



NICARAGUA




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1. Case Report:	Regulation (Self-Regulation)
Topic:	Advertising and Promotional Practices
Where:	Nicaraguan Beer Industry
When:	2006
What happened:	<p>Various competitors in the beer industry, including AmBev Centroamérica and Compañía Cervecera de Nicaragua, S.A., approved a self-regulation code which regulates the advertising and promotional practices to be followed, underlining their commitment to implement responsible business practices in accordance with the principles of fair competition and social responsibility.</p> <p>The aforementioned code contains various sections: a) introductory section; b) content of advertising; c) protection to minors; d) basic principles; and e) norms and compliance.</p>
Comment:	This is one of the first self-regulation codes to be implemented in Nicaragua, and the guidelines contained therein surpass all requirements found in the legal provisions in connection with alcohol advertising. For example, said code requires that any person participating in ads and commercials, as well as any promotional event, must be at least 23 years old and must physically appear to be older than said age.

2. Case Report:	Unilever de Centroamérica, S.A. vs. Empacadora Del Carmen
Topic:	Labeling, false and deceptive information
Where:	Consumer Protection Agency (Dirección De Defensa Del Consumidor – “DDC”)
When:	2006
What happened:	<p>Unilever N.V.’s local distributor, Unilever de Centroamérica, S.A. (“Unilever”) informed the DDC of various irregularities found in the products produced and distributed by Empacadora Del Carmen (“Del Carmen”), in connection with</p> <p>ketchup and mustard products sold under the trademark  .</p> <p>In an earlier trademark administrative dispute, the Nicaraguan Intellectual Property Registry considered that said trademark was confusingly similar to</p> <p> , which also is used in connection with similar goods, and the case is now closed.</p> <p>Unilever informed the DDC of the close resemblance between the trademarks, as well as some irregularities found in the labeling of Del Carmen’s products, including illustrations which could mislead consumer into mistakenly acquiring the products instead of those distributed by Unilever. Also, Unilever pointed out that Del Carmen’s products did not comply with labeling requirements, such as lacking expiration date and indication of health registry, among others.</p> <p>The DDC proceeded to investigate the matter and reached the conclusion that Del Carmen was infringing various provisions of the Consumer Protection Act (“Ley de Defensa de los Consumidores”), ordering the immediate removal of</p>

	<p>Del Carmen's products, including those found at points of sales and in inventory at the fabric.</p> <p>In the end, Del Carmen agreed to comply with the DDC's order and to distribute the products under a new trademark – which would not bear any resemblance with Unilever's – and to comply with all labeling requirements.</p>
Comment:	Using the DDC as a last resort, prior to initiating a trademark infringement action, has proven to be of great assistance to trademark owners, as in some cases results are swift and it is possible to avoid litigation.

3. Case Report:	3M Company vs. Manufacturera 3M, S.A. de C.V.
Topic:	Well known trademark
Where:	Nicaraguan Intellectual Property Registry (RPI)
When:	November 16, 2006
What happened:	<p>3M Company, owner of the worldwide famous trademark “3M”, filed an opposition against the registration of Manufacturera 3M , S.A. de C.V.'s trademark “3M & Design”, filed in International Classes 6, 7, 8 and 19:</p>  <p>3M Company based its opposition on its various 3M Nicaraguan registrations covering classes 1, 6, 7, 8, 9, 11, 12, 14, 16, 20, 21, and 37, as well as the worldwide fame of its 3M trademark (as well as local fame). In order to support the latter argument, 3M Company filed as evidence a good number of 3M registrations registered in several countries, as well as local and international advertising materials and sales figures.</p> <p>On the other hand Manufacturera 3M, S.A. de C.V. argued that “3M” is an integral part of its name, and that the goods and services covered by their application were different from those found in 3M Company's registrations.</p> <p>The Nicaraguan Intellectual Property Registry (RPI) rendered a decision in favor of 3M Company arguing that there were graphic, phonetic and ideological similarities between both marks, which would create confusion among consumers. Furthermore, said Registry also considered that 3M Company was successful in proving that the “3M” trademark is well-known locally and well as internationally (which would create the risk of confusion among consumers even if both marks covered different goods and services).</p>
Comment:	This decision further underlines a recent trend in which the ruling Authorities consider a trademark's local use and diffusion - through advertising and promotional materials - as an important factor when granting protection reserved for well-known trademarks.