

## THE STATE OF INTELLECTUAL PROPERTY LAW IN THE NORDIC COUNTRIES - SWEDEN

### Legislative changes

- › New Court System for IP matters - Lag (2016:188) om patent- och marknadsdomstolar
  - Government Bill Prop. 2015/16:57 adopted by Parliament
  - In force 1 September 2016
  - Stockholm District Court - "*Patent- och marknadsdomstolen*" (PMD)
  - Svea Court of Appeal - "*Patent- och marknadsöverdomstolen*" (PMÖD)
  
- › Proposal for a new Patents Act – Swedish Government Official Report (SOU 2015:41)
  - Modernizing the language
  - Modernizing the structure (chapter division, subtitles)
  - Adaption to EPC and UCPA language
  - General review of various provisions, use and consequences
  - Prop. 2015/16:124 Ökad rättssäkerhet i det enhetliga patentsystemet

### Copyright

- › Supreme Court, T 2760-15, Telia Sonera Sverige Aktiebolag *.l.* CopySwede Ekonomisk förening
  - Question whether mobile phones (iPhone) are "especially suited for the production of copies of works for private use" under Section 26k of the Copyright Act
  
- › Supreme Court, NJA 2015 s. 512, Swedese *.l.* Dan Burhén Möbler
  - Responsibility for a third party violation of an interim injunction (presumption of coordination if strongly indicated by the circumstances)
  
- › Supreme Court, NJA 2015 s. 1097, C More *.l.* Sandberg
  - Hyperlinking to live broadcasts of hockey games was not copyright infringement (live broadcasts were not the result of an intellectual creation)
  - Preliminary ruling CJEU C-279/13 C More
  
- › Supreme Court NJA 2014 s. 859, Åklagaren *.l.* J.S.
  - Question of sanctions for digital file sharing (51 individual cases of infringement)

### Trademarks

- › Supreme Court, NJA 2015 s. 605, Coty Germany GmbH *.l.* Parfym Sverige AB
  - Question about the scope of information orders ("*informationsföreläggande*") in relation to allegedly infringing products
  
- › Supreme Court, NJA 2015 s. 798, Vivamondo *.l.* Dermarome *et al*

- Swedish jurisdiction in national trademark infringement cases.
- › Supreme Court, T 3403-14, Länsförsäkringar *.l. A/S Matek*
  - Request for a preliminary ruling by CJEU
  - Implications of non-use of a trademark when determining likelihood of confusion
- › Svea Court of Appeal, T 768-14, Swedish Match *.l. V2*
  - Cancellation of trademarks due to i.a. lack of distinctive character and degeneration
- › Svea Court of Appeal, B 1389-14, Åklagaren *.l. Mindelöf et al*
  - Sanction – imprisonment 1 year
  - Calculation of damages
  - Forfeiture of profit
  - Appealed to the Supreme Court, no decision on leave yet

## Patents

- › Svea Court of Appeal, Ö 8419-14, Sandoz *.l. AstraZeneca*
  - Decisions in other jurisdictions to invalidate the patent in suit were not sufficient proof of a presumably invalid patent in interim injunction proceedings
- › Svea Court of Appeal, Ö 5223-15, Orifarm Generics A/S *et al .l. Novartis AG*
  - Wording of an interim injunction in relation to a purpose related product claim
- › Svea Court of Appeal, T 6530-14, Comex Electronics AB *.l. Fibersystem AB*
  - Amendment of patent claims in court proceedings
- › Stockholm District Court, T 2694-14, Merck Sharpe & Dohme *.l. Paranova Läkemedel*
  - Specific mechanism
  - Preparatory Acts of infringement
- › Stockholm District Court, B 18125-13, Astra Zeneca AB *.l. Accord Healthcare Limited*
  - Question of imposition of a fine due to violation of an injunction
  - The enjoined party had not changed information in NPL ("*Nationellt Produktregister för Läkemedel*", a national repository for medicinal products available on the Swedish market)
  - Valid excuse for not observing the injunction – an oversight?
  - No leave of appeal in Svea Court of Appeal, appealed to the Supreme Court, no decision on leave yet

## Marketing law

- › Market Court, MD 2014:14, Konsumentombudsmannen (KO) ./. Swedish Match North Europe AB
  - Marketing of snus in flagship store
  
- › Market Court, MD 2014:16, nWise AB ./. Europea i Malmö AB
  - Question whether a letter to an authority (*Post- och telestyrelsen, PTS*) constituted marketing
  
- › Market Court, MD 2015:18, Svensk Mjök Ekonomisk förening ./. Oatly AB
  - Comparative marketing of food products (oat milk products and cow's milk)
  - Marketing of food stuffs must comply with the food sector's highest standards on reliability – a deviation was not accepted as industry practice

## Trade secrets

- › Labour Court, AD 39/2015, Evry Business Applications ./. M.K and Xperitus AB
  - Transfer of trade secrets to DropBox
  - New employer's liability for employee's dealings with trade secrets
  - Preparatory acts are not be covered by "use" and "disclose" a trade secret under the Trade secrets Act

## Domain names

- › Svea Court of Appeal, B 5280-15, Åklagaren ./. F. N. and Stiftelsen för Internetstruktur
  - Question of forfeiture of the domain names "thepiratebay.se" and "piratebay.se"
  - The Court stated that the consequence is that the domain names go to the state (who may decide not to pay annual fees or request that the domain names be deregistered, in which case the domain names will be released)
  - Appealed to the Supreme Court, no decision on leave yet

\*\*\*\*\*