

patent validity period.

Holding: The Supreme Court of Justice [found](#) that article 23 of the Law on Industrial Property should be systematically interpreted and consider that in the event of delays attributable to the Mexican Patent Office in its approval, the validity of the patent may not be less than seventeen years from the grant.

Background: The pharmaceutical company, Bayer Healthcare LLC., challenged the Mexican Patent Office's [refusal](#) to compensate for the delays in the procedure for its grant, arguing that article 23 of the abrogated Industrial Property Law, produces legal uncertainty since it causes a patent that would have twenty years of validity, see reduced this period due to delays in the approval procedure.

After a systematic interpretation of article 23 of the Industrial Property Law, and provisions related thereto, along with section 12 of Section 1709 of the North American Free Trade Agreement (NAFTA), with a three-vote majority, it was concluded that although the patent will be valid for twenty unbreakable years, counted from the filing date of the application that is subject to the form examination, the truth is that in view of the delays arising from the administrative approval procedure, which adversely impact that validity, it must be considered that, in the presence of such a delay, the validity of a patent may not be less than seventeen years from the date of its grant, since, in accordance with the provisions of the referenced treaty, a period of protection is established for patents of at least twenty years, which will be counted from the date of filing of the application, or seventeen years from the date of grant of the patent; which would in no way entail the extension of the term.

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