

Publication of the implementing regulations of the new Patents Act

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Last Saturday (1 April 2017) the Spanish Official Gazette ("Boletín Oficial del Estado") published Royal Decree 316/2017, dated 31 March, containing the Implementing Regulations of the Patents Act 24/2015, of 24 July. As readers will remember from previous blogs, the new Patents Act, which, among other aspects, introduced the compulsory examination of substantive patentability requirements, came into force on 1 April 2017. So the publication of the Implementing Regulations coincided with the coming into force of the new Patent Legislation.

The publication of the Implementing Regulations was accompanied by the publication of a Ministerial Order which establishes the deadlines for the Spanish Patent and Trademark Office to issue decisions on the various aspects of the examination and granting process. For example, a decision on whether or not a patent may be granted must be issued within 18 months of the publication of the search report in the Intellectual Property Official Bulletin ("Boletín Oficial de Propiedad Industrial"); oppositions against the grant of patents must be resolved within 20 months of the deadline to file oppositions; decisions on the grant of supplementary protection certificates ("SPCs") for medicinal products and their extensions, and SPCs for veterinary products, must be issued within ten months of the publication of the application, or fifteen months if any incident caused a suspension in the procedure; decisions on the revocation or limitation of patents must be issued within three months of the publication of the application, or six months if any incident caused a suspension in the procedure.

All in all, the coming into force of the new Patents Act and its Implementing Regulations on 1 April 2017 will mark a new era in patent prosecution and, to a lesser extent, patent litigation, in Spain.