

Jurisdiction report: Peru

## A BATTLE WITH THE VATICAN

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*"A case that captured the attention of many Peruvian university students was the prohibition of the words 'pontifical' and 'Catholic' in the name of the Pontifical Catholic University of Peru (PUCP) by the Vatican"*

The Vatican issued a prohibition of the words 'pontifical' and 'Catholic' in the name of the Pontifical Catholic University of Peru (PUCP), one of Peru's leading universities.

This prohibition requests the PUCP adapt its laws to canonical law, specifically the Apostolic constitution *Ex Corde Ecclesiae*, promulgated by John Paul II on August 15, 1990, which regulates the features and functions of Catholic universities around the world.

The request was made by the Vatican 20 years ago, with a deadline that expired on April 8, 2012, but the PUCP has not yet amended its statutes.

For this reason the Vatican issued a Decree on July 11, 2012, whereby the PUCP is prohibited to use the words 'pontifical' and 'Catholic' in its name. Because it is a legal entity of canonical law, it had to abide by this legislation, and adapt its statutes to the Apostolic constitution.

That is why from July 11, 2012, the PUCP cannot, in the light of the canonical law, use these words as part of its name. However, it should be noted that this university is also a legal entity governed by the laws of Peru, according to which it is a Nonprofit Civil Association. Therefore, this prohibition might not be applied if the university is considered as an entity regulated by the Peruvian Civil Code.

As a legal entity of private law the PUCP officially registered before the Peruvian Trademark Office (INDECOPI), a number of brands that contain its name in Classes 09, 16, 38, 41 and 42, which distinguish products and services related to the provision of higher education (software where the information is stored, publishing, telecommunications, education and services provided by professionals who demand high technical skills, respectively).

Given that the common law includes the Peruvian IP laws, it is perfectly understandable that the university uses the names 'pontifical' and 'Catholic' in its trademarks. Canonical law has minimal import and it is unlikely and even reprehensible that it should interfere.

Going further, we believe that under the Law of Corporations, part of the Peruvian common law, the legal entity PUCP would have the right to use its name, considering that every subject of right has the right to have a name without any restrictions except those provided by the law applicable at the time of its incorporation.

That is why in practice, the Vatican's ban is not applicable, as we can see given that today, a year after the ban, the words 'Catholic' and 'pontifical' are being used without any problem.