

Subject: Requests for proof of use of a trademark invoked in cancellation and opposition proceedings
Date: 13 September 2022

In order to clarify the conduct of opposition and cancellation proceedings and, in particular, the manner in which requests for proof of use are to be made, the following provisions are established pursuant to Article 1.11(2) BCIP and Rule 3.4 IR:

1. The request for proof of use of an earlier trade mark referred to in Article 2.16bis (1) or 2.30quinquies (1) BCIP and Rule 1.14 (1) (d) or 1.31 (1) (d) IR, although it may be filed at the same time as other documents or requests, shall be admissible only if it is presented within the applicable time limit as an explicit, unconditional and clear request, in a separate document exclusively devoted to that matter.
2. Requests for proof of use that do not satisfy the conditions listed in paragraph 1 above are not valid and do not entail an obligation for the opponent/applicant to prove the use of the earlier trade mark.
3. This Rule of the DG applies to opposition and cancellation proceedings filed on or after the date of this Rule.