the person requesting the measure.

Article 13 of the Law on Enforcement Procedures provides that if, after ten working days from the date on which the person requesting the measure was notified of the suspension, he has not submitted a petition or if no communication has been received from the Industrial Property Register, the National Register of Copyright and Neighbouring Rights or a judicial authority stating that the preventive measures extending the suspension of clearance have been taken, the Industrial Property Register, the National Register of Copyright and Neighbouring Rights or the competent judge shall ask the customs authority to lift the measure and order the clearance of the goods if the other conditions laid down have been met.

Prior to 27 October 2000, the date on which the Law on Procedures for the Enforcement of Intellectual Property Rights came into effect, Costa Rica did not have any legislation on measures at the border so there have not been any cases of application of provisions on security, indemnification of the importer or of the owner of the goods, the right of inspection and information.

17. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost. How long is the validity of decisions by the competent authorities for the suspension of the release of goods into free circulation?

As already mentioned, until the end of 2000 Costa Rica applied the regulations on border measures so it is impossible to provide data on their effective implementation because no case has arisen so far.

Regarding the relevant legal provisions, Article 13 of the Law on Enforcement Procedures provides that, after the customs authorities have suspended the release of counterfeit goods into free circulation, the party which requested the measure has ten working days to present a petition. The customs authorities could also be notified by the Industrial Property Register, the National Register of Copyright and Neighbouring Rights or a judicial authority that preventive measures have been taken which will extend the suspension of release.

18. Are competent authorities required to act upon their own initiative and, if so, in what circumstances? Are there any special provisions applicable to ex officio action?

Article 16 of the Law on Procedures for the Enforcement of Intellectual Property Rights provides that where the customs authorities have sufficient grounds for considering that an intellectual property right is being infringed they must act ex officio and withhold clearance of the goods, either on the basis of the grounds themselves or because the goods might mislead consumers.

Within 24 hours of the goods being withheld, the customs authorities must notify the Public Prosecutor's Office that one of the offences covered by the Law on Enforcement Procedures has been committed. If they fail to do so, the goods shall be returned and the customs authorities shall be liable for any injury caused in conformity with the terms of the General Public Administration Law (see the reply to question 7). To the extent possible, the customs authorities shall inform the owner of the rights that are possibly being infringed.

19. Describe the remedies that the competent authorities have the authority to order and any criteria regulating their use.

The preventive measures applicable at the border are those provided for in the Code of Civil Procedure or the Code of Criminal Procedure, as well as the measures indicated in Article 5 of the Law on Enforcement Procedures. One of the measures most commonly used is the preventive seizure of counterfeit goods.

A general principle when adopting preventive measures is that any decision on a request for the adoption of such measures must take into account both the interests of third parties and the proportionality between the effects of the measure and the injury it may cause.

Criminal procedures

20. Specify the courts which have jurisdiction over criminal acts of infringement of IPRs.

In Costa Rica there are no special courts hearing intellectual property cases. In accordance with the Basic Law on the Judiciary, criminal courts, according to their respective jurisdiction, are competent to hear cases relating to intellectual property rights.

21. In respect of which infringements of which intellectual property rights are criminal procedures and penalties available?

Articles 43 *et seq* of the Law on Procedures for the Enforcement of Intellectual Property Rights (Law No. 8039) provide that the ordinary criminal procedures regime (laid down in the Code of Criminal Procedure) applies to proceedings concerning the offences cited in the Law, in the form of a public action brought by a private individual

Articles 44 *et seq* of the aforementioned Law determine the offences against rights in trademarks and distinctive signs, undisclosed information, copyright and neighbouring rights, patents and lay-out designs of integrated circuits.

22. Which public authorities are responsible for initiating criminal proceedings? Are they required to do this on their own initiative and/or in response to complaints?

Costa Rica's legislation states that intellectual property offences are the subject of public action brought by private individuals, which means that this type of offence requires recognition that a crime has been committed before the Public Prosecutor's Office can initiate criminal proceedings *ex officio*.

Under Article 62 of the Code of Criminal Procedure, the Public Prosecutor's Office shall bring criminal action in the form laid down in the law and shall undertake the relevant and necessary steps to determine the existence of an offence. The Office shall be responsible for the preliminary investigation, under jurisdictional control where the acts so require.

23. Do private persons have standing to initiate criminal proceedings and, if so, who?

Article 17 of the Code of Criminal Procedure provides that, in cases where public criminal action must be initiated by a private individual (which is the case for intellectual property offences), the Public Prosecutor's Office can only bring an action after the requisite complaint has been made to the competent authority.

In accordance with the provisions of the Code of Criminal Procedure, any person with legal capacity who claims that he has been injured by an offence subject to public action brought by a private individual has the right to bring proceedings and also to bring joint civil action for compensation. An injured party aged over 15 years or, if he is under that age, only his legal representative, tutor or guardian, may lodge a complaint. The complainant must act through an attorney.

24. Specify, by category of IPR and type of infringement where necessary, the penalties and other remedies that may be imposed:

- **Imprisonment;**
- **monetary fines;**
- **seizure, forfeiture and destruction of infringing goods and materials and implements for their production;**
- **other.**

Imprisonment

Costa Rican legislation provides for criminal penalties to protect the various types of intellectual property with terms of imprisonment ranging from one to three years. More specifically, the Law on Procedures for the Enforcement of Intellectual Property Rights (Law No. 8039) determines the following offences:

Offences against intellectual property rights derived from trademarks and distinctive signs: counterfeiting a mark; selling, storing or distributing counterfeit products; selling, acquiring or offering designs or copies that are identical to a trademark already registered; fraudulent identification as a distributor or fraudulent use of indications or appellations of origin.

Offences against rights in undisclosed information: disclosure of trade or industrial secrets or obtaining undisclosed information by unlawful means.

Offences against copyright and neighbouring rights: unauthorized public performance or communication of literary or artistic works; unauthorized communication of phonograms, videograms or broadcasts; registration of another person's copyright; unauthorized reproduction of literary or artistic works, phonograms or videograms; fixing, reproduction and broadcasting of protected performances; printing a larger number of copies of a work; publication of another's work as one's own; unauthorized adaptation, translation, modification or compilation of literary or artistic works; sale, offering for sale, storing, depositing or distributing counterfeit copies; unauthorized leasing of copies of literary or artistic works, phonograms or videograms; manufacture, import, sale or leasing of decoding appliances or devices; alteration, deletion, modification or deterioration of technological protection against the reproduction of works or making available to the public and altering electronic information used to protect the economic rights of the owner.

Offences against rights in patents, industrial designs and models and utility models: infringement of patented or protected products; claiming rights as the owner before third parties; infringing rights derived from patents or utility models registered in Costa Rica; unlawful reproduction of industrial models or designs; and sale, storage, distribution, deposit, export or import of counterfeit copies.

Offences against rights in lay-out designs (topographies) of integrated circuits: infringement of the rights derived from an original lay-out design (topography) of integrated circuits.

Monetary fines

Costa Rican legislation does not provide for monetary fines for offences against intellectual property rights.

Seizure, forfeiture and destruction of infringing goods and materials and implements for their production

Article 71 of the Law on Procedures for the Enforcement of Intellectual Property Rights (Law No. 8039) provides that, either at the request of a party or ex officio, the judicial authorities may, in an interlocutory judgement or in a final ruling in criminal cases, order the forfeiture of counterfeit or illegal goods, but destruction may only be ordered in the final ruling.

Other

Article 49 of the Law on Procedures for the Enforcement of Intellectual Property Rights (referring to the offence of disclosing trade or industrial secrets) determines that, if a public official

reveals undisclosed information, in addition to a term of imprisonment, he shall be prohibited from holding any official post for a period of one to two years.

25. Describe provisions governing the length and any cost of proceedings. Provide any available data on the actual duration of proceedings and their cost, if any.

Criminal proceedings last for approximately one year.

There are no official data or figures on the cost and duration of criminal proceedings; however, in such cases procedural costs could range from US\$200 to US\$400. Attorneys' fees for preparing and presenting criminal cases can be estimated at around US\$500 to US\$2,000, depending on the complexity of the case. In addition, Costa Rican criminal procedure allows a victim to bring a criminal prosecution by submitting a criminal complaint. In such cases, the attorney's fees for presenting the case and bringing the action could be around US\$2,000 to US\$2,500.
