

Side effects of an effective trademark treatment in Greece

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Manolis Metaxakis of Patrinos & Kilimiris says the Law on Trademarks now in force is a radical and healthy development, but uncertainty remains for trademark owners and legal practitioners regarding transitional issues

The new Law on Trademarks enacted in Greece (Law No 4679/2020) is not regarded as a mere implementation of Directive (EU) 2015/2436. In fact, it is a radical legal tool because all invalidity actions of all types – that is, all requests of invalidity/revocation and counter-actions of invalidity/cancellation – are initially, or on appeal, to be decided before the civil courts. According to the law previously applicable, all requests of invalidity/revocation were cases for the administrative courts to decide.

This is a shift towards a promising direction, taking into account that there are specialised panels in the Greek civil courts that maintain exclusive jurisdiction to decide on trademark cases, unlike the divisions of the administrative courts that were competent to hear the same types of cases under the Greek law previously applicable.

However, it is commonly accepted that no one is perfect, and nor is the Greek Law on Trademarks that is now in force. In particular, an issue has arisen as to the proper court to decide on appeals against decisions delivered by the Trademarks Administrative Commission on invalidity/revocation requests that were filed before the new law came into effect.

The transitional rules of the new Law on Trademarks provides that said cases shall be decided according to the law previously applicable. In this regard, there are two theories:

- This type of case must be decided on the substantive provisions of the law previously applicable but under an appeal that must be filed before the civil courts, as provided by the present law; and
- This type of case must be decided according to the law previously applicable in all respects; i.e., as regards the substance, as well as the competence, of the relevant court, meaning the administrative court.

The specialised IP court in Athens (a civil court) delivered a judgment on this issue in June 2023, under which the latter view was accepted. In particular, it was held that the civil courts have no jurisdiction to rule on appeal invalidity/revocation requests filed and decided by the Trademarks Administrative Commission before the enactment of the Law on Trademarks that is currently applicable.

This newborn issue is far from being regarded as resolved and much uncertainty is still present, which is not good news for trademark owners and legal practitioners.

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