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Amendments to Industrial Property Act in force

National procedures

Slovenia - ITEM doo

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May 09 2006

Amendments to the Slovenian Industrial Property Act came into force on March 11 2006. The amendments bring in some important changes regarding trademarks.

The amendments state that the five-year non-use grace period starts with the trademark registration date instead of the date when the registration became final, which was previously the case. This will significantly simplify establishing whether a particular trademark is vulnerable to non-use cancellation because the old system typically required examination of the Trademark Office's files and often court files in order to establish the exact date when the registration became final.

The amendments also explicitly introduce a new form of damages assessment for infringement based on the amount the mark owner would have received had it granted the infringer a licence to use the mark. The inclusion of this approach is a welcome addition to the standard assessment of actual damages, which is usually very difficult to prove.

The conditions to obtain a temporary injunction to prevent trademark infringement have been significantly relaxed. This change is of particular importance since Slovenian litigation procedure can take years. The previous conditions were extremely strict, making it difficult to obtain interim relief.

In addition, the amendments introduce new ways in which plaintiff trademark owners can acquire evidence from a defendant. Mark owners can now request a court order forcing the defendant to produce bank, financial or other records relating to the infringement. This will help mark owners to establish the extent of the infringement, which will be useful in applying for the licence assessment for damages outlined above.

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