



Intellectual property information in Latin America and the Caribbean

Ing. Jorge Zárate¹

Amado Nervo 101, La Reina, Santiago, Chile

Abstract

The nature and extent of the automation of the statutory work of the industrial property offices in the region are outlined. In contrast to the parallel automation of both patent and trademark work in many countries, trade mark applications provide a very high proportion of the total applications to the offices in this region and automated processing of these applications is accordingly more advanced than for patent, utility model etc applications. The resulting databases which are or can be made available to the public are similarly restricted. The development of information services, towards a goal of Intellectual Property Digital Libraries (IPDLs), is very dependent on both local and WIPO funding, and will also be influenced by the expanding possibilities on the Internet. The author ends by examining some of the factors influencing the decisions about charging for some information services (e.g. to help fund further development and provision of such services), rather than provide them entirely as free assistance to the public. © 2000 Published by Elsevier Science Ltd. All rights reserved.

1. Who are the users?

On the one side there is the “private” sector, using this term in a broad way, to include all those elements of a society interested in obtaining, and enforcing, exclusive intellectual property (IP) rights, normally with commercial and/or industrial objectives. On the other side is the State as regulatory entity, which administers the current legislation for the granting or registration, renovation and/or cancellation of those rights in the specific territory. In the Latin American region, there are no supranational entities, to which the States might have delegated the granting or registration of those rights (totally or in part), with the idea to ease/streamline the granting process, or due to economic reasons, to reduce or share costs. However, there do exist sub-regions which have, and apply, a common legislation (Andean Pact, Central American Trademarks Agreement).

For members of both groups, mentioned previously, the value of IP information that is timely, trustworthy, complete, in uniform format, in the language of the country and of easy access, is considered, without any doubt, very high, and in most cases of vital importance for the operation of their “businesses”, or the execution of their “responsibilities”.

2. Who is currently producing IP information; what are their future goals

The industrial property offices were, historically, the first ones to recognize the need to use electronic means to handle their own information, i.e. trademarks, patents and industrial designs, in the light of the ever increasing data volumes that they had to manipulate and process in order to undertake certain search operations for previous registrations. In the case of copyright, only a handful of countries in the region have registration offices with some degree of automation of their operations. To be completely correct, in the private sector there are, on one side, public information services on trademarks in many countries and, on the other, collective management societies on copyright and neighbouring rights, who use automated data bases and processes but for internal use only.

¹ Mr. Zárate is an Electrical Engineer, who graduated from the University of Chile, with more than 20 years experience in the software engineering and consulting business. During the past 15 years he has been involved in the processes of automation of operations of all Latin American Industrial Property Offices, and some of the Caribbean ones, as a consultant for WIPO's Technical Co-operation Program.

E-mail address: jazz@mailnet.rdc.cl (I.J. Zárate).

Undoubtedly then, the industrial property offices of the region are the most important and most relevant producers of this type of information, due to the fact that they own the information of greatest demand in the market, and to their privileged position of having the most complete and up-to-date information in that market.

These Offices began to change, some 15 years ago, from their totally manual operations in the processing of files, based mainly on the use of paper documentation, to automated operations using computers and databases in electronic media. Today, the majority of them, except for some small offices in the Caribbean, have automated operations to support the processing of applications. This does not mean that they have completely replaced the paper and transformed into totally electronic offices (“paperless”). But it does mean that a great percentage of the operations to query data, search for prior art, and produce official documents, now are done with the support of computerized processes and the related data bases that they have built up and updated over the years.

There are still challenges for these Offices. Given the need to prioritize the use of normally scarce financial resources available, not all the operations are automated, and not in all areas. The volume of trademark applications compared to patent and industrial model ones (approximately from 90% to 95% of all applications) is notably higher in this region of the world, so the area that has received more attention with regard to automation has been trademarks. One of the objectives then, is to complete the automation of operations, or better said to bring all operations of the IP Offices to the same automation level of that of trademarks. The challenge to achieve a minimal level of automation is stronger in the copyright offices in which, as I already mentioned, only a few of them have obtained some degree of automation of their operations.

Other automation goals pursued by the industrial property offices in this region are:

- (a) to produce electronic images of the paper documents contained in the application files, with the idea to have, or replace, backup mechanisms of those documents, to consult them easily, and to avoid movement of the paper copies;
- (b) to build data banks of documents published by other Offices, normally in CD-ROM format, with the objective to enlarge the document collections used by examiners at the time of prior art search, and/or to set up and support information services to the public;
- (c) to give information services to the public using their own computerized data bases, with remote connection to their sites, through Internet or a direct link.

3. Strategies used to achieve the objectives

Medium and large size Offices in the region, which already have well-organized IT departments (or computer

centres) with qualified technical personnel, are executing their own projects to achieve the said objectives. The smaller Offices, those ones which do not have the necessary human resources available, or the ones they have do not have the required technical skills, will normally use the channel of technical co-operation with WIPO in order to achieve them.

The limitations, in both cases, are set by the available resources (human, material and financial), being their own ones in the first case, or from WIPO or other financial organization in the later one, to carry out all the activities that have been identified.

4. The information services available

With the automation of their operations, the industrial property offices rapidly found out that their data bases, designed originally to support their internal administrative management, had a demand from the public that applies for the industrial property rights. So the next step was to develop special computerized processes which allowed them to give information services to that audience and to provide paid-for services, supported by the exploitation of the same data bases.

But many Offices, even though they have all the technical elements in place to set up these services, do not have the legal power to charge for those automated services. The foresight of some of the heads of Offices, together with a greater understanding by higher authorities in the governments, and the introduction of certain degrees of financial autonomy at the institutional level, eventually have allowed them to get over those obstacles in some countries. The financial resources gathered through these services contribute directly to the self-sustainability of the operations of many Offices in the region such as those of Argentina, Colombia, Costa Rica, Panama, Peru, Guatemala, Mexico, Nicaragua and Venezuela.

These information services to the public typically implement in the trade marks area queries by application or register number, by class, by name of the proprietor or name of the agent/ representative of the proprietor, and the search for prior similar registrations. In all mentioned cases, the industrial property offices are the only local providers of such services, and also the only ones capable of providing them accurately because they are the only ones who have the complete and updated information.

It is worth noting that these automated services have improved the image of the state administration in those countries, particularly of the Offices, because they reflect a technical and organizational capacity capable of setting up services of excellent quality, which does not represent the typical perception of much of the general public with respect to the efficiency and/or efficacy of state organizations there.

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