



## Interview ▶ We talk about patents with Jonathan Hinkson, director of the Legal Department and

IRINA RYBALCHENKO  
ANDORRA LA VELLA

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Patents, trademarks and copyrights are powerful tools for promoting the economic and cultural development of modern society. We talked about Andorra's achievements and development prospects in this area with Jonathan Hinkson, director of the Legal Department and attorney at Augé Holding Group.

**–Is the legal framework of the Principality of Andorra sufficiently protective in the field of intellectual and industrial property?**

–The Principality of Andorra has a very well-established legal framework. There is a 1995 Trademark Act, a 2014 Patent Act and a 1999 Copyright Act. All these laws of the General Council were complemented by their corresponding implementing regulations. We now have a strong enough legal framework to protect intellectual and industrial property rights holders. This legal framework brings a certain optimism and tranquility to companies and investors, since there is an ecosystem in Andorra that allows projects to be developed and inventions, brands and the identity of a business to be protected. Therefore, these intellectual and industrial property rights really have a transversal function and allow businesses to be consolidated with specific intangible assets.

**–What are the advantages of registering a trademark or patent in Andorra compared to Spain, for example?**

–Trademarks and patents are industrial property rights and are therefore territorial in nature. They only produce legal effects in the countries where the trademark or patent is registered before the competent office. Consequently, if an entrepreneur wants to register an Andorran trademark, he must make a trademark application before the Andorran Trademarks and Patents Office (OMPA); the brand only protects the Andorran territory. Brands are valid for 10 years and can be renewed indefinitely. In contrast, patents are valid for 20 years and cannot be renewed: when the patent expires, the protected invention falls into the public domain.

**–And the issue of cost? Are Andorra's rates competitive compared to neighboring countries, for example Spain and France?**

–It is true that, in Andorra, the fees and office fees of the OMPA are reasonable and there is no barrier to entry to be able to protect your industrial property rights. By way of illustration only, to keep a patent in force you have to pay an annual fee, but in Andorra there is a «grace» for the first two years, and you only start paying the annual fee from the third year onwards patent application. In any case, the mentioned amounts are very symbolic. Apart from the financial issue, in the field of trademarks we have a system that is almost unique in the world: in Andorra there is no such thing as an «opposition procedure». In general, in any country in the world, the publication of the trademark ap-



## Jonathan Hinkson

Director of the Legal Department and Lawyer of Augé Holding Group

## «In Andorra there is system in the field of



«Andorra has an ecosystem that allows projects to be developed and inventions and brands to be protected»

plication generates an opposition period (two months in France or Spain and three months for the application of a European Union trademark) for allow the holder of earlier rights to object to the registration of a third party's mark. Here in Andorra, this opposition procedure does not exist. Therefore, an Andorran trademark can be registered in 3-4 days. This constitutes a strategic tool almost unique in the world. Regarding the timings to register a patent, it should be counted around 10 months, namely a very short period compared to other countries. This very competitive term is also explained by the fact that there is no opposition procedure in the field

of patents in Andorra.

**–If we talk about statistics, has there been more demand for brand and patent registrations lately?**

–Yes, with the liberalization of the economy and the Foreign Investment Law, there has been an increase in trademark and patent applications in Andorra. In relation to brands, there are around 40,000 registered Andorran brands. As for the reference point, I prefer not to think about last year's data, but to highlight the growth potential we currently have. We must take into account all the brands that have not yet been registered in Andorra, but that are already present in

the Andorran market, in particular in the agri-food, jewelry, automobile or sports fields. We must remember that the brand corresponds to the identity of a business, it is a distinguishing sign of prime importance in the market. As a law firm, and with the intervention of Mr. Pere Augé as an accredited representative, we are promoting new businesses and supporting entrepreneurs so that they can register their brands in Andorra and thus obtain adequate legal protection. In the area of patents, there is a lot of work to be done to raise awareness of the importance of protecting inventions and correctly structuring the portfolio of industrial property rights.



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Jonathan Hinkson, director of the Legal Department and lawyer at Augé Holding Group



«With the liberalization of the economy and the Foreign Investment Law, there are more trademark and patent applications»

«Right now there are more foreign companies than Andorran companies applying for a patent in the Principality»

**-Currently, in which areas are more patents being registered?**

-Patent law is a very transversal law. Theoretically, all inventions in any field of business can be valid candidates to be protected by a patent. What we are currently observing is that the automotive industry, optics as well as the field of sport are very relevant. In this sense, brands and patents have a fundamental position in the field of any sport. We could use tennis, cycling or skiing as an example. In fact, a trend has been set according to which «amateur» sportsmen want access to the same equipment and accessories as professional sportsmen. This trend has a decisive effect on the impetus of an innovative current in the sports ecosystem, which promotes new inventions and the need to protect them properly.

**-Are there many foreigners who come to Andorra to register their patents?**

-I would say that, at the moment, there are more foreign companies than Andorran companies that apply for a patent in Andorra to protect their inventions. In the area of patents, we mainly have European clients: we register their patents in

Andorra and coordinate the registration of their inventions in other countries with the support of our trusted correspondents. A relevant aspect is that in Andorra there is an optimization system in the field of patents, which is the «Patent Box». This special taxation regime is provided for by the Corporation Tax Law and applies to patent management and software management. Specifically, this attractive environment allows entrepreneurs who want to optimize their inventions for tax purposes to contractually organize the management of their patent and software rights from an Andorran company.

**-How does the «Patent Box» provide for by Andorran law work?**

-The general corporate tax rate in Andorra is 10%. When an Andorran company is included in the «Patent box», it allows an exemption of 80% of the tax base on income from the transfer or granting of licenses for patents and/or computer programs. This is an effective tax rate of 2% on this type of income, namely a very attractive rate. We will develop other aspects of intellectual and industrial property in a later publication. ≡

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(+376) 353 424 / (+376) 379 769

(+376) 747 747

laportella@andorra.ad

Casa Nova Olivet 10 · Ordino

www.laportella.ad