

Confidentiality of Communication between Clients and their Patent Advisors

Argentina

Article 75 of Law No. 24.481 on Patents and Utility Models and subsequent amendments, consolidated and amended by Decree 260/96, provides that the usurpation of the rights of the inventor shall be deemed to be an offence of counterfeiting punishable by imprisonment of six months to three years and a fine. Further, Article 77 states that “The above sentence shall be increased by one-third in the case of a person who:

(a) was a partner, representative, advisor, employee or worker of the inventor or of his assignees and who misappropriates or discloses the as-yet unprotected invention;

(b) obtains the disclosure of the invention through the corruption of a partner, representative, advisor, employee or worker of the inventor or of his assignees; or

(c) violates the obligation of secrecy imposed by this law”.

In relation to the subject matter of the maintenance of professional secrecy by industrial property agents, Article 16(e) of the Annex of Resolution No. 164/2021 by the National Institute of Industrial Property (INPI) on the Rules on the Professional Conduct of Industrial Property Agents expands the scope of the obligation of discretion by industrial property agents to include documentation, interviews with the client and/or colleagues regarding the matter.

The Article states that: *“The obligation of discretion includes the confidences received from the client and their colleagues and those resulting from interviews to reconcile or perform a transaction. The same applies to the confidential documents handed over to the agent.”*