



**Protected geographical indications  
as earlier rights in oppositions  
3/10/2018 Alicante  
Lourdes Velasco González**

# Protected geographical indications as earlier rights in oppositions

7 December 2001 Trademark Law No.17/2001, Spain

**Opposition and observations of others must be submitted to the Spanish Patent and Trademark Office within two months from the date of publication of the application of registration for that mark in the “Industrial Property Official Gazette”**

# Protected geographical indications as earlier right in oppositions

**Once a trademark application has been published, any person who considers him/herself to be harmed may oppose the registration of the trademark by invoking the prohibitions provided for in Title II (Trademark Concept and Registration Prohibitions)**

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**An expression of opposition can be made in writing to the Spanish Patent and Trademark Office. It must be filed in a reasoned and duly documented form, and within the period established by regulation. It will only be deemed to have been submitted if the corresponding fee for this period is paid.**

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**Public authorities and national or independent associations and organizations protecting consumer's rights may send written observations to the Spanish Patent and Trademark Office. These observations should indicate the prohibitions contained in Article 5 by virtue of which The Trademark Office would reject the proposed registration ex officio.**

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**The said authorities and associations shall not acquire the status of parties to the proceedings, but their observations shall be notified to the trademark applicant and shall be settled in accordance with Spanish Law**

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**In relation to GIs we find that the Regulatory Councils can present opposition, in which case they can base their writings on absolute and/or relative prohibitions, whereas if they present observations of third parties, the Regulatory Councils can only base their allegations on absolute prohibitions**

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**In most cases the Regulatory Councils present observations made by third parties incorporating arguments that cannot be taken into account at the time of resolving the application because they refer to relative prohibitions.**



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**I have chosen two clear examples relating to Rioja on this occasion. They are both from the current Qualified Rioja Certificate of Origin because its official recognition dates as far back as 6 June 1925.**

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**In reference to the first Application for Registration  
M2943188 Type word/class33, alcoholic beverages (**  
**except beers)**  
**“Rioja-Cola”**

**The Qualified Rioja Certificate of Origin Board  
presented observations from third parties based on  
Spanish Trademark Law 17/2001, Article 5.1 c, g and h**

# Protected geographical indications as earlier rights in oppositions

And in reference to the second Application for  
Registration M3639969 Type word/class 33, alcoholic  
beverages (except beers)

“Rioja de autor”

The Qualified Rioja Certificate of Origin Board filed an  
opposition form, which was admitted for processing;

They paid the fee and based their allegations on  
absolute and relative prohibitions.

# Protected geographical indications as earlier rights in oppositions

**M3639969**

**The arguments put forward by the Regulatory Board  
of the Rioja Qualified Certificate of Origin were  
founded on:**

**A) The absolute prohibitions detailed in Art5.1.c, g  
and h of the Spanish Trademark Law. Rioja is  
protected by the European Union , by national  
regulations and by the Spanish Penal Code.**

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**M3639969**

**B) And on the relative prohibition described in Articles 6 and 8 of the same Spanish Trademark Law. Rioja has many national trademarks and two MUE. The regulatory Board of The Rioja Qualified Certificate of Origin also alleged that it is a well-known registered trademark and insisted on preventing an improper use or a diminution in value of the distinctive character of the Rioja term.**

# Protected geographical indications as earlier rights in oppositions

M3639969

Therefore this application for registration was denied because:

- A) It was exclusively composed of a distinctive sign of geographical origin;
- B) It didn't comply with the European Union Regulation;
- C) It could have been misleading as regards its geographical origin;
- D) Because it was not a product under The Rioja Qualified Certificate of Origin.

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**The traditional rights of Industrial property that link quality to the geographical origin of products through the figures of POC/PDO and PGI currently depend on the powers of the European Commission, but we cannot forget that we have been advised to aim at the Protection of Industrial Property –including indications of source and/or Certificates of Origin- by using Article 1.2 of the Paris Convention.**

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**Article 9.1.c in Spanish Trademark Law prohibits the registration without the proper authorization of the signs reproducing, imitating or transforming creations protected by a copyright or other industrial property right other than those envisaged in Articles 6 and 7 of the same Law.**

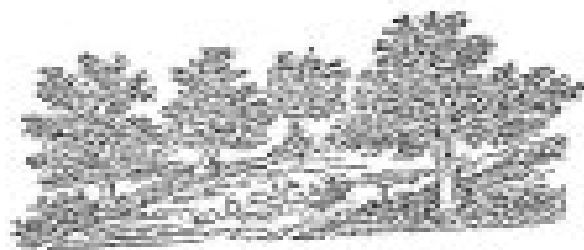


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**M6166**

**18/5/1897**





MARCA CONCEDIDA

*La Rioja Alta*

SOCIEDAD DE COSECHEROS DE VINO

*Harro*



**THANK YOU**

*Oficina Española de Patentes y Marcas, O.A. (OEPM)*