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SIPO's request for review rejected by Supreme Court

Court system

Slovenia - ITEM d.o.o

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The Supreme Court has rejected a request for review of an Administrative Court judgment filed by the **Slovenian Intellectual Property Office** (SIPO) (Case X Ips 282/2006-3, December 11 2007).

On March 2 2001 Slovenian company **DISK doo** filed an application for the registration of the trademark VIKKI. Another Slovenian company, **Droga Kolinska dd**, opposed the application based on the earlier registered trademark VIKI. On July 29 2003 SIPO allowed the registration of the trademark VIKKI in part. Droga challenged SIPO's decision before the Administrative Court. On December 20 2005 the court set aside the decision based on procedural errors and remitted the case to SIPO for further determination. On January 19 2006 SIPO appealed to the Supreme Court.

On January 1 2007 the new Act on Administrative Disputes entered into force. The new act considerably limits the right to file an appeal (regular legal remedy) and a request for review (extraordinary legal remedy). Since SIPO was not entitled to bring appeal proceedings under the new act, its action was considered as a request for review under the transitional provisions of the act.

According to the new act, the Supreme Court will consider a request for review only if it may improve the applicant's legal position. In this case, the court held that SIPO had no legal standing to request a review, as the case had been remanded to it and SIPO was obliged to issue a new decision pursuant to the law and the instructions of the Administrative Court. Therefore, the Supreme Court rejected SIPO's request without deciding on the merits of the case.

This decision is significant in that it is the first such decision by the Supreme Court since the entry into force of the new act. Moreover, the decision will considerably limit the possibilities of challenging the judgments of the Administrative Court.

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