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Finally a reform of the Danish IPR enforcement is to be expected

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As any practitioner who has come in contact with the Danish legal system in connection with disputes concerning IPR will know, until now, the complexities quite often involved in such cases have often proven difficult for Danish courts, especially enforcement courts, to handle.

Consequently, it has for many years been a focal point of IPR advisors that the Danish court system, and especially the enforcement system, be reformed to address the lack of expertise on the bench.

The Danish Secretary of Justice has now, on 1 November 2012, presented a bill to the Danish parliament in order to address these issues and modernise the Danish enforcement court system.

If passed, the enforcement court system will be strengthened in several respects:

The hearing of interlocutory injunction applications will be transferred from the city courts (bailiff's department) to the ordinary civil law departments of the city courts in order to ensure that more often than not it will be properly appointed judges hearing applications for interlocutory injunctions rather than deputy judges.

Also, the competencies of the Maritime and Commercial court to grant interlocutory injunctions will be expanded.

Moreover, and perhaps most importantly, interlocutory injunction cases may in the future be heard by a panel consisting of several judges with the optional participation of experts on the bench.

One further consequence of the bill, if passed, will be that if an application for an interlocutory injunction is granted, it will no longer be a requirement for the rights holder to subsequently file a confirmatory action (on the full merits) in order to establish whether or not the interlocutory injunction should be upheld.

Instead, it is proposed that a case on the merits be initiated in order to ascertain whether the IP right on which the enforcement action was based, in fact exists.

The bill is largely based on a white paper from the Danish Administration of Justice Committee in April 2002 which we have previously mentioned in a blog.

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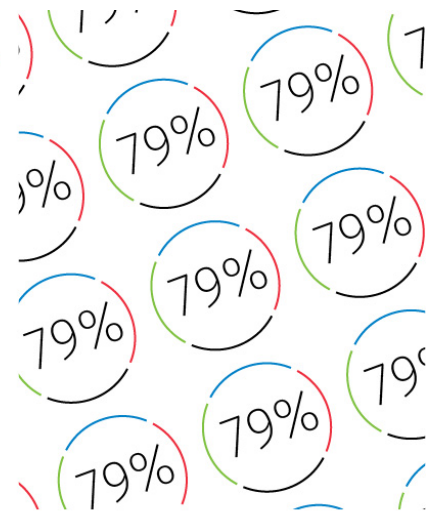
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