

Spain

Possible area of convergence No. 1 Notion of country name

Our notion of country name coincides precisely with that of this area of convergence.

Possible area of convergence No. 2 Non-registrable if considered descriptive

Under our legislation, country names are not descriptive per se; they are indicative only of the geographical origin or provenance of certain products or services. For example, for “Apples Spain” (with a very distinctive graphic), the products should be labelled “Apples originating from Spain”.

Possible area of convergence No. 5 Invalidation and opposition procedures

Under our legislation marks can be rejected (we do not use the term “invalidation”) if only the country name is applied for, without any other defining characteristics, i.e. “Spain”, as a word, for products or services of any kind.

Such marks can be registered where they form part of a sufficiently characteristic and distinctive group of words or graphics, but they must never mislead the public or appear to provide guarantees or to benefit from official endorsements when in fact they do not (**Article 5(1)(g) of the Law on Trademarks (LM)**). Use of the word “Spain” as the primary or principal element of a badge could be construed as evidence of a sign prohibited under LM Article 5(1)(g). However, this cannot be established as a general rule and each case must be judged on its own merits.

Oppositions may also be submitted based on the aforementioned prohibition.

Possible area of convergence No. 6 Use as a mark

Under the existing Law 17/2001 on Trademarks of December 7, justification or demonstration of use as a mark is not taken into consideration when mark registration applications are made.