

# SALTEN DISTRICT COURT

## JUDGEMENT

**Given:** 26 June, 2009 in Salten District Court, Bodø

**Case no:** 09-029924TVI-SALT

**Judge:** District Court Judge Peter Sellæg

**The case is about:** Dispute about right to domain name

Avisa Nordland AS Attorney-at-law Ketil Bøe  
Legal Counsel Kari Anne Lang-Ree

**against**  
Nordlandsposten Ltd

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## JUDGEMENT

The case concerns the right to domain name nordlandposten.no

### The main features in the case:

On the 9th of December, 2001 A-pressen ASA entered as majority shareholder in Nordlands Framtid AS with publisher rights of the Nordlands Framtid, and Harstad Tidende Gruppen AS as majority shareholder in Nordlandsposten AS with publisher rights to Nordlandsposten, an agreement concerning the joining of the operations in Nordlands Framtid AS and Nordlandsposten AS. This would happen by a spin-off of the two companies. The merger would take place effective '1 January, 2002 on conditions as described in this agreement and attached draft of spin-off plan (Attachment 1) and the attached shareholder's agreement (Attachment 2)'. The parties would, if necessary, instruct the boards of directors of the two companies to execute a spin-off plan in accordance with the draft and to approve the plan in extra shareholders' meetings of the companies.

In the spin-off plan it mentioned, among other things:

#### 1.1

The parties wish to join the activities of Nordlands Framtid and Nordlandsposten, and establish a new jointly owned newspaper. The merger shall be executed by means of a spin-off of Nordlands Framtid by transfer of shares, rights and liabilities to the Company taking over, combined with a spin-off of Nordlandsposten by transfer of shares, rights and liabilities to the Company taking over.

#### 2.

The spin-offs will be executed in accordance with the regulations in §§ 14-1 following cfr. §§ 13-3 to 13-22 of the Limited Company Act concerning the book keeping regulations and the Taxation Act, Chapter 11. In the spin-off of Nordlands Framtid the shares, rights (here under the publisher rights to the news paper Nordlands Framtid and other immaterial rights) and liabilities are divided between the company itself and the Company taking over, on the condition that A-pressen receives shares in the Company taking over. In the spin-off of Nordlandsposten the shares, rights (here under the publisher rights to the news paper Nordlandsposten and other immaterial rights) and liabilities are divided between the company itself and the Company taking over, on the condition that HTG receives shares in the Company taking over.

#### 3.1

The name of the Company taking over shall be Nordland Avisdrift AS.

#### 3.2

The registered office of the company shall be in the municipality of Bodø. The move of the registered office of the company from Oslo to Bodø shall take place when the company has acquired own premises for its operations.

The spin-off plan was accepted at shareholders meetings in Nordlandsposten AS, Nordlands Framtid AS and Nordland Avisdrift AS on the 20<sup>th</sup> of December, 2001. Nordland Avisdrift AS changed its name in 2002 to Avisa Nordland AS.

On Saturday the 16th of February, 2002 Nordlandsposten issued its last number. It appeared from the issue that Nordlands Amtstidende had published its first number on the 1st of October, 1862, and that the newspaper in 1886 had changed its name to Nordlandsposten.

Nordlandsposten AS was the owner of the domain name nordlandsposten.no. The domain name was, among other things, used as the address of the online newspaper of Nordlandsposten, up until the spin-off.

Norid (Norsk Registreringstjeneste for Internett Domenenavn) is responsible for assigning domain names under the top-level domain.no. The task of the registration service is to process applications and perform registrations, and it is responsible for the maintenance of the top-level domain, technically and administratively. On the 19<sup>th</sup> of December, 2008 Norid informed by e-mail the following:

The Domain name nordlandsposten.no has been deleted from our data base on the 31st of January, 2006 due to it not having been renewed. The domain was until that date registered to

Organization Name: Nordlandsposten AS

E-mail Address: [redaksjonen@nordlandsposten.no](mailto:redaksjonen@nordlandsposten.no)

On the 18th of April, 2007 Gunnar Andreassen registered the domain name nordlandsposten.no. His company Nordlandsposten Ltd was registered in the Central Coordinating Register for Legal Entities on the 16<sup>th</sup> of May, 2007. The company is a foreign company registered in Norway and the court considers that the formal denotation is Nordlandsposten Ltd NUF. On the 7th of June, 2009 Gunnar Andreassen transferred the domain name nordlandsposten.no to Nordlandsposten Ltd.

In the autumn of 2008 Avisa Nordland AS realized that a new Internet site, norlandsposten.no had been established. The domain name was used for an internet portal that forwards news from Norwegian and other newspapers. The Internet site was designed as an online newspaper and produced advertising revenues. In an article on Press Wire on the 29<sup>th</sup> of July, 2008 Gunnar Andreassen wrote the following:

#### **Nordlandsposten.no celebrates**

Perhaps you thought there was no such thing as Nordlandsposten any more? Actually the paper newspaper Nordlandsposten was discontinued many years ago, but 12 months ago the Nordlanders got a new place to check the news on the Internet. This summer the local online newspaper Nordlandsposten.no celebrates its first year.

The online newspaper of the future

Nordlandsposten.no has at first sight a modern, but classic appearance. The design works as a mix of Aftenposten and International Herald Tribune, but the newspaper has no journalists, photographers or advertising salesmen, and the presentation of news and advertisements is actually completely automatic. The closest one gets to an editor is Gunnar Andreassen, who operates the Internet site.

On the 6th of November, 2008 Legal Counsel Kari Anne Lang-Ree, on behalf of Avisa Nordland, wrote to Nordlandsposten Ltd demanding the transfer of the domain name nordlandsposten.no to Avisa Nordland. She stated that the registration and use of the domain name was in breach of the rights of Avisa Nordland to the trade name Nordlandsposten, and in breach of the regulations of the marketing act.

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The demand was not heeded. On the 9<sup>th</sup> of December, 2008 Legal Counsel Kari Anne Lang-Ree gave notice of summons.

On the 17<sup>th</sup> of February, 2009 Legal Counsel Kari Anne Lang-Ree, on behalf of Avisa Nordland AS sued Nordlandsposten Ltd. In principle, it was claimed that the domain name nordlandsposten.no shall be transferred to Avisa Nordland AS. Subsidiarily, it was claimed that the domain name shall be deleted.

Nordlandsposten Ltd gave their protest in their reply of the 12th of March, 2009 and demanded a verdict of acquittal.

The main hearing was held in Bodø on the 2<sup>nd</sup> of June, 2009. Legal Counsel Kari Anne Lang-Ree represented Avisa Nordland AS in her capacity as general counsel. Editor in Chief Jan Eirik Hanssen represented Avisa Nordland AS, cfr. § 2-5 of the Dispute Act, and made a declaration..

Gunnar Andreassen, who is the chairman of the board of Nordlandsposten Ltd NUF, represented the company, cfr. § 2-5 of the Dispute Act, and made a declaration. He also made an opening and closing statement on behalf of the company.

In addition, such documentation as is required by law was presented.

The claimant, Avisa Nordland AS, has in the main question, claimed:

Avisa Nordland AS owns the Nordlandsposten trade mark after the merger of Nordlandsposten and Nordlands Framtid. The trade mark Nordlandsposten and the domain name nordlandsposten.no was not to be used by Harstad Tidende Gruppen after the merger.

The trade mark has been established through use since 116 years, and it had a continued value after the merger.

Nordlandsposten AS was in existence when Nordlandsposten Ltd was registered. The registration should not have been made. Nordlandsposten Ltd has not established the trade mark Nordlandsposten. The registration of the domain name does not give any greater right to the name.

There is no obligation to use an established trade mark. § 25 a of the Trade marks act only applies to registered trade marks. An established trade mark is protected as long as it is well known in the relevant circle for purposes. The name Nordlandsposten is not forgotten. Avisa Nordland has recognised its history and the name Nordlandsposten is used.

Gunnar Andreassen and Nordlandsposten Ltd know the Internet system, and seek advertising revenues. The name Nordlandsposten is used because it sounds good, and it is remembered. The use is in breach of § 4 of the Trade marks act.

The rules and regulations of Norids state that it is not possible to register a domain name in breach of the rights of a third party. The trade mark is protected. Defensive registration of domain names is not necessary.

For the rights of Avisa Nordlands it is of no consequence that nordlandsposten.no was not registered when Gunnar Andreassen registered the domain name.

Norid may transfer or delete a domain name if that is stated in a legally enforceable judgement.

The use by Nordlandsposten Ltd of the name Nordlandsposten is also in breach of § 1 and § 8 a of the Marketing Act. The use is in breach of good business practice. In addition, the use is an unreasonable use of the goodwill of the counterpart and creates a danger of confusion. Gunnar Andreassen was well aware of the old newspaper and its transfer to Avisa Nordland. He knew that the name was established.

Claimant's assertion:

Principally

1.

Nordlandsposten Ltd and Gunnar Andreassen shall be required to transfer the domain name nordlandsposten.no to Avisa Nordland AS

2.

Nordlandsposten Ltd and Gunnar Andreassen to be sentenced to pay the litigation costs of Avisa Nordland AS including interest, in accordance with the law on delayed payments from due date to the date of payment.

Subsidiarily

1.

Nordlandsposten Ltd and Gunnar Andreassen shall be required to delete the domain name nordlandsposten.no.2.

Nordlandsposten Ltd and Gunnar Andreassen to be sentenced to pay the litigation costs of Avisa Nordland AS including interest, in accordance with the law on delayed payments from due date to the date of payment.

The defendant, Nordlandsposten Ltd NUF, has in the main question, claimed:

Nordlandsposten Ltd has registered the company name as its domain name. The company did not have any knowledge of the merger of Nordlandsposten and Nordlands Framtid. The newspaper Nordlandsposten is not published any more and Nordlandsposten AS has been discontinued. The trade name Nordlandsposten did not exist any more. The domain name had been deleted and the name was free. The judgement included in Rt 1991, page 1725 (Lundetangen) shows that a trade mark that is not used disappears.

The claimant has only created its image of Avisa Nordland. Avisa has not used Nordlandsposten as its trade mark.

Nordlandsposten Ltd has started using the name Nordlandsposten, and has gained the right to it. Nordlandsposten is a normal combination of words. Avisa Nordland could not today register Nordlandsposten as a trade mark.

There are no grounds for the claim of Avisa Nordland in either the Trade marks act or the Marketing Act.

Defendant's assertion:

1.

Nordlandsposten Ltd and the members of the board shall be acquitted.

2.

Avisa Nordland AS shall be liable for the payment of the litigation costs, including interest in accordance with § 3 of the law on delayed payment, due within 14 days from the announcement of the decision of the District Court.

The Court sees the matter as follows:

When Nordlandsposten published its last issue on the 16th of February, 2002, the newspaper had been published under the name of Nordlandsposten for 116 years. The newspaper was published in paper form, as well as online on the Internet.

The domain name nordlandsposten.no was registered and was, among other things, used as an address of the online newspaper.

In 2002 Nordlandsposten was one of two newspapers in Bodø. The other newspaper was Nordlands Framtid. From the 18<sup>th</sup> of February, 2002 Avisa Nordland was published as a result of the merger of the two newspapers.

The protection of a trade mark is established either through registration or through establishment. § 2 of the Trade marks act states that 'without registration the exclusive right to a trade mark is gained through the establishment of the trade mark', and that 'a trade mark is considered established when it within its relevant circle of purposes in the realm is well known as the mark of someone's products.'

The Court finds it evident that 'Nordlandsposten' was an established trade mark of the newspaper with the same name. The newspaper was published in Bodø under this name for 116 years. An online newspaper was also published under the same name and with the same logo type. 'Nordlandsposten' was known in both Bodø and Salten among the buyers of newspapers, readers of newspapers and advertisers.

In the merger the publisher rights to Nordlandsposten and other immaterial rights were transferred to Avisa Nordland.

The established trade mark of 'Nordlandsposten' was thereby transferred to Avisa Nordland, and the Court finds that Avisa Nordland had the right to the unregistered trade mark of 'Nordlandsposten' after the merger.

There was a lively discussion around the merger of the two newspapers, and after the merger Avisa Nordland wished to strengthen the identity of the new name. In the colophon of the online newspaper and the paper newspaper a piece of information was included saying that 'Avisa Nordland is a party-political independent daily newspaper. In it are included Nordlands Framtid and Nordlandsposten'. As from 2006 this piece of information was deleted from the paper newspaper. In addition, photo and article material from Nordlandsposten and Nordlandsposten used in Avisa Nordland, with a reference of the source.

The trademark 'Nordlandsposten' has not been used in the marketing of Avisa Nordland or when mentioning the newspaper. It is the understanding of the Court that the company Avisa Nordland AS does not have any plans to use the trade mark in its own products. Photo and article material from Nordlandsposten and Nordland Framtid will, however, be continuously used in Avisa Nordland, with a mention of the source, and archive material may be used by, for example, Nordlandsmuseet.

In the decision included in Rt 1999, page 1725 (the Lundetangen decision) the majority of the Supreme Court have expressed their opinion that 'the prerequisite for the protection (in accordance with § 2 of the Trade marks act) is that the trade mark is in actual use'.

The decision has been criticized, and the proposal for a new trade marks act includes a stipulation that 'A trade mark may be considered established when and as long as it within the relevant circle of purposes here in the realm for such products and services that it concerns, is well known as the mark of someone's products'. The proposal is founded on the fact that there is a wish to clarify that 'the protection does not necessarily cease when the use of the mark ceases'.

The law proposal has not been approved. Therefore the Court bases its decision on the interpretation of the law as expressed by the majority of the Supreme Court in its Lundetangen decision, which may be considered applicable law.

Avisa Nordland has not at any time used the trade mark 'Nordlandsposten' for the Internet or paper publication of a newspaper or any other publication. The domain name is deleted after Avis Nordland took over the trade mark, and there is no information that Avis Nordland will make use of the trade mark. There is no current use of the trade mark, and consequently the protection of the established trade mark can be regarded as discontinued.

The Chief Justice in the Lundetangen case, who voted with the majority, said that 'when it comes to the area limit between protected and not protected legal positions the trade marks act may be considered limit setting'. According to his view the 'trade mark was... free to other entrepreneurs', and it was thus 'no room for associating the use of the mark to the competition law, even if this is to the detriment of the previous owner'. Judge Bugge, however, who also voted with the majority of three judges in the 'Lundetangen judgement', dissociated him from this and expressed the following:



I understand the Chief Judge so that in his opinion the Trade marks act is exhausting as regards the jurisprudence that applies to the case in question, in the sense that when the protection for 'Lundetangen' as a trade mark has been lost to Ringnes, as a consequence of it not having been used for the products of Ringnes, the use of the mark by Aass can under no circumstances fall within the framework of the Marketing Act. This I cannot just like that agree with; there can well be situations where I think it is against good business practice if an entrepreneur starts using a trade mark, which previously has been established by a competitor even if the mark does not have any protection for him. In the case in question, where Ringnes has allowed the 'Lundetangen' mark to fall out of use as a product mark, and thereafter has not made any effort nor invested anything to keep the mark alive, I, however, agree that there are no grounds to say that Aass has acted in breach of good business practice.

In agreement with Judge Bugge the Court states that the Marketing Act can afford a supplementing protection to immaterial rights. That the Marketing Act affords supplementing protection against unfair competition activities has also been stated by the Supreme Court in the Iskrem decision included in Rt 1998, page n1315.

§ 1.1 of the Marketing Act stipulates that in economic activity no 'activity may be performed that is in breach of good business practice between economic actors'. 'Good business practice' protects – as do the special regulations in the Marketing Act and other important acts concerning competition law – the loyalty in the business world, and refers to a general evaluation of loyalty. In this evaluation both circumstances of subjective character and the objective criteria of the case may be of relevance. The interpretation within the economy has a central importance, but it is not decisive alone. The Court must form its own opinion of what is 'good' business practice.

The concrete evaluation may adopt as a starting point that the condition shall contribute to guaranteeing a sound competition within the economy. The regulation may therefore not be practised so strictly as to work in an inhibiting way on competition. In addition, an assessment of circumstances shall be made in order to identify the interests of the parties that are worth to be protected.

Gunnar Andreassen, born in 1971, has grown up in Bodø. Except for the years 1999 to 2004 he has lived in the town. Because he has grown up there he has known that Nordlandsposten was one of the two newspapers in the town. Even if he did not live in Bodø at the time of the merger, he cannot have been ignorant of the fact that Avisa Nordland was the result of the merger of Nordlandsposten and Nordlands Framtid. This was also apparent from the colophon on the paper edition as well as the online edition. .

Gunnar Andreassen has an education and work experience in advertising and marketing. His particular work has been with marketing on the Internet. In his capacity of an independent entrepreneur he has personally and through his own companies set up and operated numerous Internet portals with links that generate advertising revenue. The domain name nordlandsposten.no is used for an Internet site with links to other Internet sites with news, for example VG. The Internet site nordlandposten.no was designed as an online newspaper, but there is no own news production. The Internet site may be characterized as a news agency or news aggregator.

The advertising income is dependent on the traffic on the Internet site. Topical news has shown to provide a repeat effect and thereby an increased income from advertising. Gunnar Andreassen has not been willing to provide the traffic and turn over details of nordlandsposten.no, but he has informed that the accumulated turnover of all the Internet portals that he operates reach a seven digit amount.

The Courts states that Avisa Nordland AS and Nordlandsposten Ltd both are active in trade and industry.

The Internet site nordlandsposten.no is designed as an online newspaper, and its own presentation on 'Gullsider.no Norges beste websider' it is marketed as 'nordlandsposten.no, the oldest newspaper in Nordland'. This can hardly be understood in any other way than that one has contrived to give the impression that nordlandsposten.no is a continuation of the earlier paper and online newspaper Nordlandsposten. Also the article on Press Wire on the 29th of July, 2008 contains references to the earlier newspaper by stating in the beginning that 'Perhaps you thought that there is nothing called Nordlandsposten any more?' In addition, the logo of nordlandsposten. no has similarities with the old Nordlandsposten, however so that the font is slightly changed.

Even if it is today more than 7 years since the merger of Nordlandsposten and Nordlands Framtid took place, Nordlandsposten is associated with the newspaper of the same name. Editor in Chief Jan Eirik Hanssen of Avisa Nordland has mentioned Nordlandsposten as a liberal and open newspaper appreciated by the readers, and with a well established trade mark. The Court states that Nordlandsposten was an established name of an established and trustworthy paper and online newspaper with own produced news and many readers.

By using nordlandsposten.no as an Internet site for the activity as a news aggregator Gunnar Andreassen and Nordlandsposten Ltd has been able to take advantage of the reputation that had been built during decades of operating a newspaper . The domain name has formerly been used by the old Nordlandsposten, and from a marketing point of view there are considerable gains to be had from using the name for the product that Gunnar Andreassen and Nordlandsposten Ltd offer. An Internet site that appears as an online newspaper, but is only a news aggregator, will have many benefits from the use of a name that the readers associate with an established and trustworthy newspaper.

When Nordlandsposten Ltd was registered in the Brønnøysund registers in 2007, Gunnar Andreassen was aware of that Nordlandsposten AS still was registered as a company in the Brønnøysund-registers. The domain name nordlandsposten.no had been registered to this company until it was deleted from the data base of Norid on the 31st of January, 2006 due to missing renewal. The Court understands it so that Avisa Nordland AS was not informed of the deletion, and that the domain name probably had been renewed if it had been informed.

In addition the Court states that Nordlandsposten Ltd was not accepted when registered in the Brønnøysund-registers in 2008, because the company name was considered identical to that of Nordlandsposten AS.

The Ministry of Trade and Industry has in its letter of the 31<sup>st</sup> of January, 2008 stated to the Brønnøysund registers that 'foreign and Norwegian company names may be placed on an equal footing, so that otherwise similar company names may be regarded as identical in accordance with § 2-1 of the Company Act'.

Gunnar Andreassen and Nordlandsposten Ltd did not approach Avisa Nordland AS regarding the access to use nordlandsposten.no on the news portal that was established. It was well known that Avisa Nordland was the successor of Nordlandsposten and Nordlands Framtid, and according to the opinion of the Court there were grounds to clarify the use of the name. Gunnar Andreassen and Nordlandsposten Ltd had the possibility to give the news portal a name that was not associated to the old Nordlandsposten. When this was not done, it cannot be explained in any other way than that Gunnar Andreassen and Nordlandsposten Ltd have wished to use the marketing and economical values that are present in the name nordlandsposten and nordlandsposten.no – values that have been established by the predecessor to Avisa Nordland.

Even if the protection of the established trade mark 'Nordlandsposten' has expired, Avisa Nordland has an interest in the name 'Nordlandsposten' not being used in a way that a product inappropriately is associated to the old newspaper, and appears to be the successor of it. Avisa Nordland is the result of the merger of Nordlandsposten and Nordlands Framtid, and trustee of the history of the newspapers. The article and photo material from the old newspapers are used in the newspaper of today, with the information of the source of the material. In addition, the own online newspaper of Avisa Nordland, an.no, is an important actor in the Internet market, and a competitor to nordlandsposten.no when it comes to advertising revenue. 'an.no', as opposed to nordlandsposten.no, is a journalistic product with a responsible editor in chief.

The choice of domain name by Gunnar Andreassen and Nordlandsposten Ltd appears as the intentional use of the marketing and economical values that are in nordlandsposten and nordlandsposten.no – values that have been established by the predecessor to Avisa Nordland. The choice of domain name supports the impression that the Internet site is an online newspaper and not a news aggregator. The nordlandsposten.no product differs clearly from an.no and the journalistic tradition from Nordlandsposten that has been transferred to Avisa Nordland. Based on an accumulated evaluation the Court finds that the use of nordlandsposten.no by Gunnar Andreassen and Nordlandsposten Ltd is in breach of good business practice and unlawful pursuant § 1 of the Marketing Act.

The Court finds that Nordlandsposten Ltd NUF and Gunnar Andreassen shall be ordered to delete the domain name. The imposition applies in full to the company.

The Court cannot see that based on § 1 of the Marketing Act an imposition to transfer the domain name can be given. According to the view of the Court a transfer assumes that the use infringes an exclusive right in accordance with the Trade Marks Act. In this case the protection of the established trade mark 'Nordlandsposten' has been withdrawn.

Avisa Nordland has not succeeded in its principal claim of transfer of the domain name. Consequently, the company has not gained full support, cfr. § 20-2 (2) of the Dispute Act.

Avisa Nordland has gained support of the subsidiary claim concerning deletion of the domain name. The difference between the two claims is, however, so big that the company has not gained support in the most essential matter. The company has therefore not won the case, and cannot claim compensation for legal costs in accordance with § 20-2 of the Dispute Act.

The Courts decision signifies that Avisa Nordland has gained important support, but the Court cannot find that weighty reasons support recognizing a compensation of the legal costs, cfr. § 20-3 of the Dispute Act.

According to this, both parties must pay their own legal costs.

The decision is not taken within the deadline of the law. The reason is absence due travels and the handling of several main hearings in civil disputes.

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## CONCLUSION

1.  
Nordlandsposten Ltd and Gunnar Andreassen are ordered to delete the domain name nordlandsposten.no.
2.  
Legal costs are not compensated.

The Court is adjourned  
(signature)  
Peter Sellæg

Guidelines for lodging an appeal in civil cases are attached.

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## **Guidelines for lodging an appeal in civil cases.**

The rules in Chapters 29 and 30 of the Dispute Act for lodging an appeal with the Court of Appeal or the Supreme Court regulate the access the parties have to have decisions retried in a higher court. The Dispute Act contains some different rules concerning appeal of judgements, appeal of orders and appeal of decisions.

The respite of appeal is one month from the day the decision was announced or informed, unless otherwise has been explicitly decided by the court.

The appellant must pay a handling fee. The court that has pronounced the decision can provide detailed information regarding the amount of the fee and the form of payment.

### *Appeal to the Court of Appeal of a judgement by a District Court.*

The Court of Appeal is the instance of appeal for decisions by the District Court. A judgement from the District Court may be appealed on the grounds of error in the assessment of factual circumstances, application of the law, or the hearing of the case that is the base for the decision.

The Dispute Act stipulates certain limitations to the access to appeal. An appeal of a judgement in a case concerning capital value will not be heard without the consent of the Appeal Court if the value of the subject of the appeal is below 125,000 NOK. When assessing if the consent shall be granted consideration shall be given to the character of the case, to the parties' need for appeal, and to the question if there appears to be weaknesses in the decision that is appealed or in the hearing of the case.

In addition, the appeal may – independent of the value of the subject of the appeal – be denied advance when the Court of Appeal considers it evident that the appeal will not succeed. Such denial may be limited to some claims or some grounds for appeal.

The appeal shall be submitted in writing to the District Court that has given the decision. Parties that plead their own case may lodge an oral appeal when being personally present in the District Court. The Court may also allow representatives pleading a case, who are not attorneys-at-law, to present an oral appeal. In the declaration of appeal it must be especially stated what is disputed in the decision that is appealed, and what in the situation are new factual or legal grounds or new evidence.

The declaration of appeal shall name:

- The court of appeal
- Name and address of the parties, representatives and process proxies
- Which decision is appealed
- If the appeal concerns the full decision or only parts of it
- The claim that the appealed case concerns, and a claim that indicates the result that the appellant requires
- The faults that were committed in the decision that is appealed
- The actual and legal grounds for the claimed faults
- The evidence that will be presented
- The grounds for the court to hear the appeal, if there has been any doubts about that

- The appealing party's view on the further handling of the appeal

An appeal of a judgement is normally decided and judged after an oral hearing in the Court of Appeal.

The hearing of the appeal shall be concentrated on the parts of the decision of the District Court that are disputed and doubtful when the case is brought to the Court of Appeal.

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#### Appeal to the Court of Appeal of orders and decisions by a District Court.

As a main rule an *order* may be appealed on the grounds of faults in the presentation of evidence, the application of the law or the hearing of the case. But when the order concerns a decision of a case that according to the law shall be given after a judgement concerning appropriate and defensible hearing, the decision for the discretionary judgement may only be tackled on the grounds that the decision is indefensible or clearly unreasonable.

A decision can only be appealed on the grounds that the court has based itself on an incorrect understanding of the law of which decisions the court can reach after the used regulation, or on that the decision is evidently indefensible or unreasonable.

The requirements concerning the contents of the declaration of appeal is as a main rule the same as concerning appeal of judgements.

After the District Court has decided the case by judgement, the decisions of the District Court as regards the hearing of the case cannot be separately appealed. In such a case the judgement may instead be appealed on the grounds of faults in the hearing of the case.

The appeal of orders and decisions shall be submitted to the District Court that has given the decision. An appeal of a judgement is normally decided and judged after hearing in writing in the Court of Appeal.

#### Appeal to the Supreme Court

The Supreme Court is the instance of appeal for decisions by the Court of appeal.

An appeal of *judgements* to the Supreme Court always requires the consent by the committee of appeal of the Supreme Court. This consent will only be given when the appeal concerns questions that are of importance beyond the case at hand, or there are other grounds of special importance for the Supreme Court to hear the case. - An appeal of a judgement is normally decided after an oral hearing.

The committee of appeal of the Supreme Court may deny the hearing of an appeal of *orders and decisions*

if they do not raise questions of importance beyond the case at hand, and no other considerations speak for the appeal to be heard, or it essentially raises comprehensive evidential questions.

When an appeal of orders and decisions in the District Court is decided and ordered in the Court of Appeal, the decision may not as a main rule be appealed to the Supreme Court.

An appeal of an order or a decision by the Court of Appeal is normally decided after hearing in writing in the committee of appeals of the Supreme Court.

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