



# The Market Court



Petri Rinkinen, Market Court Judge  
IMK2016, Stockholm  
6.12.2016



# The Market Court

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**The Market Court is a special court hearing market law, competition law, public procurement and civil IPR cases in Finland.**

The precise jurisdiction is governed by the Market Court Act. Market Court's rules of procedure are set forth in the Market Court Procedure Act.

The language of the proceedings is either Finnish or Swedish.



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## **The Market Court**

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# The Market Court

Special Court ("Business Court")

Also IPR Court from September 2013

- only in civil matters

24 judges (2 Market Court Engineers)

21 part-time expert members

- they act as a judge when in duty

Around 40 personnel

# Reform in 2013

District courts  
Civil copyright cases

Finnish Patent and Registration  
Office (PTO) Appeal Board  
Appeals regarding patents, utility  
models, trademarks, designs, trade  
names



Unfair business practise  
cases

Helsinki District Court  
Civil industrial property disputes

Helsinki Administrative  
Court  
Domain name appeals



# Jurisdiction



European Union  
trademarks

Registered and  
unregistered  
Community Designs

European patents

Unified Patent Court  
local division

# Courts of Law in Finland

## General courts

Supreme Court

Courts of Appeal (5)

District Courts (27)

## Administrative courts

Supreme Administrative Court

Administrative Courts (5)

## Special courts

Market Court

Labour Court

Insurance Court

# Market Court appeal procedure

(simplification)

Supreme Court

Supreme Administrative Court

requires a leave to appeal

Market Court

- Civil IP-disputes: infringements, invalidity, compensation for damages
- Unfair business practices law cases

Appeals of decisions of Finnish Patent and Registration Office and other offices, like Ficora

- Public procurement appeals
- Competition law cases



# Decisions in 2015

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Competition law	10
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Public procurement	561
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IPR appeals from registrations	127
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IPR disputes	44
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Unfair business practise	19
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Consumer protection	2
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Telecommunications information	162
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Total	925
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# Appeal decisions in 2015

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## Appeals from registrations

Patent	21
Utility model	4
Trademark	94
Design rights	3
Domain name	3
Others	2

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# Dispute decisions in 2015

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Disputes

Patent	2
Trademark	26
Design rights	3
Trade name	5
Copyright	4
Others	4

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# Number of filed patent- and trademark cases

	2013	2014	2015	10/2016
Patent appeals	11*	28*	14	9
Patent disputes		7	6	5
Trademark appeals	64*	219*	46	17
Trademark disputes	11	19	35	13

\* Includes appeals transferred from the Appeal Board of the PTO

# Compositions of the panel (general)

1 judge: interim measures, dismissals etc.

2 judges: case-law well-established

3 judges: normal composition

3 judges + 1 to 3 technical or expert judges if needed

7 judges: enlarged panel

All judges: plenary session



# Compositions of the panel (IPR cases)

Trademark, copyright etc. disputes. Trademark appeals



Patent disputes



Patent appeals



# Compositions of the panel (IPR cases)

- Trademark, copyright etc. disputes:
  - 3 judges + experts when necessary
- Patent disputes (infringement and invalidity):
  - 3 judges + 1-3 technical judges (Market Court Engineer) or experts
- Trademark appeal cases: 3 judges
- Patent appeal cases: (1 or) 2 judges + 2 technical judges (or experts)
- Having technical members in the panel helps lawyer members to understand the technology

# The process

- "Judge rapporteur" prepares the case
  - In patent appeals a technical judge prepares the case
- The chair is (normally) someone else than the judge rapporteur
- Written procedure main rule in appeal matters
  - Hearings only in three cases so far
- In dispute cases (litigation)
  - Procedural hearing (very early in the case)
  - Preliminary oral hearing (after written procedure has ended)
  - Main hearing





No robes  
No wigs



# Why appeals and invalidation in the same court?

- Different "rule books" (different procedural laws in civil procedure and in administrative procedure)
- Different approach by the parties
  - In administrative appeals: patent / trademark attorneys
  - In civil disputes: attorney-at-laws
- Similar substance matters
  - Novelty and inventive step
    - EPO role
  - Likelihood of confusion, distinctive character...
    - EU Court of Justice / General Court decisions
- Gaining experience in one field helps the judges in the other fields



# What about infringement cases?

- As known, invalidation claim is often (part of) the defence against infringement claim
  - Appeal case experience is valuable to the judges
- Having all the infringement cases in one place again builds experience
  - Not a big change compared to having them in one district court (like industrial property matters in Helsinki before the reform)
  - But should one random district court receive a copyright case...

# Benefits of a single court

- If the number of IP-cases in a court would otherwise be relatively small, the experience factor seems quite relevant
- Training of the judges is easily arranged (also in-house training)
- Uniformity of the decisions
  - Each panel makes its own decision, but awareness of the decisions guides everyone

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