

REPUTATION TRADEMARKS REGULATION

The Spanish Trademark Law, nº. 17/2001 of December 7, 2001, regulated under article 8º the known trademark or trade name, reads:

Article 8. Known and Famous Registered Trademarks and Trade Names.

A trade mark shall not be registered where it is identical with, or similar to, an earlier trade mark irrespective of whether the goods or services for which it is applied or registered are identical with, similar to or not similar to those for which the earlier trade mark is registered, where the earlier trade mark has a reputation in Spain or, in the case of an EU trade mark, has a reputation in the Union and the use of the later trade mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark;

In order to analyze if your trademark fulfils some criteria that should be taken to consider a reputation trademark, we must consult the following documents:

DOCUMENTS TO BE SUBMITTED TO THE ISSUANCE OF CERTIFICATES OF REPUTATION

- 1.- Proof of existence ownership and validity of trademark rights, and the date of first registration in Spain.
- 2.- In which other countries the trademark is filed and in force.
- 3.- The first placing on the Spanish market. The turnover figures for the last 3-5 years. If you want, send only total turnover figures.
- 4.- The amount invested by the undertaking in promoting the mark for the last 3-5 years.
- 5.- The market share held by the mark (send Report by A.C. Nielsen or similar, if you have)
- 6.- In which other countries is marketed
- 7.- Sponsorship of events, if available.
- 8.- Statements from chambers of commerce and industry or other trade and professional associations, if available.

9.- Judgments or decision of the Office or a Community trademark court.

10.- If there are doubts about the reputation of the trademarks, in exceptional circumstances, a survey can be ask for. This survey will be realized by the company selected by ANDEMA. The report should be paid directly by the company.

11.- Any other documentation or evidence that you wish to give us.

12.- Other documents may be asked for to the applicant.

13.- The documentary evidence must be accompanied by a sworn declaration about the evidence's veracity, if they are declarative statements.

Only in light of the documentation available and analysed, ANDEMA can support or refuse the distinctiveness of the trademark.

Please, pay attention that:

- The Certificate is a single use, and it shall be made out in the name of the Court or Office or a Community trademark court whom are addressed.

- Its use and presentation in the enforcement authority shall be done within 3 months from the date of issue, or 6 months in international procedures.