
Chile: After Winning Milestone Criminal Trial in Chile, Michael Kors Seeks Two Million Dollar Compensation for Trademark Piracy

Global luxury lifestyle brand MICHAEL KORS recently secured one of the first criminal convictions for trademark infringement under the new Chilean trademark law, in a case heralded by IP specialists as one of the most important convictions in recent time. The criminal conviction followed a successful administrative proceeding during which the Chilean Trademark Office cancelled the improper trademark registration for a MICHAEL KORS trademark by one of the defendants' companies, [More](#)

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After a raid and seizure by the Chilean IP Crime Police Unit in Santiago, the Third Santiago Criminal Court ordered that the infringing MICHAEL KORS store in Santiago, Chile, run by Pablo Abumohor and his wife, Marisol Asfura Kuncar, remain closed. The court further ordered the destruction of an estimated US\$350,000 in counterfeited products seized at the fraudulent MICHAEL KORS store, imposed significant fines on local textile businessman Mr. Abumohor and Ms. Asfura Kuncar and also awarded legal costs to the Michael Kors company.

After the Michael Kors company succeeded in the criminal proceeding, it initiated a civil trademark infringement action, requesting more than US\$2 million in damages from the defendants and their related companies, Comercial Tracciati Ltda. and Comercial Terra Nova Ltda. The company also requested that the defendants' assets, totaling approximately 1,100,000 Chilean pesos (around US\$1.9 million), be frozen, pending the outcome of the civil proceeding. The assets include the building that was used for the fraudulent Michael Kors store and a personal home in uptown Lo Barnechea. The 17th Santiago Civil Court granted the request, despite appeals filed by the defendants. Additional legal costs were also awarded to the plaintiff by the Santiago Court of Appeals, in response to the various recourses filed by the defendants.

In June 2015, the Chilean Trademark Office issued six different decisions accepting the Michael Kors company's oppositions against MK MICHAEL KORS and MK MARISOL KUNCAR & Design trademarks filed by Marisol Asfura Kuncar. The MK Logo in Ms. Asfura Kuncar's mark resembled the world-famous MK Logo used by the opponent. The Trademark Office found that the applications had been filed in bad faith and constituted unfair competition, particularly in connection with Ms. Asfura Kuncar's applications for MK MARISOL KUNCAR & Design.

The success in the criminal action, coupled with the successes in administrative proceedings before the Chilean Trademark Office, has cleared the way for the Michael Kors company to open two stores in Chile, one at the Santiago airport and another at the Parque Arauco mall's Luxury District.

Background

Mr. Abumohor and his wife opened an unauthorized MICHAEL KORS store in Santiago in 2013, after the cancellation of their fraudulent trademark registration in 2011. In August 2013, the IP Crime Unit of Chilean Police raided the unauthorized store in one of Chile's biggest seizures of counterfeited merchandise. A criminal proceeding was subsequently initiated. Although the lower Chilean courts initially ruled in favor of the defendants, declaring them not guilty in May 2014, the Michael Kors company's local counsel filed an annulment action, which was upheld by the Santiago Court of Appeals. The Santiago Court of Appeals ordered a new criminal trial. In August 2014, the Third Santiago Criminal Court of Santiago found both Mr. Abumohor and Ms. Asfura Kuncar — owners of related companies Comercial Tracciati Ltda. and Comercial Terra Nova Ltda. — guilty of malicious trademark infringement and piracy. The decision was unsuccessfully appealed by the defendants and

confirmed by the Santiago Court of Appeals in October 2014. Further recourses by the defendants, even before the Chilean Supreme Court, were dismissed in November 2014, around the same time the first authorized MICHAEL KORS store opened in Chile at the Santiago Airport's new Duty Free area.

Primary Contacts

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