Key requirements for trademark licensing in Latin America and the Caribbean

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Global trademark licensing is fiendishly complex, with rules and practices varying in different countries. In-house counsel need to be both perceptive and strategic so as to act as translators for diverse market realities, ecosystems and legal systems, thus ensuring continuous and unified operations around the world.

Parties to a global trademark agreement generally seek advice on negotiations from attorneys in the United States or the European Union. The licensor and licensee to a cross-border transaction will then usually assign a single law to govern the licence agreement. Unsurprisingly, when a licence includes territories in Latin America and the Caribbean (a vast territory starting with Mexico in the north, continuing through Central America and encompassing South America and the Caribbean), the business deal becomes even more complex, as the selection of contract law and disputes venue will not necessarily supersede local laws. Most IP laws in Latin America and the Caribbean apply automatically if the licence involves a national contractual party or if it is to be carried out within the corresponding jurisdiction, with many of the legal provisions being mandatory.

This article focuses on key issues that commonly arise in trademark licensing in Latin America and the Caribbean and takes a country-by-country look at best practices, the rules and regulations on quality control standards, licence registration, royalties and distribution regulations across multiple jurisdictions. Paying close attention to these is critical for any foreign parties entering a negotiation or drafting an international trademark licence that involves a Latin America or Caribbean jurisdiction.

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