

World Trademark Review *Daily*

**Significant changes to appellate review proposed
Israel - Gilat, Bareket & Co, Reinhold Cohn Group**

Court system

March 15 2010

A governmental bill (Governmental Proposal 447), published on January 25 2010, proposes to amend significantly the procedural aspects of the [Israeli Trademarks Ordinance 1972](#) as part of the ongoing court reform.

The reform has been gradually implementing the recommendations of the Committee for the Review of General Court Structure, headed by former Supreme Court judge Theodor Orr. The committee had recommended that:

- primary appellate jurisdiction should be transferred from the Supreme Court to the district courts; and
- the Supreme Court should not, as a matter of course, be the first instance court for any type of proceedings.

Under the proposal, appellate jurisdiction over final decisions of the trademarks registrar (who is normally eligible to be a district judge) would be transferred from the Supreme Court to two specially authorized district courts. This change would thus apply to appellate review of:

- registration proceedings;
- opposition proceedings;
- proceedings involving rival applications;
- applications for the modification of a registration; and
- applications to register changes of ownership and licences.

In unilateral proceedings (eg, refusal to register a mark and change of ownership), the registrar will be named as the respondent.

Moreover, the registrar's interlocutory decisions, which were not previously appealable, will be appealable by leave. Appeals from district court appellate judgments and interlocutory decisions will be heard by the Supreme Court and will require leave by a Supreme Court judge.

It is also proposed that the Tel Aviv and Jerusalem District Courts should become specially authorized courts in accordance with the new law. The minister of justice will have the power to authorize other district courts. The party bringing the proceedings will have the option to appeal to either of the two district courts. The status of the Tel Aviv and Jerusalem District Courts will not affect their jurisdiction over infringement actions and criminal proceedings under the ordinance, as these do not involve decisions of the registrar.

In addition, under the proposal, the Supreme Court would no longer have parallel jurisdiction with the registrar over any proceedings, as is currently the case for proceedings such as:

- correction of an application;
- requiring a disclaimer for a particular element of a mark;
- applications for rectification of the register; and
- cancellation proceedings on the grounds of non-use.

David Gilat and Sonia Shnyder, Gilat Bareket & Co, Reinhold Cohn Group, Tel Aviv

World Trademark Review (www.worldtrademarkreview.com) is a subscription-based, practitioner-led, bi-monthly publication and daily email service which focuses on the issues that matter to trademark professionals the world over. Each issue of the magazine provides in-depth coverage of emerging national and regional trends, analysis of important markets and interviews with high-profile trademark personalities, as well as columns on trademark management, online issues and counterfeiting.