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ARGENTINA

Patentability restrictions in the biotech field revoked

This is to kindly inform you that today, June 19, 2026, the Argentine PTO published Resolution 197/2026 in the Official Gazette repealing Resolution 283/2015 issued in 2015 which imposed patentability restrictions in the biotech area.

As anticipated in our Newsletters dated November 14, 2025, and February 6, 2026, this was one of the requirements included in the commercial and trade agreement signed between our country and the United States which contains strong IP commitments.

This is a long-awaited development given that since the introduction of Resolution 283/2015 applications in the biotech technical field saw their scope of protection severely restricted.

What does this mean?

The fact that Resolution 283/2015 has been repealed means the return to the more liberal approach adopted by Argentina in the biotech field prior to 2015 in which our practice was in general more closely aligned to accepted international standards.

The main change lies in that the obligation to include the term “isolated” in all claims directed to genetic material is no longer required. Also, the definition of the term “isolated” that was included in Resolution 283/2015 has been removed.

In addition, under the prior restrictive resolution, patent applications claiming an exclusive right over a modified sequence of nucleotides or amino acids and also claiming sequences characterized solely by having a sequential and/or structural similarity to the first sequence and having the same function were objected for lack of support and sufficient disclosure in the specification. This is no longer the case as this limitation has been removed.

Also, under the prior practice, in order to have sufficient disclosure of a transformation event, the applicant had to provide the sequence of the inserted construct and the flanking sequences of at least 100 base pairs characterizing it. The inclusion of the flanking sequences is no longer required.



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The new Resolution indicates that the patentability exclusions contained in Article 6 of the Regulations of the Patent Law apply to plants and animals independently of their production method and exemplifies by saying that plants and animals containing genes introduced by recombinant DNA technology are excluded from protection.

Finally, the new Resolution concludes by including definitions of the following terms: animals, plants, living matter, lower threshold of living matter, cells, organism, microorganism, fungus, substances, virus, genetic material, biological material and biological essential processes for the reproduction (production) of plants and animals.

When will this change become effective?

Resolution 197/2026 indicates that it will become applicable as of the day of its publication in the Official Gazette. In other words, as of today, the PTO will no longer be able to rely on Resolution 283/2015 to support any observations included in office actions and/or rejection decisions of patent applications.

Are there any exceptions?

Article 5 of the Resolution contains an exception. It mentions that the applicants of pending applications which are granted as of today as a consequence of the repeal of Resolution 283/2015 will not have the right to request compensation from good faith third parties nor will they have the right to request the suspension of the commercialization of products covered by the granted patents if the products were already in the local market as from the entry into force of the present Resolution. Nonetheless, patent owners will have the right to seek compensation from all other new third parties which seek to enter the market or to commercialize products covered by the patents as of today.

We do not lose sight that the validity of this exception could be legally challenged.

What lies ahead?

The repeal of Resolution 283/2015 is a step forward and great news.

We encourage all applicants in the biotech field to review and reconsider their filing strategies for Argentina given the new legal scenario as many more applications will be allowed to be successfully prosecuted and granted.



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It should be borne in mind that this more generous approach in this technical area combined with the application of Resolution 056/2016 can become a powerful tool to build up stronger patent portfolios in Argentina.

As you may recall Resolution 056/2016 acts like an internal PPH and allows obtaining an early grant in Argentina provided a special fee is paid and the claim set of the Argentine application is adapted to that of a foreign granted equivalent patent which has undergone substantive examination (typically a US, EP, JP, AU, GB or CA granted patent).

As you can see, obtaining broad and robust patents in the biotech domain has become easier and faster than before.

From our side we will review all pending and/or appealed applications in the biotech field entrusted to us and we will provide any input and suggestions as needed in the coming days and weeks.

Also, we will continue monitoring the situation concerning this new development and will report any further news as they occur.

Should you have any comments or questions do not hesitate to contact our patent team.

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