

The Andean Community (CAN) Issued the New Version of the Andean Patent Examination Manual

By Maria Cecilia Romoleroux and Katherine Gonzalez H., CORRALROSALES, Ecuador

On August 12, 2022, the General Secretariat of the Andean Community (hereinafter SGCAN) published the Andean Patent Examination Manual. This document replaces the Andean Patent Examination Manual issued in 2003. In this new and updated version, the SGCAN along with the World Intellectual Property Organization (WIPO) and with the participation of delegates from the IP Offices of Ecuador, Colombia, Peru, and Bolivia, managed to materialize a theoretical and practical guide for the examination of patent applications in the Andean Community (CAN). This manual is based on Andean legislation (Decision 486) and decisions of the Court of Justice of the Andean Community.

Although this document is not binding for the IP Offices, it functions as a guide with definitions, instructions, and guidelines that will help patent analysts at the IP Offices of the region to carry out more consistent and predictable examinations. In addition to benefiting their work, there will be a positive impact for users by increasing the transparency and applicability of the rules that regulate the examination of the form and substance of patent applications.

The Andean Patent Examination Manual is structured as follows:

Chapter I: Introduction

Chapter II: Examination as to form and procedural aspects prior to substantive examination.

Chapter III: Substantive Examination

Chapter IV: Utility Models

Chapter V: Post-grant acts

Chapter VI: Glossaries

Annex I: Sources of Information

Annex II: Decisions of courts and tribunals

Annex III: Contract for access to genetic resources

Annex IV: Examples

Among the advances of this manual, we find a marked influence of global IP Offices and their experiences with new technological trends and patentability procedures on inventions related to these new trends and technological developments. Regarding patentability criteria, all the interpretations and experience of all the IP Offices of the CAN were compiled, as well as their criteria on exclusions from patentability and general definitions on various points, for example, what should be understood as discoveries.

The scope of this manual in comparison with its predecessor is not only marked by the inclusion of new and more complete definitions, practical examples, and cases of interest, but it is also evident when contrasting the approximately 120 pages of the previous manual with the almost 400 pages of this new instrument.

With this manual, the SGCAN seeks to harmonize the practice and prosecution of patent examinations in the CAN. Despite the existence of common Andean regulations, patent applicants often obtain contradictory resolutions in the various member countries even when they are dealing with identical or very similar patent applications. On the other hand, this document can also serve as an instrument for training patent analysts in the different IP

Offices, a situation that, at least in the Ecuadorian case, is of utmost necessity since the constant rotation of personnel and lack of expert patent analysts is a problem that inventors and users face daily.

[Click here to go to the AIPPI Newsletter August 2022](#)

