

SMH
& di P
ABOGADOS



Dra. Helena Maria Noir

hmnoir@estudiosolanet.com.ar

SOLANET, MORENO HUEYO & di PAOLA
Abogados
Agentes de la Propiedad Industrial

www.estudiosolanet.com.ar

Hipólito Yrigoyen 476 6th. Floor
1086 Buenos Aires, Argentina 11/06/2008

TRIPS Article 15

Protectable Subject Matter

1. Any **sign, or any combination of signs, capable of distinguishing the goods or services** of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular **words** including **personal names, letters, numerals, figurative elements and combinations of colours** as well as any combination of such signs, shall be eligible for registration as trademarks. Where signs are not inherently capable of distinguishing the relevant goods or services, Members may make registrability depend on **distinctiveness acquired through use**. Members may require, as a condition of registration, that signs be visually perceptible.

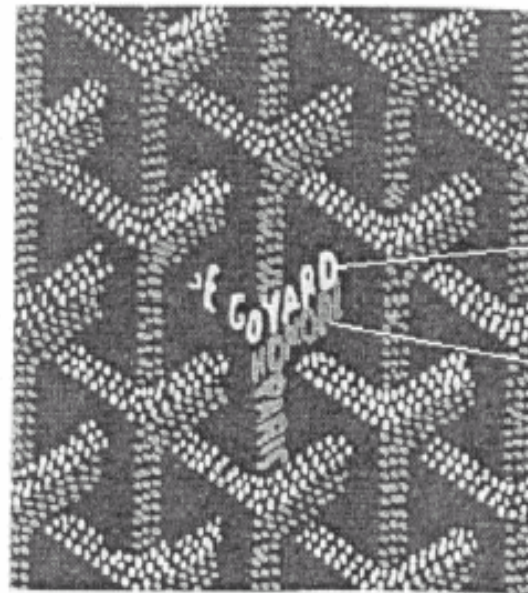
LOCAL TRADEMARK LAW

**One or more words with or without a meaningful
content;**

Drawings, emblems, monograms, engravings, stamped prints,

(21) Acta 2.721.645 - (51) Clase 25

(40) M (54)



BEIGE

MARRÓN

(22) 28/12/2006 - (73) GOYARD ST-HONORE - FR

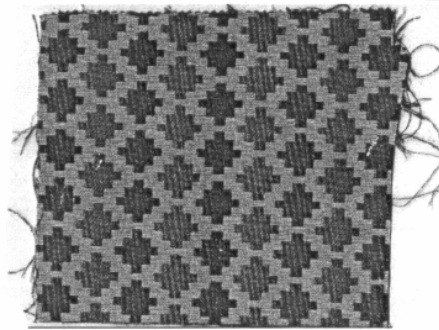
(57) TODA LA CLASE

(74) Ag 729 - (44) 28/02/2007

Seals, images, bands

(21) Acta 2.690.942 - (51) Clase 16

(40) F (54)



(22) 24/07/2006 - (73) NAZAR, ROMULO GABRIEL - AR
(57) TODA LA CLASE
(74) Ag 754 - (44) 18/10/2006

(opposed by third party, under prosecution to date)

Combination of colours affixed in a certain place on the products or on the containers;

BOLETIN DE MARCAS - OCTUBRE 06 DE 2004

(21) Acta 2.535.572 - (51) Clase 25

(40) F (54)



(22) 17/08/2004 - (73) RODRIGUEZ, VICENTE ANTONIO - AR
(57) TODA LA CLASE ///SE RENUNCIA AL PRIVILEGIO SOBRE LA FORMA DE LA ZAPATILLA QUE SE REPRODUCE EN LINEA DE TRAZOS. SE REIVINDICA PRIVILEGIO EXCLUSIVO DE USO SOBRE LA APLICACION Y SU UBICACION DENTRO DE LA ZAPATILLA EN CUALQUIERA DE LOS LATERALES DE LA MISMA.
(74) Ag 215 - (44) 06/10/2004

(21) Acta 2.535.573 - (51) Clase 30

(21) Acta 2.535.576 - (51) Clase 37

(40)

(2;
(5)
(7)

—
(40)

(2;
(5)
(7)

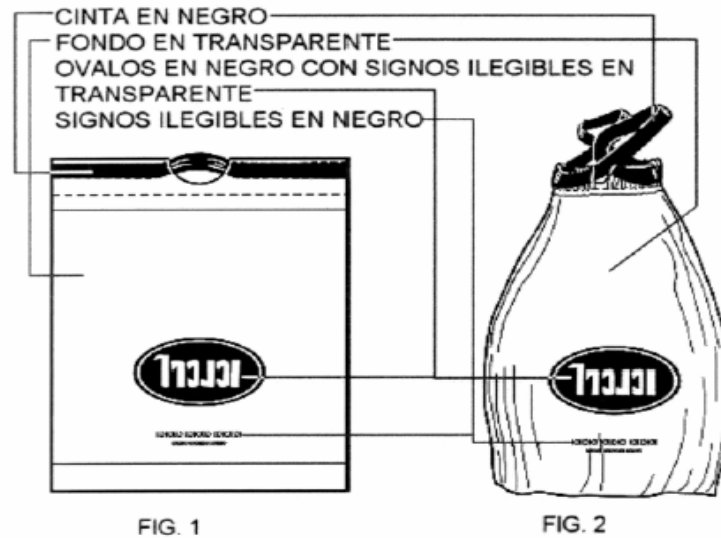
—
(40)

Granted Nr. 2.075.570 Colour combinations are registrable provided that they are distinctive

Wrappings; packages;

(21) Acta 2.575.801 - (51) Clase 43

(40) F (54)

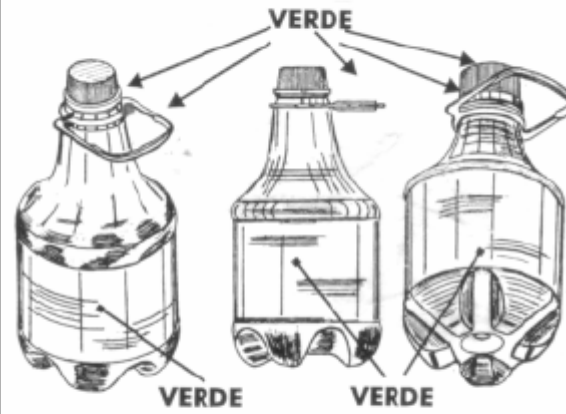


LA MARCA QUE SE SOLICITA, ESTA CONSTITUIDA POR UNA BOLSA TRANSPARENTE CON UNA CINTA DE COLOR NEGRO Y LOS OTROS SIGNOS Y COLORES DESCRIPTOS Y ASI LA FIGURA 1, ILUSTR A UNA VISTA EN PLANTA DE LA BOLSA PLANA, ABIERTA Y VACIA Y LA FIGURA 2, MUESTRA UNA VISTA LATERAL DE LA MISMA BOLSA TAL COMO QUEDA AL CONTENER PRODUCTOS LOS CUALES NO APARECEN PESE A SU FONDO TRANSPARENTE

SR-

(21) Acta 2.482.986 - (51) Clase 33

(40) F (54)



CIA-

(22) 11/12/2003 - (73) CURIA, ROBERTO DANIEL - AR
(57) TODA LA CLASE
(74) Ag 194 - (44) 03/05/2006

BOLETIN DE MARCAS - OCTUBRE 06 DE 2004

(21) Acta 2.535.670 - (51) Clase 33

(40) M (54)



(22) 18/08/2004 - (73) LICORERA ZACAPANCA, S.A. - GT

(57) SOLAMENTE AGUARDIENTES Y RONES; BEBIDAS ALCOHOLICAS HECHAS A BASE DE RON Y AGUARDIENTE; COCTELES DE RON Y AGUARDIENTE, ESPIRITUS DE RON.

(30) 2004-01226 - 19/02/2004 - GT

(74) Ag 1036 - (44) 06/10/2004

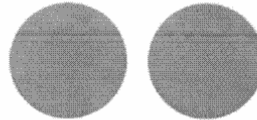
- combinations of letters and numbers;
- letters and numbers drawn in a special way
- advertising slogans; embossments that give a distinctive appearance and
- **any other signs having a distinctive capacity.**

NON TRADITIONAL TRADEMARKS:

Motion marks:

(40) F (54)

(21) Acta 2.711.114 - (51) Clase 38

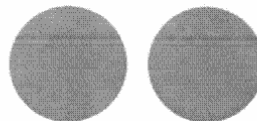


La marca consiste en un diseño de dos círculos separados de colores azul pantone PMS 3005 (izquierda) y rosa pantone PMS 226 (derecha). Se reivindican las características distintivas de la versión estática de dichos círculos, así como la versión dinámica o móvil de los mismos, consistente en el entrecruzamiento y cambio de posición en forma horizontal de los círculos, uno por delante del otro, en forma alternada e ininterrumpida, en lapsos inferiores a 1 segundo.

(22) 31/18/2006 - (73) YAHOO! INC. UNA CORPORACION ORGANIZADA SEGUN LAS LEYES DEL ESTADO DE DELAWARE - US
(57) SOLAMENTE SERVICIOS DE COMUNICACIONES; SERVICIOS DE TELECOMUNICACIONES; SERVICIOS DE CORREO ELECTRONICO; TRANSMISION ELECTRONICA DE DATOS, MENSAJES, IMAGENES Y DOCUMENTOS; SIMBOLISMO DE SERVICIOS RELACIONADOS CON SALAS DE CONVERSACION (CHAT) Y TABLEROS DE MENSAJES O BOLETINES ELECTRONICOS PARA LA TRANSMISION DE MENSAJES ENTRE USUARIOS EN EL CAMPO DEL INTERES GENERAL.
(74) Ag 1800 - (44) 18/01/2007

(21) Acta 2.711.115 - (51) Clase 39

(40) F (54)



La marca consiste en un diseño de dos círculos separados de colores azul pantone PMS 3005 (izquierda) y rosa pantone PMS 226 (derecha). Se reivindican las características distintivas de la versión estática de dichos círculos, así como la versión dinámica o móvil de los mismos, consistente en el entrecruzamiento y cambio de posición en forma horizontal de los círculos, uno por delante del otro, en forma alternada e ininterrumpida, en lapsos inferiores a 1 segundo.

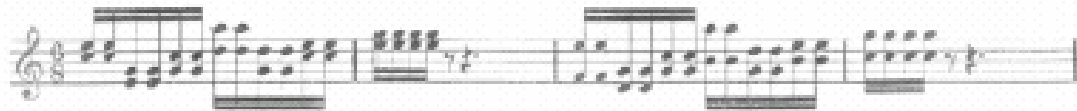
(22) 31/18/2006 - (73) YAHOO! INC. UNA CORPORACION ORGANIZADA SEGUN LAS LEYES DEL ESTADO DE DELAWARE - US
(57) SOLAMENTE ALMACENAMIENTO ELECTRONICO DE OBJETOS MULTIMEDIA Y DE OTROS CONTENIDOS DIGITALES INCLUYENDO TEXTOS, DOCUMENTOS, FOTOGRAFIAS, IMAGENES, VIDEOS Y AUDIO.
(74) Ag 1800 - (44) 18/01/2007

Both granted: Nr 2.200.081 & 2.200.082

Sound marks:

(21) Acta 2.810.582 - (51) Clase 9

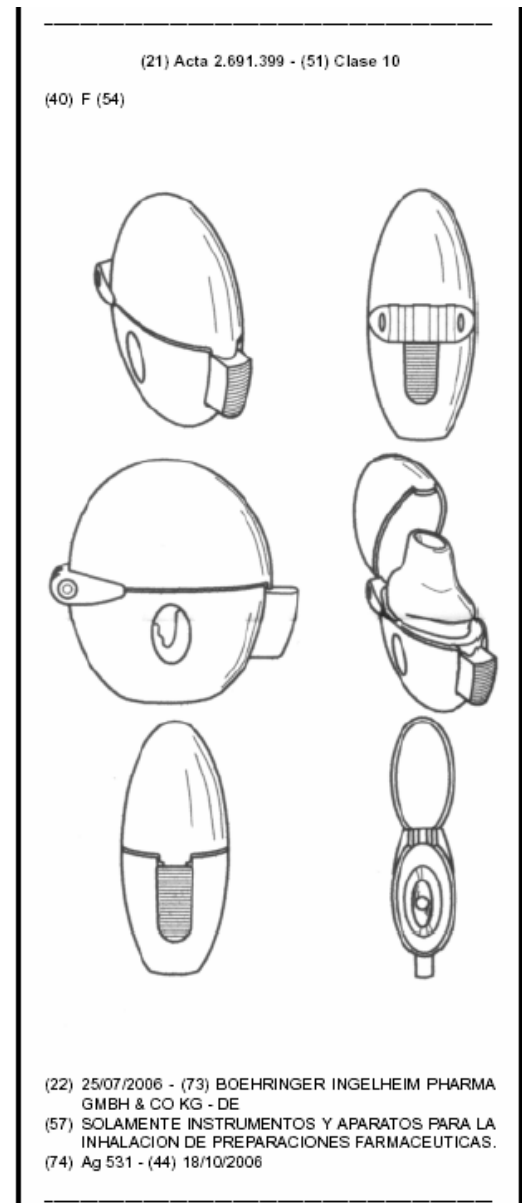
(40) F (54)



(22) 17/03/2008 - (73) SONY ERICSSON MOBILE COMMUNICATIONS AB - SE
(57) SOLAMENTE TELEFONOS CELULARES Y/O MOVILES.
(74) Ag 204 - (44) 04/06/2008

(recently published, under prosecution)

Tridimensional marks:



Inhalers for pharmaceutical products. Still prosecuted.

Building appearances:

MARCAS NUEVAS

(21) Acta 2.501.413 - (51) Clase 43

(40) F 050



(22) 17/03/2004 - (73) VILLAGE CINEMAS S.A. - AR
(52) TODA LA CLASE
(74) A3 1060 - (44) 05/05/2004

Olphative marks:

L'oreal Applications Ser 2.115.166/3 for hair products in Int Class 3. The mark is a cherry/framboise fragrance to be applied on the product bottle. TM Office has requested the chemical formulation of the fragrance.

- **9th Edition Nice Agreement Jan 1, 2008.**
- **No request of previous use.**
- **Unregistered tm. Broad use in terms of quantity, time, territory.
Consumers identification, recognition achieved by the mark.**

- There is no Mercosur trademark.
- There is no electronic filing in Argentina. The Trademark Office has a web site www.inpi.gov.ar.
- Trademark marking is not mandatory.
- The initials "MR", "R", the words Marca Registrada can be used.



Not registrable:

- ...**the necessary or customary designation** of the product or service.
- ...**descriptive** of the nature, function, quality or other characteristics....
- Names, ...of **general use** before applied for regn.
- **Shape** given to the products. **Natural or intrinsic colour** of the products.
- A trademark **identical or similar to one already registered**.
- **Appellations of origin** whether national or foreign.
- Trademarks that may lead to **errors regarding the nature, properties, merits...** (deceptive)

- Contrary to morals and to common decency.
- Letters, words, names, badges and symbols used by **the Nation, religious, foreign nations and the international organizations...**
- **Family name, pseudonym or portrait of a person, without their consent** or that of their heirs. Broadened by case law to protect isolated surnames or given names of well known individuals, including their nicknames.
- **The names of activities, including firm names, that describe an activity** may not be registered to distinguish products.
- Advertising slogans **that are not original.**

- **Priority rights.**
- **Principle of specialty.**
- **Well known marks.**
- **Dilution:** Well known marks entitled to protection based on 16.3. Trips and 6 bis CUP.
- **Secondary meaning** acknowledged.

Procedure: From filing to registration.

- Filing date
- Publication
- Oppositions
- Official Examination
- Notification to applicant; Negotiating oppositions. Answering office actions
- Mediations
- Lawsuit
- Grant
- Refusal. Adm appeal and/or lawsuit

Judicial proceedings: Opposition Lawsuits

- We do not have Courts specialized in IP.
- The lawsuit is started at Trademark Office.
- First Instance includes three steps (Claim and answer, hearing called by Judge, evidence to be produced, decision.)
- Second Instance.
- Supreme Court: Only if the validity of a Federal Law is challenged in the lawsuit.

THANK YOU

Геннадий Нив