



Promoting Intellectual Property Law Studies in the Mediterranean Region

TRADEMARK LAW

An-Najah National University
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PRELIMINARY CONSIDERATIONS

PART 1: OVERVIEW OF THE REGISTRATION PROCEDURE

PART 2 :ABSOLUTE GROUNDS

PART 3: RELATIVE GROUNDS

PART 4: RIGHTHOLDER'S RIGHTS



PART 4: RIGHTHOLDER'S RIGHTS



RIGHTHOLDER'S RIGHTS

**RIGHTHOLDER'S
RIGHTS**



**ADMINISTRATIVE
LEVEL (REGISTRATION)**



**MARKETPLACE
(USE)**



RIGHTHOLDER'S RIGHTS.MARKETPLACE

**RIGHTHOLDER'S
RIGHTS
MARKETPLACE
(USE)**



NOT A RIGHT TO USE!!!!



**BUT A RIGHT TO
BLOCK THIRD PARTIES'
USES.**



RIGHTHOLDER'S RIGHTS.MARKETPLACE



NOT A RIGHT TO USE!!!!

**RIGHTHOLDER'S
RIGHTS**

**MARKETPLACE
(USE)**



**BUT A RIGHT TO
BLOCK THIRD PARTIES'
USES.**

RTM 1



RTM 2





RIGHTHOLDER'S RIGHTS.MARKETPLACE

**RIGHTHOLDER'S
RIGHTS
MARKETPLACE
(USE)**



CIVIL CLAIMS



CRIMINAL CLAIMS



RIGHTHOLDER'S RIGHTS.MARKETPLACE.CIVIL

**RIGHTHOLDER'S
RIGHTS**

**MARKETPLACE
(USE)**



CIVIL CLAIMS



RIGHTHOLDER'S RIGHTS.MARKETPLACE.CIVIL

**RIGHTHOLDER'S
RIGHTS
MARKETPLACE
(USE)**



**CAUTIONARY
PROCEEDING**



MAIN PROCEEDING



RIGHTHOLDER'S RIGHTS.MARKETPLACE.CIVIL

CAUTIONARY PROCEEDING

CEASE

1ST INST.
RULING

FILING OF
THE DEMAND





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RIGHTHOLDER'S RIGHTS.MARKETPLACE.CIVIL

MAIN
PROCEEDING

CEASE



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RIGHTHOLDER'S RIGHTS.MARKETPLACE.CIVIL

MAIN
PROCEEDING

MARKET REMOVAL

(Products, labels, advertising, etc).



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RIGHTHOLDER'S RIGHTS.MARKETPLACE.CIVIL

MAIN
PROCEEDING

DESTRUCTION
OR SEIZURE of the means used
to materialize the infringement.



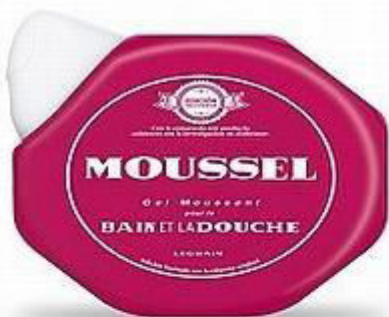
RIGHTHOLDER'S RIGHTS.MARKETPLACE.CIVIL

MAIN
PROCEEDING

DESTRUCTION
OR SEIZURE of the products
(or their donation for humanitarian purposes)

RIGHTHOLDER'S RIGHTS.MARKETPLACE.CIVIL

MAIN PROCEEDING





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RIGHTHOLDER'S RIGHTS.MARKETPLACE.CIVIL

MAIN
PROCEEDING

TRANSMISSION to the rightholder
of the products.





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RIGHTHOLDER'S RIGHTS.MARKETPLACE.CIVIL

MAIN
PROCEEDING

PUBLICATION of the ruling.





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RIGHTHOLDER'S RIGHTS.MARKETPLACE.CIVIL

MAIN
PROCEEDING

DAMAGES AWARD



2,8 MILLION EUROS!



RIGHTHOLDER'S RIGHTS.MARKETPLACE.CIVIL

**WHAT IF THE TRADEMARK
HAS NOT BEEN REGISTERED YET?**

NO DAMAGES AWARD

**ONLY THE SO CALLED
"REASONABLE COMPENSATION"**



RIGHTHOLDER'S RIGHTS.MARKETPLACE.CRIMINAL

**RIGHTHOLDER'S
RIGHTS**

**MARKETPLACE
(USE)**



CRIMINAL CLAIMS



RIGHTHOLDER'S RIGHTS.MARKETPLACE.CRIMINAL

- **ALMOST THE SAME REMEDIES THAN IN A CIVIL ACTION.**
- **CASELAW USUALLY DEMANDS DOUBLE IDENTITY (TRADEMARKS AND PRODUCTS/SERVICES).**
- **“BAD FAITH” REQUIRED.**
- **“INTENTION TO MAKE PROFIT” REQUIRED.**



RIGHTHOLDER'S RIGHTS.MARKETPLACE.CRIMINAL

▪**DAMAGES AWARDS ARE USUALLY LOWER THAN IN CIVIL CASES.**

▪**SPANISH CRIMINAL CODE (1-4 YEARS INPRISONMENT).**



**THANKS FOR
YOUR ATTENTION
AND
PLEASE DON'T ASK
TOO MUCH**