
Spain: Trademark Law Reform

Pursuant to Royal Decree 23/2018, approved by the Spanish government on December 21, 2018, the Spanish Trademark Law was amended to conform to the amendments to EU Harmonization Directive 2015/2436 (“Directive”). The principal changes include: (1) Any individual, regardless of nationality, residence or structure, may secure [More](#)

Pursuant to Royal Decree 23/2018, approved by the Spanish government on December 21, 2018, the Spanish Trademark Law was amended to conform to the amendments to EU Harmonization Directive 2015/2436 (“Directive”). The principal changes include: (1) Any individual, regardless of nationality, residence or structure, may secure a national Spanish trademark registration; (2) Absolute grounds for refusal will include prohibitions on filing for (a) marks that could be considered “functional,” and (b) designations of origin and geographical indications consistent with those in the Directive; (3) Only “reputed marks” (as opposed to “well-known” marks) will be recognized as warranting special protection, though protection for unregistered well-known marks pursuant to Article 6bis of the Paris Convention will be retained; (4) Proof of use may now be sought in oppositions if the opposer relies on a mark that has been registered for five years or more; (5) The five-year User period will now commence from final grant of registration rather than date of publication; (6) Non-use actions will now be brought before the Spanish Patent and Trademark Office rather than the Spanish Civil Courts, though cancellation and revocation actions based on non-use that are brought as counterclaims in infringement actions will still be handled in the Courts. These changes entered into force on January 14, 2019, except for those set out in (6) above, which will become effective on January 14, 2023.

Primary Contacts

Janet L. Hoffman