



CHILE

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Country Report

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1. Case Report:	Legal right of commercialization of products.
Topic:	Legitimacy of commercializing BIOSAN products.
Where:	Antitrust Commission - Santiago, Chile.
When:	15 January 1999
What happened:	<p>A consultation was presented before the Chilean Antitrust Commission in order to establish the legitimacy of Artículos Higénicos S.A. of commercializing their products under the trademark BIOSAN in Chile. An application for the registration of the trademark BIOSAN ULTRA had been filed by Projection & Consulting Limitada, a distributor of different kinds of products, but it had been held back by oppositions presented by Artículos Higénicos S.A. and other companies.</p> <p>Finally the Antitrust Commission considered that Artículos Higénicos S.A. had the right to commercialize their products under the brand BIOSAN, even when the trademark BIOSAN ULTRA was pending, and advised Projection & Consulting Limitada of keeping from holding up this trademark.</p>
Comments:	The Antitrust Commission considered that the original brand had the right to commercialize in Chile their brand, for the fact that a distributor was filing a request for a very similar trademark could not imply an objection of the legitimate right the creators of the trademark had over their products.
2. Case Report:	Registration of a generic.

Topic:	BUFFET
Where:	High Court - Santiago, Chile
When:	25 July 2002
What happened:	<p>Several presentations of the trademark BUFFET were filed, including products of class 29, 30 and 42, that included the protection for restaurants and food related products. The Chilean Trademark Office rejected the registration for class 42 but accepted it for class 29 and 30 products. Sistemas Gastronomicos S.A. filed an opposition, for BUFFET was considered a generic, which was accepted by the Trademark Office. The trademark application was rejected.</p> <p>During this time the mark BUFFET was already being used to call a fast food restaurant. A claim was presented before the Antitrust Commission for unfair competition. The Antitrust Commission considered that it was a matter to be treated before the Trademark Office and then the High Court, so the mark is still being used.</p>
Comments:	BUFFET, even if it is considered generic, its use cannot be forbidden. The issue is that there is no protection for the mark and no exclusive rights can be considered over it.