

## JE SUIS CHARLIE Trademark Applications

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Only a few days after the terrible terrorist attacks that occurred in Paris on the January 7<sup>th</sup>, targeting firstly the French satirical weekly newspaper Charlie Hebdo in Paris, several Trademark Offices worldwide received dozens of trademark applications for the slogan "JE SUIS CHARLIE" ("I AM CHARLIE"), which have become in minutes the rallying slogan in tribute to the victims and to the freedom of speech, claiming the refusal of all kind of violence. These exceptional circumstances had led some of the Trademark Offices to emit exceptional statement regarding their practices about trademarks.

Indeed, applicants tried to take advantage of this slogan created by Joachim Roncin through a Twitter message to create a morbid and immoral "Charlie business" based on selling T-shirts and all types of products or services wearing "JE SUIS CHARLIE". Not only has the public been shocked by hearing about the existence of these applications, but also when the news detailed that some claimed the protection of the slogan to distinguish firearms.

Therefore, in this context of collective emotion, the French Patent and Trademark Office (the INPI) issued a statement and decided to purely deny and rejects all application containing the expression "JE SUIS CHARLIE" or making reference to it. More precisely, the INPI declared that this decision was based on the fact that the phrase lacks of the necessary distinctive character due to its wide use by the public, and consequently the slogan can't be owned exclusively by one economic actor in the market. It's remarkable to say that the policy of the National Offices is to not to comment any individual cases of trademark application, either before examination or at any stage of the procedure.

If it is clear that the conclusion of the INPI is morally correct, the reasoning may be debatable in some respects. Indeed, "JE SUIS CHARLIE" should be considered as a distinctive trademark, as it is not used in the common nor professional language, as well as it is not the necessary, generic or usual designation of products or services like clothing for instance. Moreover, "JE SUIS CHARLIE" is not referring to any characteristic of a product or a service, nor it defines the design of a product. Therefore this phrase should be considered as distinctive.

The OHIM, in another official statement, chose a better argumentation by considering that the IP issues surrounding the registration of the "JE SUIS CHARLIE" mark could be considered to be of overriding public interest and by affirming that such applications would probably be subject to an objection due to the fact that the registration of such a trade mark could be considered "contrary to

public policy or to accepted principles of morality" and also as being devoid of distinctive character. We consider that, even if the French INPI's position is morally totally valid, the basis of its reasoning should have been the public policy and the morality, as it is clear that granting a "JE SUIS CHARLIE" trademark would have as a result a certain restriction of freedom of speech of the citizens.



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One of the professionals that have achieved this distinction in the year 2014 is Dr. Oscar Mago, who appears in the category Intellectual Property lawyers. It is worth noting that this is not the first time he receives this recognition, which does nothing but consolidate the good management being done by Peruvian firm OMC Abogados & Consultores and the place it has obtained worldwide.

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