On 25 July 2015, the Spanish Official State Gazette published the text of Act 24/2015, of 24 July 2015, on Patents ("New Patents Act" or "the new Law"), which is due to come into force on 1 April 2017. Although a blog is too short a place to discuss all the 186 articles, 10 "additional provisions", 6 "transitory provisions", 1 "declaratory provision", 1 "derogatory provision", 1 "transitory provision", and 9 "final provisions", what follows is a short account of the aspects most relevant for patent practitioners.

First, the new Law has removed the "à la carte" examination procedure, whereby applicants were free to choose whether or not their application should be subjected to substantive examination. In practice, more than 90% of applicants opted not to have their applications subjected to substantive examination, which resulted in the granting of very weak patents. So, in accordance with the Recitals of the New Patents Act, this threshold of inventive activity continues to be lower than in the case of patents.

Second, to counterbalance the "loss" of "non-examined" patents, the new Law has introduced new provisions dealing especially with the patentability of novel medical uses of already known chemical compounds. This change was welcome, taking into account the increasing importance of this type of invention, as discussed in the last annual meeting of the AIPPI which took place in Toronto on 15-17 September 2014.

Third, the new Law has introduced new provisions dealing especially with the patentability of utility models, which will become the natural substitute for "non-examined" patents. Although during the discussions that led to the approval of the new Law some sectors advocated for the introduction of utility models, Parliament felt that granting "non-examined" patents without going through a back-up examination (i.e., "utility models") would have been too much of a change. One of the main modifications to the legal regime of utility models is that the new Law has broadened the array of inventions that may be protected via a utility model. Moreover, the new Law has specifically excluded pharmaceutical substances and compositions, an unjustified discrimination that will no doubt be tested at Court at some point. Another important change is that for the purpose of examining the novelty and inventive activity of utility models, the claims of the art that must be taken into account will be the same as in the case of patents if not limited to what has been described in Spain; however, an examination will be deemed to involve an activity if it does not result from the state of the art in "a very obvious" way, for the person skilled in the art, i.e., the threshold of inventive activity continues to be lower than in the case of patents.

Fourth, in the framework of the GRTs of 2008, the new Law has introduced new provisions dealing especially with the patentability of double novelties (i.e. already known chemical compounds). This change was welcome, taking into account the increasing importance of this type of invention, as discussed in the last annual meeting of the AIPPI which took place in Toronto on 15-17 September 2014.

Fifth, for the purpose of determining the scope of protection of the patent, one must take into account all elements disclosed in the claims.

Sixth, other important changes affect the endorsement of patents. For example, the new Law has incorporated the legal regime with "right to know" amendments contained in RP 2003. Another significant change is that the calculation of damages will be conditioned with the so-called "harmful effect" test. This is not the case of the other legal systems, where this threshold is not required. However, this test is essential to avoid a situation in which the Court may not establish whether or not the patent has been infringed. Another change is that for the determination of the scope of protection of the patent, one must take into account all elements disclosed in the claims.

Seventh, another remarkable change is that the new Law limits the competence to deal with patent cases to the Commercial Courts specifically specialized to deal with patent cases. Prior to this, the only specialized Courts were the Madrid Commercial Courts, which have jurisdiction over the entire national territory. Under the new Law only the Madrid and Barcelona Commercial Courts will be competent to deal with patent cases. However, this has not been done without complications. For example, the Madrid Commercial Courts have been unable to deal with patent cases, which has led to the suspension of the circulation of the new Law. The Madrid Commercial Courts have argued that they do not have the knowledge required to deal with patent cases. This has led to a situation in which the new Law is not applicable in the Madrid and Barcelona Commercial Courts.

In conclusion, the new Law is a significant step forward for patent practitioners. It introduces new provisions dealing especially with the patentability of novel medical uses of already known chemical compounds and utility models. It also introduces new provisions dealing especially with the endorsement of patents. However, it is not free of criticism, such as the "right to know" amendments and the "harmful effect" test. Nevertheless, the new Law is a significant step forward for patent practitioners.