

GREECE

It's (almost) never too late for a consent letter

Patrinos & Kilimiris

Athens



Manolis Metaxakis

Under the previous rules applicable regarding registrability of a trade mark in Greece, a consent letter could admissibly be filed only before the Trade Marks Administrative Commission, not at a later stage, such as pending an appeal before the administrative courts, following the rejection of the trade mark application concerned, provided that (1) the trade marks under comparison are not identical, (2) the consent at issue is not contrary to the public interest and (3) there is no serious danger of the average consumer being deceived.

The good news is that under the rules now applicable (as of April 11 2012) consent letters may now be filed and unconditionally accepted even at a later stage, such as pending an appeal before the administrative courts. This is equally applicable to all trade mark applications regardless their filing date, that is before or after the new rules came into force.

End of the story? Not yet. There is a line of case law, which although not prevailing, favours the view that as regards trade mark applications (either national applications or IRs designating Greece) filed before April 11 2012, consent letters may be admissibly filed before the administrative courts, which will nevertheless take them into consideration in light of conditions (1) to (3) mentioned above. This in practice means that even if a consent letter is filed, the trade mark application may still be found not registrable on these grounds.

There are so far four judgments of the Administrative Court of Appeals favouring the unconditional acceptance of consent letters and two favouring the above-mentioned stiff approach. This definitely means that the issue will sooner or later be litigated before the Council of the State (the Greek Admin-

istrative Supreme Court).

Until then, the story is not finished and it seems that trade mark applicants should be prepared for a hard battle.