

ABBA's legal victory in an Intellectual Property case



The European Union Intellectual Property Office (EUIPO) **has annulled the registration of a Spanish wine trademark** ('Viña ABBA') as being identical to 'ABBA', the iconic Swedish pop music group, on the basis of Article 8(1)(b) and 8(5) of the EU Trademark Regulation of 14 June 2017.

ON WHAT GROUNDS HAS THE EUIPO ANNULLED THIS TRADEMARK REGISTRATION?

1

The first ground is that it is **identical** to the musical group 'ABBA'.

2

Secondly, because it is shown that the trademark 'ABBA' has a certain **reputation and fame/notoriety** within the European Union before the second trademark which is the subject of the opposition came into being.

3

Thirdly, it considers that the use of the contested Spanish wine trademark is liable to cause **economic and reputational damage**, since it would take unfair advantage of the distinctive character and reputation enjoyed by the trademark 'ABBA'

In this regard, after analyzing the relevant evidence provided by both parties, the EUIPO concludes that the distinctive sign 'ABBA' *'has been the subject of prolonged and intensive use, being well known in its relevant market, where it enjoys a consolidated position among the leading trademarks'*.

To justify its decision, the EUIPO also refers to the **number of records sold** by the famous musical group, a fact which, together with other evidence such as that mentioned in the previous paragraph, proves the notoriety and renown of the 'ABBA' mark in the European Union.

Furthermore, the EUIPO clarifies that *'the applicant's assertion that "viña" adds distinctiveness with respect to the earlier sign, which in its opinion generates a phonetic and visual dissimilarity between the signs, is not supported by any evidence and lacks justification'*.



In conclusion, both the strong reputation enjoyed by the musical group ABBA and the great similarity between the two distinctive signs are the main reasons that led the EUIPO **to refuse and prohibit the use of the trademark 'Viña ABBA'** (although it should be noted that the wine cellar can still appeal this decision).

Monitoring and maintenance of trademarks

As we can see in this specific case, an effective monitoring and maintenance of the trademark is crucial to protect and safeguard the most precious asset that companies have: their intangible assets.

In UNGRIA we offer a **permanent service of control of all new trademark applications** with the aim of avoiding its grant in case it is necessary.

Do you want more information about our service? Contact us without obligation.

[CONTACT US](#)

Europe | U.S.A | Argentina | Brazil | Mexico

Disclaimer: Please note that the present communication is of a general nature. It is not intended as legal advice and does not create an attorney-client relationship. No warranty of any kind is given with respect to the subject matter included herein or the completeness or accuracy of this note and no responsibility is assumed for any actions (or lack thereof) taken as a result of relying on or in any way using information contained in this note. In no event shall we be liable for any damages resulting from reliance on or use of this information. Any analysis regarding or related to the developments indicated above needs to be applied to a case in particular and consulted or verified with local counsel in each jurisdiction.