

## COLOMBIA



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<b>1. Legislation</b>	Law 813
<b>Topic:</b>	Trademark Forgery
<b>Who:</b>	Congress
<b>When:</b>	July 2, 2003
<b>What happened:</b>	This law modified and added some articles to the Criminal Code in force. In particular, it added an article about Trademark Forgery. This regulation states that anyone who forges trademarks, signs or signatures used officially to certify weight, measure, quality, quantity, value or content, or apply them to different object or good from the one that was destined, will incur in prison of one (1) to five (5) years and a fine of one (1) to twenty (20) monthly legal most minimum salaries in force.
<b>Comment:</b>	Criminal law in Colombia has assumed greater significance in the protection of intellectual property. The criminal law complements and supplements the existing civil remedies for trademark infringement. It complements these remedies by providing criminal penalties for certain egregious acts of trademark infringement. It supplements private civil remedies by prohibiting conducts that in the past were not contemplated as felonies.

<b>2. Legislation</b>	Sentence File 2000627801
<b>Topic:</b>	Notorious trademarks
<b>Who:</b>	<i>Consejo de Estado</i> - Court that hears appeals against administrative decisions
<b>When:</b>	July 4, 2003
<b>What happened:</b>	<p>The Superintendency of Industry and Commerce granted the trademark FINESS for the class 16 of the Nice Classification despite that a Colombian company raised oppositions or objections to the registration based on its notorious trademark FINESSE, considering that the products that identify both trademarks are completely different and belong with different classes of the International Nice Classification.</p> <p>The <i>Consejo de Estado</i> ordered the annulment of the registration of the trademark FINESS considering that the notoriety alleged by the owner of the trademark FINESSE was proved in a proper way, and therefore, although the classes and products are different the only exception for the application of the similarity (considered in the review of confusion between trademarks) is the notoriety and that is the criterion which is the most important.</p>
<b>Comment:</b>	This decision is important because the Superintendency of Industry and Commerce usually refuses oppositions based on notorious trademarks

	since proves are never enough. The sentence states that when someone wants to prove notoriety can use one or many of the proofs mentioned in the Decision 486, but don't have to prove all of them.
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<b>3. Legislation</b>	Resolution 19110
<b>Topic:</b>	Previous notice of integration
<b>Who:</b>	Superintendency of Industry and Commerce
<b>When:</b>	July 7, 2003
<b>What happened:</b>	When companies that are dedicated to distribute, supply or produce the same kind of goods (products, raw materials or merchandise) will merge, consolidate, integrate or do other figure for such purpose must report the operations in the National Government. Companies will not be able to materialize the processes of integration that intend to carry out, without the assent of the competent authority, in this case, the Superintendency of Industry and Commerce.
<b>Comment:</b>	Normally the most affected with processes of integration of companies that are engaged to the same activities are the consumers because this fact could attempt against free competition. Consequently consumers would buy the same goods or services for higher prices and producers won't be interested in improving the goods because they are not competing with anyone. Therefore the Government must inspect these integrations and determine which cases could carry monopoly and which don't.

<b>4. Legislation</b>	Resolution 19629
<b>Topic:</b>	Information supplied to the consumers on the refrigerators and domestic freezers of use
<b>Who:</b>	Superintendency of Industry and Commerce
<b>When:</b>	July 15, 2003
<b>What happened:</b>	<p>Refrigerators with or without shelves of low temperatures, shelves to store frozen food and freezer of food have to comply the following requirements if they will be commercialised in the national territory, from October 1, 2003.</p> <ol style="list-style-type: none"> <li>1. Each product, imported or produced in the country, should have adhered or printed in its label or packing information related to the gross nominal volume, nominal total volume of storage, type and quantity of refrigerant liquid according to the international system of units, class of climate for which it was manufactured and system without frost (when it applies) or lacking of this system.</li> <li>2. This information must be in a permanent way and on an easily visible place for the consumer and in Spanish.</li> <li>3. The refrigerant agents that do part of the cooling system or the agents used to produce them should not be found in the list of substances controlled in the Protocol of Montreal. The SIC in exercise of the faculties of surveillance and control will be able in any moment, to verify the conformity of the information contained in the labels.</li> </ol>

<b>Comment:</b>	No special comments.
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<b>5. Legislation</b>	Resolution 19353
<b>Topic:</b>	Unfair competition actions related to distinctive signs
<b>Who:</b>	Superintendency of Industry and Commerce
<b>When:</b>	July 9, 2003
<b>What happened:</b>	<p>The Superintendency of Industry and Commerce used to refuse unfair competition actions related to intellectual property rights saying that it wasn't competent to decide on them since these cases should be debated through judicial actions. Recently it has revoked providences that rejected and ordered to shelve actions which were debated if a supposed imitation of an identification element or association of a merchant (as distinctive signs), can be demanded through actions of unfair competition.</p> <p>The law 446 of 1998 confers to the Superintendency of Industry and Commerce the same faculties to proceed with unfair competition actions that the judicial officials or judges have.</p> <p>Before the enactment of the law, unfair competition actions had to be debated through judicial actions because the protection of these rights related to the industrial property was within the judge's jurisdiction, and not an administrative body.</p>
<b>Comment:</b>	When someone is affected by acts of unfair competition what he wants when filing an action of unfair competition is to achieve an immediate measure from the Government that avoid detriments or damages. That is why it is quite important that an administrative body as the Superintendency of Industry and Commerce decides on these actions instead of judges, because Superintendency studies these actions and makes decisions faster since it has more resources to determine the real effect of the unfair competition acts.

<b>6. Legislation</b>	<i>Circular externa 04</i>
<b>Topic:</b>	Quality requirements and guarantee of electrical appliances
<b>Who:</b>	Superintendency of Industry and Commerce
<b>When:</b>	April 28, 2003
<b>What happened:</b>	<p>Superintendency of Industry and Commerce has to watch for the enforcement of the quality conditions of goods and services. According to the type of good or service the warranty has to provide the necessary technical aid for its utilization and has to repair the good which includes supplying the necessary pieces that have to be replaced for this last effect.</p> <p>It's a function of the Superintendency of Industry and Commerce to watch for the observance of the regulation about consumer's protection and to instruct producers or traders the way to comply with those norms and procedures for their correct application.</p> <p>Quality warranty, suitability and after-sales service: People who</p>

	<p>commercialise these kind of products have to offer a warranty to consumers that satisfies the specifications announced and includes quality warranty, suitability and after-sales services.</p> <p>The consumer will be able to make use of the quality warranty, suitability and after-sales service directly before the trader or any of the people who distribute, import, commercialise or produce the goods.</p> <p>A Certificate of Warranty has to be given to all consumers who buy these goods. This certificate must be a written document in Spanish, in which the warranty terms have to include the quality, suitability and after-sales service and:</p> <ul style="list-style-type: none"> <li>- The identification of the producer.</li> <li>- The specifications for its correct use.</li> <li>- The conditions of warranty validity and its time limit of enforcement;</li> <li>- The description of the pieces excluded of the warranty;</li> <li>- The conditions of attention of the warranty and of after-sales services.</li> </ul> <p>In order to comply what the law says the producers should arrange directly, or through service centers an inventory of the same goods sold to replace them and pieces to fix them.</p>
<b>Comment:</b>	<p>There are all kind of electrical appliances in the market with different prices and quality. With the enforcement of this regulation the Government tries to guarantee to the consumer a minimum standard of quality and the possibility to order to the manufacturer of the defective good to deliver other good or to fix the one that did not work.</p>