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Sweden: Establishment of a new exclusive IP Court

David Leffler (Cirio Law Firm) · Monday, May 16th, 2016

From September 1, 2016 a specialised IP court will start to operate in Sweden as the current Swedish judicial system involving IP cases will undergo certain changes. The new IP court, named the Patent and Market Court, will handle most cases relating to intellectual property, marketing and competition in Sweden.

Focusing on trademarks and brand protection, as of today, two courts have competency in trademark cases in Sweden. The district courts and the courts of appeals are the competent courts regarding infringement and cancellation cases, while the special Court of Patent Appeals decides on appeals from the Swedish Patent and Registration Office's ("PRV") decisions, namely decisions on trade mark applications and oppositions. In addition, marketing (unfair competition) and competition cases are handled by the specialised Market Court.

The new specialised IP court, the Patent and Market Court, will deal with both trademark infringement cases and appeals from the decisions of the PRV as well as unfair competition cases. As a consequence, the current Market Court and the Court of Patent Appeals will cease to exist. Appeals from the decisions of the new Patent and Market Court, which will be established as a division of the Stockholm District Court, will be handled by the new Patent and Market Appeal Court, which will be a part of the Svea Court of Appeal. Of course, the Patent and Market Court will also handle other IP rights such as patents, designs and copyright as well as cases under the Act on the Right to Employee's Inventions. Cases involving trade secrets and other IP matters that fall under labour law will however be excluded.

The decisions of the Patent and Market Appeal Court, as the main rule, may not be appealed to the Swedish Supreme Court. However, the Patent and Market Appeal Court may grant a leave to appeal if the review by the Supreme Court has a precedential importance. Such appeal is, however, also subject to the Supreme Court independently granting a leave to appeal. The decision is final if no leave to appeal is given, either by the Patent and Market Appeal Court or by the Supreme Court.

As a consequence of the judicial reform, IP litigation will exclusively take place in the capital, which is advantageous as the judges in Stockholm have already been dealing with the majority of the trademark cases; thus the high professional level of the new IP court is ensured. The introduction of the new IP court is warmly welcomed by professionals and stake holders because the specialisation allows for efficiency and uniform decisions to a greater extent. The judicial reform will not only lead to high quality decisions and more predictability, but also to the abolishment of parallel proceedings concerning the same dispute but carried on before different

courts, which should decrease the time and costs involved in IP litigation.

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