



Administrative revocation and invalidity proceedings to be implemented before the Spanish Patent and Trademarks Office

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- **Previously, revocation and invalidity actions were brought before civil courts – bringing them before the OEPM will be faster and cheaper**
- **Appeals against OEPM rulings will be heard through the “oral trial” procedure, which is faster than ordinary proceedings for infringement litigation**
- **The appeal judicial review system, following evaluation, will henceforth be handled exclusively by the civil courts**

As of 14 January 2023 and in order to comply with EU Trademark Directive 2015/2436, Spain will implement administrative invalidity and revocation proceedings before the Oficina Española de Patentes y Marcas (OEPM). So far, and until such date, both revocation and invalidity actions are brought before the civil courts. This implementation will have important consequences for users, since the proceedings before the OEPM will be significantly cheaper and shorter than before the civil courts.

Further, according to the current system, any appeal against a decision of the OEPM's Boards of Appeal regarding an examination or an opposition matter has to be filed before the administrative courts (Tribunal Superior de Justicia) through a contentious administrative complaint.

The recent approval of the Organic Law 7/2022 of 27 July 2022 amending the procedural regulations relating to industrial property will imply that from its entry into force on 14 January 2023, all appeals against decisions issued by the OEPM, including revocation and invalidity but also regarding examination and opposition matters, should be brought before the civil courts and, in particular, the Civil Sections of the Audiencias Provinciales.

The latter are actually second instance courts, with the possibility of an appeal either before the civil section of the competent Superior Court (Tribunal Superior de Justicia) or a cassation appeal before the Spanish Supreme Court.

The new legislation establishes that appeals against OEPM decisions will be heard through the declarative procedure “oral trial” (juicio verbal). This kind of proceeding is much faster than ordinary proceedings for infringement litigation and has many points in common with current administrative appeals.

In light of the above, the introduction of the administrative revocation and invalidity actions before the OEPM from 14 January 2023 will introduce a significant change in Spanish IP practice, not only because these actions will now be filed before the OEPM, but also because the appeal judicial review system has been reviewed and will now be handled exclusively by the civil courts.

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