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INTELLECTUAL PROPERTY ATTORNEYS



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January 2023 will bring administrative revocation and invalidity actions before the SPTO

Directive 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trademarks provides in Art. 45 that Member States shall provide for an efficient and expeditious administrative procedure before their offices for the revocation or declaration of invalidity of a trademark.

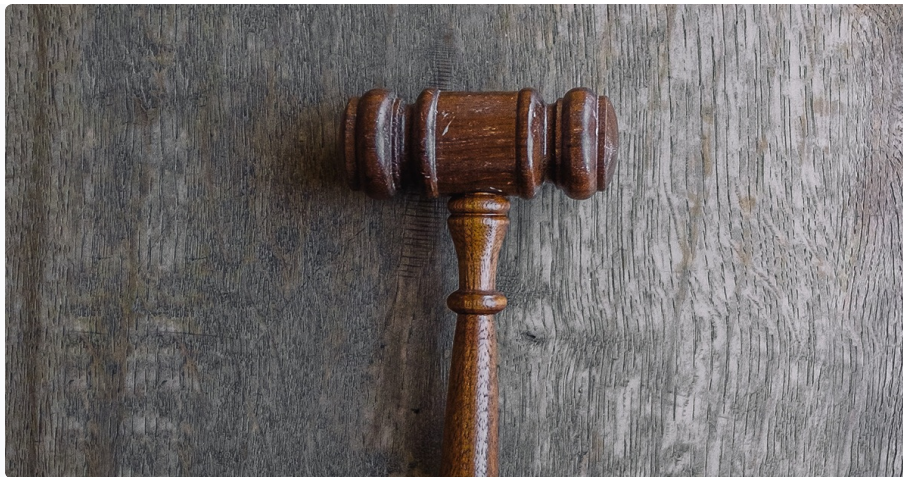
On 14 January 2019, Decree-Law 23/2018 came into force, amending Trademark Law 17/2001 (LM) and its Implementing Regulation (Royal Decree 687/2002, RM).

In the new LM, paragraph 2) of the first additional provision "jurisdiction and procedural rules" establishes that:

The Spanish Patent and Trademark Office shall have direct jurisdiction to declare the invalidity and revocation of the distinctive signs regulated in this Law, and the civil courts shall have counterclaim jurisdiction, in accordance with the provisions of Articles 51, 52 and 54.

However, this provision did not enter into force together with the rest of the amendments, as the aforementioned Decree-Law, in its final provision 7, established that the amendment to paragraph 2) would enter into force on 14 January 2023.

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The SPTO decisions will be reviewed by the Civil Courts

On 28 July last, Organic Law 7/2022, of 27 July, was published in the Official State Gazette, amending Organic Law 6/1985, of 1 July, on the Judiciary, in relation to the Commercial Courts.

This Law has a major impact on our intellectual property practice as, among other things, it attributes exclusive jurisdiction over "appeals against decisions that exhaust administrative remedies issued in intellectual property matters by the Spanish Patent and Trademark Office (SPTO)" to certain Provincial Courts, i.e. to the Civil jurisdiction. Until now, the jurisdiction has been that of the contentious-administrative jurisdiction.

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If it's not from Ireland, it's not Irish

Hijos de Moisés Rodríguez González, S.A. is a Spanish company located in Las Palmas de Gran Canaria. In 1967, it signed a contract with the Irish company, Ornuia Co-operative Ltd, for the supply of butter. As a result of that contract and in the same year, Hijos de Moisés Rodríguez González, S.A. applied for the Spanish trademark 'LA IRLANDESA' to distinguish 'all kind of butter'. This registration was followed by a series of other trademarks containing "LA IRLANDESA", filed both before the Spanish Patent and Trademark Office (SPTO) and before the European Union Intellectual Property Office (EUIPO).

However, the commercial relationship between Hijos de Moisés Rodríguez González, S.A. and Ornuia Co-operative Ltd ended in 2011 and, despite the termination of the commercial relationship, the Spanish company applied for new trademarks under the name "LA IRLANDESA".

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Battle of felines: the cat has eaten the tiger

On 13 July 2022, the long-running legal battle between two of the world's largest manufacturers of machinery for the natural resources industry, among others, came to an end. We are talking about the famous dispute between Caterpillar Inc. and Tigercat International Inc.

Caterpillar Inc., known to the general public as "CAT" (with its characteristic logo), needs no introduction, and any of us will have noticed those heavy, monstrous yellow excavators that occupy most of the building construction sites in our cities. Yes, that is some of the machinery marketed by our main party, which on 17 December 2013 filed an opposition against the European Union Trademark application "TIGERCAT" of Tigercat International Inc.

Tigercat International Inc. is a company founded in Canada that specialises in the manufacture of machinery for the forestry harvesting sector, and its equipment shares a fundamental feature with Caterpillar Inc., the colour that identifies them. Both companies use that characteristic yellow colour.

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Carles Molina: new European Patent Attorney

We are pleased to inform you that Carles Molina, telecommunications engineer of our patent department, has obtained the title of European Patent Attorney, after successfully passing the European Qualifying Examination, EQE. This exam is a test that assesses the knowledge and skills of candidates to represent applicants in proceedings before the European Patent Office (EPO). We congratulate him and welcome the growth of our team of qualified professionals!



Autumn distinctions

This autumn, the lawyers of our firm María Ceballos and Emil Edissonov have

once again received the distinction of Rising Star in IP from the prestigious publication Managing Intellectual Property. Congratulations to both of them! Team recognition is important to us.



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