ATTORNEYS AT LAW
PATENT AGENTS

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# ARGENTINA

## Patentability restrictions in the pharmaceutical field revoked

This is to kindly inform you that today, March 18, 2026, the Ministry of Economy, the Ministry of Health and the PTO published Joint Resolution 1/2026 in the Official Gazette repealing the Joint Ministerial Resolution 118/2012, 546/2012 and 107/2012 issued in 2012 which imposed severe patentability restrictions in the pharmaceutical 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 the Joint Ministerial Resolution the definition of patentable subject matter in the pharmaceutical field was in practice limited severely deriving in the reduction of application filings, and in turn, in the grant of patents in this technical area.

*What does this mean?*

The fact that the Joint Ministerial Resolution has been repealed means the return to the more liberal approach adopted by Argentina in the pharmaceutical field prior to 2012 in which our practice was in general more closely aligned to accepted international standards.

The repeal of the Joint Ministerial Resolution also implies that a lot of the patents that were currently being rejected by the PTO will now be allowed to be granted. Specifically, most limitations concerning the patentability of the following have been lifted:

- Polymorphs
- Pseudo polymorphs (hydrates and solvates)
- Enantiomers
- Markush formulas
- Selection patents
- Salts, esters and other derivates of known substances

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- Active metabolites
- Prodrugs
- Formulations and compositions
- Combinations
- Doses and second medical use claims drafted in Swiss type form
- Analogous processes

In the case of doses and second medical use claims, the PTO could still consider them as methods of therapeutic treatment which are not allowed by our Patent Law. Therefore, concerning those specific restrictions we will have to wait and see how the PTO proceeds in practice.

*When does this change become effective?*

Joint Resolution 1/2026 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 the Joint Ministerial Resolution to support any observations included in office actions and/or rejection decisions of patent applications.

*Are there any exceptions?*

Article 2 of the Resolution contains an exception. It mentions that the applicants of patents granted as of today directed to or covering pharmaceutical products already being commercialized locally by third parties will not have the right to request the suspension of the commercialization or to seek compensation. 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.

*What lies ahead?*

The repeal of the Joint Ministerial Resolution is a step forward and great news.

We encourage all applicants in the pharmaceutical field to review and reconsider their filing strategies concerning our country given the new situation in place as many more applications will be allowed to be successfully prosecuted and granted.

It should be borne in mind that the more generous approach to what is considered patentable subject matter in the pharmaceutical field 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 pharmaceutical field has become easier and faster than before.

From our side we will review all pending and/or appealed applications in the pharmaceutical 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.

**RICHELET & RICHELET**