

**Greece** - Dr. Helen G. Papaconstantinou and Partners Law Firm

The new Civil Procedure Rules have significantly expedited trademark infringement proceedings by setting stricter, more clearly defined timeframes; reducing the number of cases in which witnesses are heard in court; and restricting the opportunity to obtain postponements without genuinely good cause.

Previously, certain aspects of the Greek judicial system allowed defendants to cause significant delays to trademark infringement proceedings. Court hearings were often scheduled up to a year after the action was filed and were often postponed *ex officio*. Moreover, defendants had several options to delay proceedings further: for example, the courts routinely granted a defendant's first request for a postponement. It was thus generally agreed that efforts were needed to expedite court proceedings.

To this end, the Greek Parliament has introduced significant amendments to the Civil Procedure Rules, which came into force on January 1 2016. The new rules stipulate strict timeframes for proceedings, with both parties obliged to file their respective written arguments and all evidence within 100 days of filing of the action (130 days where the defendant is not resident in Greece). Both parties must then file their rebuttal arguments within 15 days. Each party is entitled to present up to five sworn affidavits in support of its own arguments and up to three sworn affidavits to rebut the arguments of the other party. As a rule, the court will then hear the case without witnesses. If the court deems it absolutely necessary, it has the option of summoning one of the affiants to testify in court. Therefore, anyone who provides a sworn affidavit risks being summoned to confirm the content of his or her affidavit in court. All witnesses will be aware of the fact that they might be cross-examined in court, as cross-examination of witnesses by the parties' lawyers is permitted. The new procedure thus increases the risk for persons who provide written misstatements, which should have a positive effect on the determination of the truth in the proceedings. However, the voluntary witness

testimony that hitherto played a key role in trademark infringement cases will become exceptional in future proceedings and will thus likely lose its particular importance.

The amendments also affect preliminary proceedings. Previously, decisions in preliminary proceedings were often significantly delayed; they were often issued three months or more after the hearing, despite the urgent need for a decision. Under the amended Civil Procedure Rules, decisions must now be issued within two days of the hearing.

A further amendment limits the possibilities for the parties to obtain postponements without providing adequate reasons, thus also helping to expedite proceedings.

By binding the plaintiff and defendant to the same timeframes in which to file written arguments, the amended Civil Procedure Rules are now in line with the principle of equality of arms – unlike the previous rules, which essentially violated this principle. Under the previous rules, in proceedings before the one-member court of first instance, the defendant presented its counterarguments and evidence for the first time at the court hearing. The plaintiff had just three days to respond in writing to these arguments, which was often insufficient to rebut the argumentation in detail. This timeframe also made it almost impossible to prepare evidence to support the plaintiff's rebuttal arguments. Under the new Civil Procedure Rules, both parties must present their arguments and file all evidence well before the court hearing, thus affording the plaintiff sufficient time to respond to the defendant's arguments.

As with any substantial change in legislation, these amendments will initially create a degree of legal uncertainty for trademark owners. However, the advantages of the new Civil Procedure Rules clearly outweigh this disadvantage. It remains to be seen how efficiently the new rules will be applied by the courts.

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