

World Trademark Review *Daily*

**Proposal for new Trademark Act submitted
Sweden - MAQS Law Firm**

**Examination/opposition
National procedures**

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In January 2010 the Swedish government submitted to the Legislative Council a proposal for a new Trademark Act, which will replace the Trademark Act 1960. The proposal also includes amendments to the Business Names Act. The overall purpose of the proposal is to:

- modernize and simplify the national trademark legislation; and
- - especially those applying in the European Union.

However, the proposal does not include any changes to the scope of statutory examinations carried out by the [Swedish Patent and Registration Office](#), which implies that an application for the registration of a trademark will be examined *ex officio* both on absolute and relative grounds. The government argued that examination on relative grounds would benefit small and medium enterprises (SMEs) because:

- they would not have to perform IP audits before applying for the registration of a trademark; and
- they would be provided with greater certainty in opposition and court proceedings.

Moreover, SMEs would not have to protect their rights against new applicants, which would reduce the total number of oppositions, thereby helping SMEs to save costs.

The Community trademark (CTM) system provides only for the examination of trademark applications on absolute grounds, with the effect that a CTM that is valid in Sweden will not have undergone the same examination as a national trademark before registration. National applications are rejected more frequently and, consequently, Swedish SMEs tend to apply for CTMs instead of national trademarks. Moreover, the proprietor of a national registration must continuously monitor the EU market and look for similar trademark registrations. Therefore, the lack of change in the scope of examinations maintains the imbalance between the national and the CTM systems, which could result in increased costs and uncertainty for Swedish SMEs.

The proposal also includes the possibility for the Patent and Registration Office to cancel, upon application, an earlier registration if the proprietor of the mark does not oppose it. This would facilitate the removal from the register of trademarks that are no longer of interest to their proprietors.

The possibility of transferring an application to a third party already exists under the Swedish patent law, and it is now proposed to extend this possibility to trademarks. According to the proposal, it should be possible to transfer an application for the registration of a trademark to a party which has a better right to it.

Finally, it is proposed that the new Trademark Act be designed to allow for Sweden's accession to the [Singapore Treaty on the Law of Trademarks](#) in order to promote the simplification of administrative procedures.

Provided that it passes judicial review, the new act is expected to enter into force in early 2011 - almost 10 years after the Committee on Trademarks proposed the implementation of a new Trademark Act.

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