

## **Introduction of administrative invalidation and revocation procedures in new Norwegian Trademarks Act**

By Cecilie Bakken

Norway's new Trademark Act entered into force on 1 July 2010. The new Act mainly represents a modernization of the old Act and codification of existing case law, but introduces nevertheless a few practically important changes worth make mention of.

One of the main changes relates to invalidation and revocation of trade mark registration.

Previously, if a trademark had been registered in contravention of the trademarks act, or if the mark after registration had obviously lost its character as a distinctive mark or had become deceptive, or did not fulfil the use requirements, the only way to attack the trademark registration was by bringing the matter before the courts.

The new Act introduces administrative procedures when a mark is requested invalidated or revoked.

A mark could be declared invalid if it is registered contrary to valid prior rights or contrary to absolute grounds.

It may be revoked if the use-requirements within the last five consecutive years are not met, or if the mark is diluted and has become a generic term.

Since the Norwegian Industrial Property Office (NIPO) maintains the relative grounds examination, the possibility of administrative cancellation of trademarks on the basis of non-use is welcomed by trademark owners, since administrative proceedings will prove more cost effective and less time consuming than court proceedings.

If NIPO deems itself incompetent to make a decision in such administrative procedures, they may, however, forward the case to court.

In contradiction to court proceedings, the parties will not have the opportunity to call witnesses as part of the administrative procedure. Another difference between these two ways of attacking a trade mark registration relates to the costs of the case. While in court proceedings, the losing party will normally have to pay the costs of the winning party, the parties will in administrative procedures cover their own costs.

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