

## McV's Intellectual Property Practice Team Scores Significant Victory

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### PRACTICE AREAS

- Intellectual Property

### McV Intellectual Property Practice Team News

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McV's Intellectual Property Practice Team scored a significant victory on February 28, 2023, when the Puerto Rico Court of Appeals affirmed the Court of First Instance (San Juan Part)'s judgment denying injunctive relief and dismissing the trademark infringement complaint filed by the owner of three restaurants operating in Ponce under variations of the trademark "Sazón" (namely, "Sazón Monte Plaza;" "Sazón Criollo Taquería;" and "La Fonda by Sazón") against the owners of the "Sazón Cocina Criolla" restaurant located in San Juan's popular food and entertainment complex, the Distrito T-Mobile.

In keeping with Puerto Rico Supreme Court precedent (mainly, *Posadas de Puerto Rico Associates, Inc. v. Sands Hotel & Casino, Inc.*, 131 DPR 21 (1992)), the Court of Appeals agreed with the Court of First Instance that there was no likelihood of confusion among the parties' respective marks despite their shared literal element (*i.e.* the word "sazón") and the similarity of services offered under said marks, because: (1) "sazón" is a weak mark within the restaurant industry as it is widely used in Spanish-speaking jurisdictions to identify food or restaurant services and is therefore entitled to a lesser degree of protection within that industry; (2) there was no evidence of willfulness or malicious intent on defendants' part to adopt the "sazón" mark to benefit from the alleged goodwill of plaintiff's restaurants; and (3) the evidence of purported actual confusion set forth by plaintiff in the injunction hearing was neither sufficient nor credible.

The Court of Appeals highlighted in its judgment, among other things, that a reasonable and prudent consumer would not be confused and would likely tell that the parties' restaurants did not belong to the same owners given the significant differences in the food they offer, their prices, their looks or ambiances, and the distance between their respective locations.

Three members of our practice team, María Teresa Szendrey-Ramos, Isabel Torres-Sastre, and Sonia M. López del Valle, represented the defendants in this case. The Court of Appeals' detailed and well-supported judgment is included below.

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