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Catherine Chammartin,
Director General

This year at the IPI was again marked by the “Swissness” legislation. With the political debate surrounding it, and the fact that it came into force at the beginning of the year, we received a lot of attention – in the political arena, in the media, but also from the public at large. Sometimes we were applauded, sometimes criticised, but we can live with that. The fact that the topic of intellectual property is being discussed and growing in public awareness is essentially to be welcomed.

We will continue to be involved with “Swissness” in the future, too. Together with our partners in third countries, we are committed to ensuring that our standards are better respected internationally. We are also monitoring the economic effects of the “Swissness” legislation within Switzerland.

At the same time, we are fulfilling our new tasks. In the trade mark division, for instance, a new national register for geographical indications of source has been set up for categories of non-agricultural goods. We have been ready to receive new registrations since the beginning of the year.

A new cancellation procedure for trade marks was also introduced at the beginning of the year. This is part of the “Swissness” legislation and is intended to alleviate the clogging up of the trade mark register

caused by trade marks being registered at the IPI but never being used by their owners.

The ability to manage large projects is what distinguishes a company. But let us not forget that excellence also includes nurturing day-to-day business. Here, I would like to mention our patent experts. This past year, not only did they carry out almost 700 assisted patent searches (which provide Swiss SMEs and inventors an initial cost-effective overview of the state of the art of their invention), but they also successfully launched a new product on the market under our commercial patent and technology search services – the patent landscape analysis. We all believe that this product has great potential.

The discussion regarding the operational strategy for the IPI goes far beyond the financial year. It began in the spring of 2016 and is currently in the consolidation phase. Everyone involved – management as well as those employees voluntarily engaged in this project – have taken a step back to try to focus on the big picture: what will shape the world of intellectual property in the future?

Another long-term process is the revision of the Copyright Act. This began in 2012 with the creation of an expert group under the chairmanship of my predecessor, Roland Grossenbacher, and is now in the

process of being implemented as policy. The consultation procedure has been completed and our experts in legal services for copyright are in the process of preparing the dispatch for submission to Parliament by the end of 2017.

Copyright law operates within the triangle of forces between authors, copyright intermediaries and consumers. Certain points will therefore lead to further discussions. What is not yet known, however, is whether this legislative revision will create similarly high waves as the “Swissness” legislative amendment did.

If it does, we will be ready. Because in addition to good arguments, we also have a mandate to inform the public. And – let’s be honest – a little publicity can help us to fulfil this task.

Published by the Swiss Federal Institute of Intellectual Property of the Swiss Federal Department of Justice and Police

Project management, concept, editing and translation: Swiss Federal Institute of Intellectual Property
Editorial collaboration: Jost Dubacher, Journalistenbüro Niedermann, Lucerne

Design and graphic layout: Beat Brönnimann, grafonaut, Wabern

Photo idea and photos: Andreas Greber, Bern

Photographs:

Pages 3, 10, 11 and 25: Remo Eisner

Page 6: Andreas Greber

Page 12: Fan Neifer

Page 13: Christoph Schneider, IPI, Remo Eisner

Page 15: IPI, STOP PIRACY

Typesetting and proofreading: Typopress Bern AG, Bern

Printing: Paulusdruckerei, Freiburg

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The annual report is available in German, French, Italian and English. It can be ordered for free or downloaded as a PDF file from our website at www.ipi.ch (under About us > Annual reports and financial statements).

To make it more easily readable, we have used the male pronoun only. We thank our readers for their understanding.

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November 2017

Envisioned. Created. Protected.

Anyone who has a brilliant idea, persistently develops it and turns it into practical reality, should be able to protect it as their own intellectual property. This is why individuals and companies can register their innovations and creations at the Swiss Federal Institute of Intellectual Property (IPI).



Inventions are patented, shapes are registered as designs, and names or logos are registered as trade marks to protect them from being copied by others. Then there are geographical indications of source, which identify a product or service as originating from a certain place or region (e.g. Zug cherry cake). Copyright, however, is a special case. The moment a work is created, the rights to the work arise automatically, which means that they do not require any registration. To better exploit these rights, copyright owners of certain categories of works (e.g. literature, music, film) team up with special organisations called collective rights management organisations (CMOs). The IPI is responsible for supervising these CMOs together with the Federal Arbitration Commission for the Exploitation of Copyrights (FACO).

Research first, then register
Inspiring ideas are like a source of light. From the perspective of inventors, designers and authors, they expand our knowledge of the known. But what happens if someone else got there before you and IP rights have already been secured? In this case, you need to weigh up whether there is any scope left for applying for a trade mark, patent or design, or in the case of a geographical indication, registering it. Since there is no examination as to the novelty of an invention under patent law in Switzerland, it is up to applicants to clarify whether their invention is novel and as such meets this criterion for patent protection. The IPI provides trade mark and patent searches, which ensure, for example, that a trade mark or patent application does not infringe any existing third party IP rights.

Although intellectual property knows no frontiers, patent, design and trade mark protection only apply in those countries in which IP rights have been applied for and registered – and are in force. However, there are international organisations such as the European Patent Organisation (EPO) and the World Intellectual Property Organization (WIPO), which provide harmonised application procedures. It is possible, for example, to apply for patent protection in up to 42 different countries via the European Patent Office. The IPI is actively involved in shaping international developments in intellectual property, too.

Protection grants exclusivity

Patents, trade marks, designs and geographical indications of source, which are known as IP rights, grant their owners the right to prevent third parties from using their intellectual property. However, this does not imply that the protection IP rights provide is absolute. Because IP rights – just like any other rights – can be infringed. Rights owners must therefore take responsibility and decide themselves if they want to exercise their claims and, if necessary, enforce them. For companies, intellectual property can make up a significant share of their market value. A patent allows

a potentially ground-breaking technology to be exclusively marketed, while the degree of recognition of a trade mark facilitates the sale of existing and new products. This is why companies actively manage their intellectual property and integrate how they will handle it into their strategic development processes. The IPI provides information on learning about the advantages and disadvantages of different possibilities of protection, in particular to inexperienced IP users such as SMEs.

The IPI as an institution

The IPI, as it is known today, was founded as the Federal Patent Office in 1888. It was granted the status of an independent entity under public law on 1 January 1996. Since then, it has been operating autonomously and is a legal entity in its own right. It is financed by the fees it collects, keeps its own accounts and is independent of the federal budget in every way. This means that taxes are not used to administer IP rights, and fees for IP rights are not used for the construction of motorways. The IPI is responsible for all issues concerning intellectual property in Switzerland and employs around 270 staff at its headquarters in Bern.

The topic of digital transformation is an issue at the IPI, too. The renewal and expansion of the electronic IP rights administration and eAdministration systems is currently a key project at the IPI. Its economic business autonomy enables the IPI to respond to such a changing environment in an agile way.

As part of its public relations work in the field of intellectual property, the IPI also supports organisations and programmes such as the Swiss Innovation Forum (SIF), the SEF4KMU programme and the Swiss Youth in Science foundation (SJf). The IPI is also involved in an extensive international development collaboration with the State Secretariat for Economic Affairs (SECO). It works together with selected countries with the objective of establishing a well-functioning, national intellectual property protection system. This is also intended to adequately protect the international investment and sales markets of the Swiss economy abroad.

The federal government's "attorney's office"

The IPI also has a political mandate. It is responsible for drafting legislation and advising the Federal Council and other

federal authorities on matters concerning intellectual property. At the same time, the IPI also has the mandate to represent the interests of Switzerland in international organisations such as the EPO, the WIPO and the WTO (World Trade Organization). This makes the IPI the federal government's "attorney's office" for intellectual property matters.

Another task that stems from the IPI's function as an independent centre of competence is that of advising decision-makers in politics and administration, as well as providing specialist support to Swiss trade delegations at international level.

The IPI also provides information to artists, creatives and representatives of the Swiss economy about the IP rights system and the latitude that it offers. For this purpose, the IPI conducts courses and seminars on these topics as well as cooperates with Swiss higher education institutions.

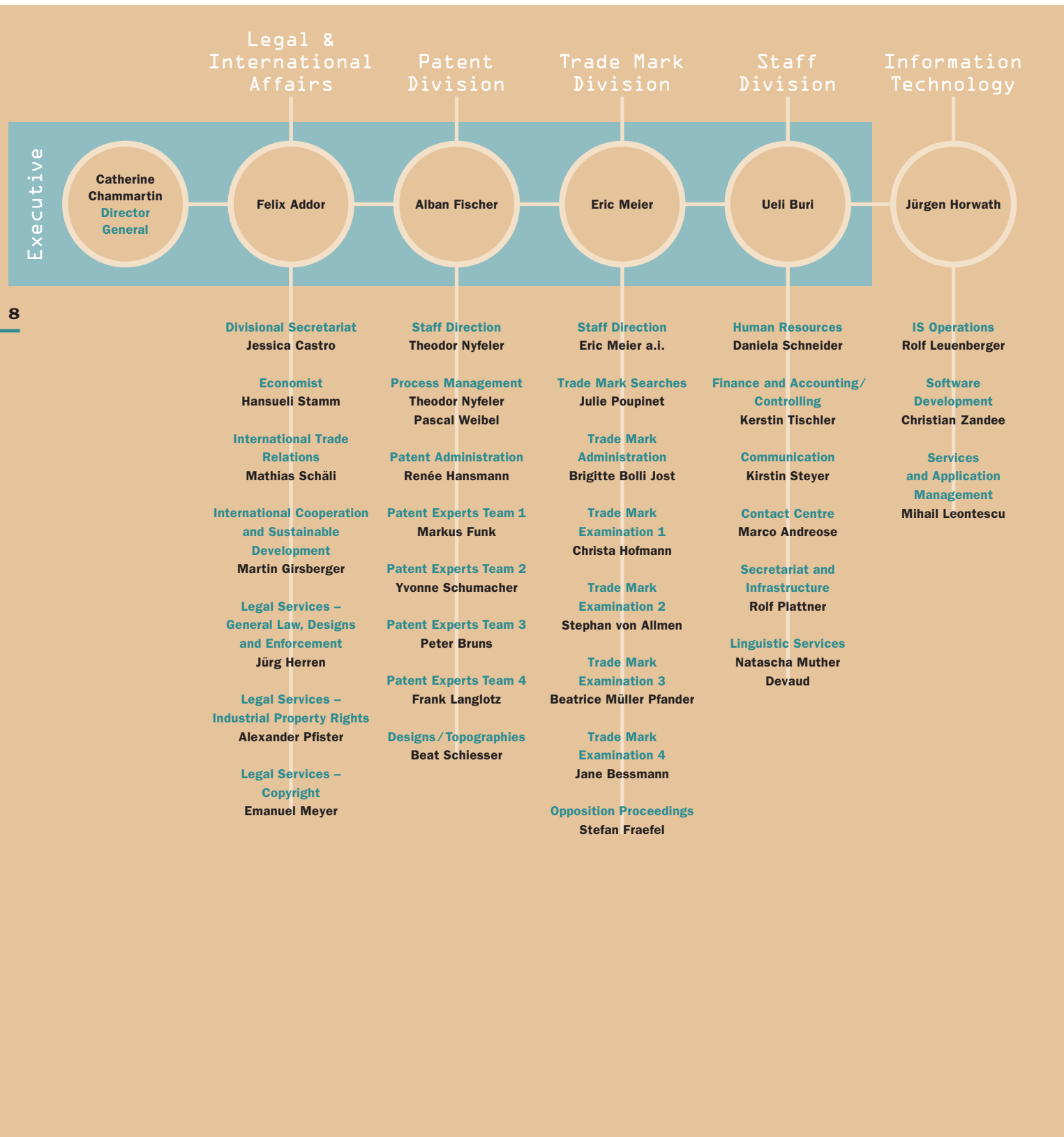
Commercial services

Patent and trade mark registers are the telephone directories of intellectual property rights and contain a wealth of information. Together with international technology databases, they can provide information such as on the state of the art in a specific market, on competitors, or on new technology trends. The IPI's experts are able to extract such information and prepare it for their customers. These search services offered by the IPI are also in demand abroad and are marketed under the label ip-search.

Swiss Federal Institute of Intellectual Property



Organigram





Back row (from left to right): Vincenzo M. Pedrazzini, Matthias Ramsauer, Roman Boutellier, François Curchod, Yves Bugmann.
Front row: Beatrice Renggli, Evelyn Zwick, Felix Hunziker-Blum (President), Sara Stalder

The Institute Council – which is elected by Switzerland’s Federal Council – is the IPI’s supreme supervisory body with regard to the operational management of the IPI.

Felix Hunziker-Blum

Dr. iur., Attorney-at-law, Schaffhausen
President

Roman Boutellier

Prof. Dr. sc. math., Emeritus Professor
of Technology and Innovation Management
ETH Zurich, Oberegg

Yves Bugmann

lic. iur., Biel

François Curchod

Dr. iur., Genolier

Vincenzo M. Pedrazzini

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Matthias Ramsauer

Attorney-at-law, FDJP Secretary-General,
Bern

Beatrice Renggli

lic. iur., Zürich

Sara Stalder

Manager of the Swiss Consumer
Protection Foundation, Sumiswald

Evelyn Zwick

Dipl. Phys. ETH, Patent Attorney,
Ebmingen

Auditing: The Federal Finance Administration in Bern has been appointed by the Federal Council to audit the IPI’s accounts and report to the Institute Council.



From left to right: Felix Addor, Alban Fischer, Catherine Chammartin (Director General), Ueli Buri, Eric Meier

The Executive Board is appointed by the Institute Council, with the exception of the Director General, who is elected by Switzerland’s Federal Council.

Catherine Chammartin

Director General

Felix Addor

Deputy Director General, General
Counsel of the IPI and Head of
Legal & International Affairs Division

Ueli Buri

Vice Director General and Head
of Staff Division

Alban Fischer

Vice Director General and Head
of Patent Division

Eric Meier

Vice Director General and Head
of Trade Mark Division

July August

September

October

November

December

2 August 2016

The summer school of the FHNW School of Business visits the IPI

The FHNW School of Business is an academic institution for future leaders in business and society at large. From 23 July to 4 August, their International Summer School offered a comprehensive experience of Swiss business, politics and culture, with participants gaining insight into the management of copyright in Switzerland at the IPI.



15 September 2016

EPO/IPI public event – Patenting watch technologies

The field of watch technology presents its own unique challenges to patenting practice. A half-day event at the IPI, jointly organised by the European Patent Office and the IPI, allowed participants to gain insight into the practice of both patent offices. Patent examiners from both participating offices, as well as Tobias Bremi from the Swiss Federal Patent Court and a representative from the Micheli & Cie patent attorney firm, presented and discussed developments in the patentability of watch technology.

September/October 2016

Workshops on the new cancellation procedure for trade marks

From 1 January 2017, requests for the cancellation of a trade mark that is not in commercial use can be made via a simplified procedure. This cancellation procedure on the grounds of non-use provides a rapid and cost-effective alternative to civil proceedings. The IPI ran workshops in Bern, Zurich and Geneva, where participants learned the process for this procedure and the formal requirements that need to be observed. With the entry into force of the “Swissness” legislation at the beginning of 2017, various other amendments to the trade mark guidelines also came into effect. An overview of these was also given at the event.

3–11 October 2016

Decisions of the Assembly of the Madrid Union

The Madrid Agreement Concerning the International Registration of Marks regulates the mutual protection of trade marks in the participating states. The original version was signed in 1891 and has been continuously updated since then. In 1989, a total of 28 countries – including Switzerland – agreed to a supplementary protocol known as the Madrid Protocol. The Madrid Union, which brings together the states that have signed the Madrid Agreement and the Madrid Protocol, decided in Geneva at the beginning of October 2016 that accession to the Madrid Agreement would only be possible if the country concerned joined the Madrid Protocol simultaneously. From the point of view of the IPI, this is a historic decision as it leads to a substantial simplification of international trade mark protection as a whole.

2–16 November 2016

The ip-search USA promotional tour

At the beginning of 2016, ip-search fundamentally revised its strategy in preparation for its next phase of development. It currently has a solid customer base in Europe, particularly in Germany and Switzerland, but attention is now to be placed on internationalisation and sustainable growth through targeted marketing activities. In September 2016, for example, three members of staff departed for the USA for a promotional tour in Northern California, one of the most active regions in terms of patenting in the USA. The 14-day trip not only included participation at a specialist conference and a client event, but also a number of visits to local patent law firms. The presentations were particularly encouraging and provided valuable information on continuing our growth strategy.



23 November 2016

Strengthening “Swiss Made” for cosmetics – The Federal Council approves the new “Swiss Made” Ordinance

The Federal Council approved the “Swiss Made” Ordinance for Cosmetics at its meeting on 23 November 2016. This strengthens the solid reputation of the “Swiss Made” brand for cosmetics as well as Switzerland as a location for research and production. These specific rules take due account of the unique features of cosmetic products. The ordinance is to enter into force on 1 January 2007.

24 November 2016

The IPI at the Swiss Innovation Forum

The IPI participated as a main partner at the Swiss Innovation Forum (SIF) at the Congress Center in Basel. The SIF is a national platform for the promotion of creativity, design and innovation. This year, the motto of this leading Swiss innovation conference was PLAY. The Swiss Technology Awards were also presented at this event. Over 24 speakers and distinguished personalities guaranteed an exciting training day full of inspiration. More than 1,000 entrepreneurs, CEOs, politicians, researchers, experts and students took part in the conference. The IPI’s joint presentation with the Commission for Technology and Innovation (CTI) dealt with the topic of the promotion of innovation by the federal government.



2 December 2016

Harmonisation of procedures before the IPI and the new Fee Ordinance

The Federal Council reached decisions on the amendments to the trade mark, design and patent ordinances. These amendments harmonise procedures before the IPI as far as the applicable laws allow, which in turn simplifies the system. At the same time, the Federal Council approved the formal total revision of the IPI’s Fee Ordinance. The ordinance also contains the fees for the new Trade Mark Protection Act applicable from 1 January 2017.

Modernisation of copyright law generally welcomed

The Federal Council has acknowledged the results of the consultation on the partial revision of the Copyright Act (CopA). The report on the results, which was written by the IPI, shows that modernising copyright law is generally welcomed although views on a course of action diverge widely. It was decided that the Federal Department of Justice and Police will submit a proposal for further action to the Federal Council by the summer of 2017.

24 December 2016

Season’s Greetings from the Executive Board

For the 2016 IPI Christmas card, the Executive Board decorated the Christmas tree exclusively for its IPI customers.



January

1 January 2017

The “Swissness” legislation enters into force

The most important changes are:

Register for Geographical Indications for Non-Agricultural Products (PDO/PGI)

There is now a register for Protected Designations of Origin (PDOs) and Protected Geographical Indications (PGIs) for non-agricultural products. This register is maintained by the IPI and complements the Register for Agricultural PDS and PGIs (e.g. “Gruyère” for cheese and “Graubünden” for meat) maintained by the Federal Office for Agriculture.

Geographical marks

Protected Designations of Origin (PDOs) and Protected Geographical Indications (PGIs) entered in a federal register, wine designations protected at cantonal level (e.g. “Epesses” in the canton of Vaud) and geographical indications that are regulated in a Federal Council ordinance (e.g. watches), can now be registered as a geographical mark.

Cancellation procedure for trade marks

It is now possible to apply to the IPI to cancel a trade mark that is not being used commercially – and which therefore requires no protection – via a simplified procedure.

Fighting misuse

The two additional instruments, the PDO/PGI register and the geographical mark, help to better combat the wrongful use of indications of source in Switzerland and abroad. The IPI can now also report an offence or bring a civil action.

1 January 2017

The 11th edition of the Nice Classification enters into force

Trade marks do not provide protection generally but rather for specific products and services. When applying to register a trade mark, therefore, the specific products or services for which the trade mark is to be registered must be indicated. Because consumer habits change and products come and go, a new edition of the International Classification of Goods and Services under the Nice Agreement enters into force every five years. The newest edition was released in 2016. Hygiene and beauty care products such as shampoo and soap have now been split between medical and non-medical products and classified accordingly under Class 3 or 5. Handles on goods – such as knife handles – are now in the same classification as corresponding goods and no longer according to material. Vegan milk substitutes such as almond milk and peanut milk are newly listed in Class 29. The changes to the Nice Classification entered into force at the beginning of the year and will be applied to all pending applications. On 1 January 2017, the IPI provided an updated classification aid available online.

16 January 2017

State visit of the Chinese president Xi Jinping – Cooperation in the field of intellectual property confirmed

With its innovative export industry, Switzerland benefits from cooperating with China on matters of intellectual property, particularly with regard to the numerous challenges that Swiss companies encounter in China in protecting and enforcing their intellectual property rights. In recent years, this cooperation has allowed Switzerland to solve specific problems, such as those concerning the misuse of the designation “Swiss” and the Swiss cross on Chinese products. Switzerland and China have now signed a declaration of continued coopera-

tion between the IPI and the Chinese State Intellectual Property Organization in Bern. The signed agreement will enable this privileged exchange to continue.

16–17 January 2017

Mission to Tehran for extensive clarifications on a possible collaboration between the IPI and Iran

One of the IPI’s statutory tasks is technical cooperation in the field of intellectual property. The IPI carries out cooperation projects on behalf of third parties – such as for the State Secretariat for Economic Affairs – or initiates and finances such projects itself. A possible collaboration with Iran falls into the second group. The IPI is of the opinion that the country will gain in political and economic importance once international sanctions have been lifted. With a population of 80 million, it is also an interesting market for Swiss industry. Felix Addor, head of the Legal & International division, travelled to Tehran in January together with Martin Girsberger, head of international cooperation projects at the IPI. There they discussed the possibilities of a future technical collaboration in the field of intellectual property with those responsible for such work.

February

March

April

23 January 2017

WHO revises the TRIPS Agreement

The revision to the TRIPS Agreement of the World Trade Organization (WTO) provides poorer WTO members with better access to generic drugs. This change is in particular important for those countries that do not have their own pharmaceutical industry. This is the first revision of a WTO agreement since the organisation was created in 1995. Switzerland had already ratified the amendment on 13 September 2006, being the second country worldwide to do so, and has provided for the possibility of a compulsory license for the export of medicines under the Swiss Patents Act since 1 July 2008.

31 January 2017

The first Swiss depositary authority for microorganisms for patent procedures

The Culture Collection of Switzerland (CCOS) is the national strain bank for microorganisms and cell cultures in Switzerland. It was founded in 2010 and conserves and stores biological material from Switzerland and abroad, making such high quality material available for diagnostics, research and industry. At the CCOS, which has its headquarters in Wädenswil, microorganisms can now be deposited for the purposes of patent procedures too. Other depositary authorities recognised by the IPI are the international depositary authorities in compliance with the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

2 March 2017

Modernising copyright law – compromise in the AGUR12 II

The Working Group on Copyright AGUR12 II completed its work on 2 March 2017 and reached a compromise on various points. The Federal Department of Justice and Police is to incorporate the results of the AGUR12 II in its deliberations for a revision to the Copyright Act (CopA) and submit an application to the Federal Council for further action by July 2017.

29 March–2 April 2017

The IPI at the International Exhibition of Inventions in Geneva

Every year, the Geneva International Exhibition of Inventions brings together on average more than 700 exhibitors from 40 countries. Exhibiting are companies, inventors, universities, private and public institutions and organisations who use the opportunity to present their inventions. The exhibition itself is visited by 57,000 visitors from all five continents, professionals wanting to do business, and 650 print, radio and television journalists from all around the world. The IPI’s participation at the exhibition has already become a tradition. This year, IPI staff answered questions on intellectual property and made visitors aware of the IP issues at a joint stand with the World Intellectual Property Organization (WIPO), while IPI patent experts carried out patent searches for inventors live on screen. Exhibition visitors could also test their knowledge of intellectual property by participating in a fun competition.

12 April 2017

The special exhibition “Beguiling Appearance – Murky Shadows?” opens for a second season

Everyone knows about fake handbags at the beach and replica brand-name sunglasses on the internet. But who is behind such goods? Who gains and who loses by them? And who puts themselves at risk? The STOP PIRACY Association opened the second season of the special exhibition on counterfeiting and piracy called “Beguiling Appearance – Murky Shadows?” at the Swiss Customs Museum in Cantine di Gandria (Lugano). The Swiss Customs Museum is open from April until mid-October.



May

4 May 2017

The Swiss Biotech Report 2017

Switzerland's biotechnology sector is growing more rapidly than it has for years. In 2016, 281 companies with collectively more than 15,000 employees reached a turnover of 5,720 million Swiss francs. This is an encouraging increase of almost 12%. The prospects are also encouraging: Switzerland is the world's absolute best when it comes to patenting, and a robust and well-filled product pipeline provides the best foundations for a successful future. The Swiss Biotech Report 2017 sheds light on the most important innovation drivers and summarises topics and facts on the development of the Swiss biotech industry. It is prepared on an annual basis by a body of public institution representatives – including the IPI – as well as local companies.



1–5 May 2017

Meeting of the Committee of Experts of the Nice Union in May 2017 in Geneva

At the beginning of May, the annual meeting of the Committee of Experts of the Nice Union took place. Here, a number of changes, additions, reclassifications and deletion of terms with regard to the Nice Classification were debated and decided upon. The IPI is actively engaged in the review and update of the general indications of the class headings and explanatory notes. Nine additional classes of goods

were revised and changes decided upon. The project will continue as will the IPI's active participation in this work.

24 May 2017

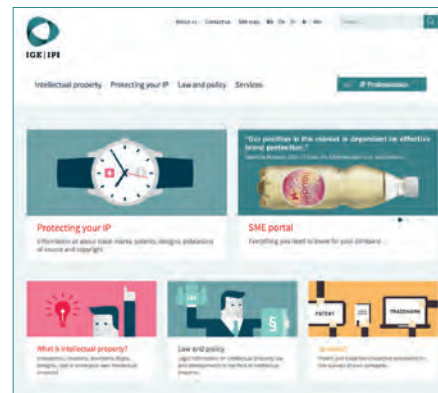
“Food printing – the development of a sector” event

The Bern School of Agricultural, Forest and Food Sciences has dedicated a symposium to the topic of 3D food printing. An IPI patent expert held a talk at the event on how a patent landscape analysis can help identify market developments and stakeholders.

30 May 2017

The ipi.ch website has a new look

The IPI has a new internet presence. The ipi.ch website has been restructured and smartened up to make it easier for visitors to navigate the site, and to present our diverse content more clearly.



June

6 June 2017

Registration of the first geographical mark

On 6 June 2017, the IPI registered the word mark “EMMENTALER” for cheese with the Protected Designation of Origin “Emmentaler” under the number 703183, making it the first geographical mark to be registered. This special category of trade mark was created within the context of the new “Swissness” legislation.

20 June 2017

PCT applications with the IPI as Receiving Office can now be submitted online (ePCT)

If you want to submit an application for the grant of a patent under the Patent Cooperation Treaty (PCT) and designate the IPI as the Receiving Office, you can now do it online via the ePCT portal of the World Intellectual Property Organization (WIPO). This makes submitting international applications simpler, cheaper and more efficient.

22 June 2017

Encouraging the development of medicinal products for paediatric use – consultation on the partial revision of the Patents Ordinance

The research and development of medicinal products specifically for children should be encouraged, which is why the Patents Act has been revised within the scope of the revision to the Therapeutic Products Act (TPA). Pharmaceutical companies that carry out paediatric studies can be granted a six-month extension to a supplementary protection certificate (SPC) that has already been granted, or be granted a newly created paediatric SPC. Parliament adopted the revision to the TPA and with it, the partial revision of the Patents Act on 18 March 2016. The Federal Department of Justice and Police has submitted the required amendment to the Patents Ordinance for consultation.



Trade Marks, Patents, Designs and Copyright

Switzerland can regularly be found at the top of international innovation rankings, which is why it is reliant on effective intellectual property protection. Administering IP rights and supervising the collective rights management organisations are part of the IPI's core business. The focus during the reporting year, however, was also on the implementation of various statutory amendments.

Trade Marks

The Federal Supreme Court, as the last instance, decided on 20 January 2017 that the IPI had been justified in refusing to register the word mark CAR-NET in the Swiss trade mark register. This was the conclusion of a process lasting several years, which had originally begun with a routine application for registration. At that time, the trade mark experts had examined the trade mark CAR-NET for the requirements necessary for acceptance in the trade mark register and decided that it was not "distinctive". This was because CAR-NET means "vehicle network", which also describes the place of collection (the internet) of the goods being claimed, notably vehicles and their components. The applicant was the German company Volkswagen and as CAR-NET had already

been successfully registered in Germany, Volkswagen did not want to abandon its Swiss plans. By adding graphic elements to the pure word mark CAR-NET, they could have significantly increased the distinctiveness of the trade mark, but Volkswagen did not want to make this change. Instead, the company decided to bring the case before the Federal Administrative Court in St. Gallen. However, the company's case also went unheeded there as the court agreed with the IPI's argumentation, as did more recently the court of last instance. A total of 16,229 Swiss trade mark applications were received by the IPI during the reporting year. Of those, 515 were refused due to formal or substantive grounds, which corresponds to a rate of 3%. Over 14,000 Swiss trade marks were registered, of which more than 100 were revoked as a result of opposition proceedings. Opposition proceedings are a legal instrument that allows trade mark owners to

file opposition against the registration of another trade mark with the IPI if a risk of confusion can be asserted. During the reporting year, there were 605 such new relevant proceedings. More than half of the proceedings were settled by mutual agreement by the parties involved. In the remaining cases, the IPI made a decision, and in approximately 50 cases, the unsuccessful party took the case to the Federal Administrative Court. Evaluating the grounds for refusing entry in the trade mark register as well as handling opposition procedures are everyday tasks for trade mark experts at the IPI. The cancellation of trade marks due to non-

use, however, was a new procedure introduced during the reporting year. At its core, this procedure concerns purging the trade mark register of unused "dead" trade marks. There are a variety of reasons, however, for not using a trade mark. For example, the owner may have filed an international registration which extends to Switzerland, even though he or she does not normally conduct business here to the same extent. Another reason could be a change in business strategy, such as the supplier deciding to stop selling the branded product in question. Whatever the reason, it was previously only possible to cancel a trade mark through

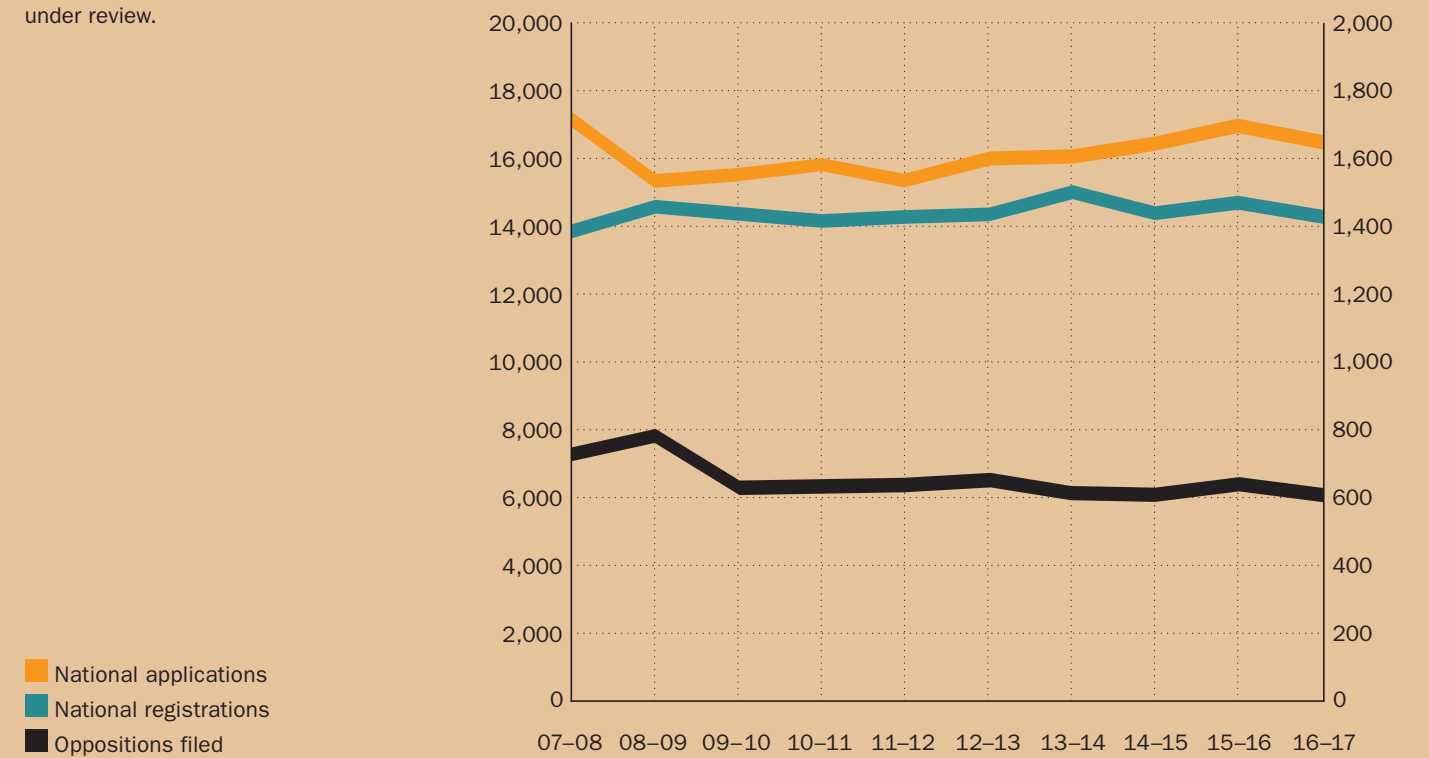
the courts, which is why cancellations frequently did not occur. Like opposition proceedings, the new cancellation procedure does not require a civil court case, and is therefore comparatively short and inexpensive. A request for cancellation is granted if the party applying for the procedure can plausibly demonstrate that the owner of the trade mark has not used the trade mark for a period of five years and cannot provide proof that the trade mark is being used. Since the new procedure came into effect on 1 January 2017 and up until the end of the reporting year, this has happened in a total of 30 cases.

Trade Mark Trends

Applications for registration of trade marks decreased in the year under review.

Applications and registrations

Oppositions



Financial Year

Trade Marks

	2016/17	2015/16	% change from previous year	2014/15	2013/14	2012/13
National						
Trade mark applications	16,229	16,995	-4.5	16,202	16,053	15,938
– expedited service	992	931	6.6	968	1,141	1,167
– e-filings	15,663	16,447	-4.8	15,440	15,291	15,140
Registrations	14,172	14,683	-3.5	14,351	15,168	14,439
Pending applications ²	7,129	6,705	6.3	5,913	5,546	6,179
Renewals	10,847	10,443	3.9	11,263	9,524	10,618
Oppositions						
New cases	605	645	-6.2	602	605	652
Closed cases	661	620	6.6	632	675	630
Pending cases ²	696	751	-7.5	721	731	786
International						
International registrations designating Switzerland ¹	15,342	13,191	16.3	13,794	12,602	14,013
Renewals ¹	13,821	12,597	9.7	12,974	12,133	11,687

Patents

National patent applications and patents

Patent applications submitted	1,795	1,819	-1.3	2,016	1,973	3,269
– Swiss origin	1,464	1,440	1.7	1,482	1,502	1,502
– foreign origin	331	379	-12.7	534	471	⁵ 1,767
Patents granted	646	639	1.1	748	581	475
Processed patent applications	2,200	2,002	9.9	2,323	2,220	3,477
Pending patent applications ³	6,896	7,110	-3.0	7,180	7,383	7,552
Patents in force ³	7,371	7,368	0.0	7,540	7,298	7,062

European patent applications and patents

Submitted to the Institute and forwarded to the EPO	36	46	-21.7	83	127	154
European patents granted designating Switzerland and Liechtenstein ¹	96,065	76,878	25.0	58,226	56,521	54,907
European patents paid designating Switzerland and Liechtenstein ³	106,007	100,617	5.4	97,804	94,614	92,565

International patent applications (PCT)

Applications submitted to the Institute and forwarded to WIPO	128	195	-34.4	186	196	238
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Designs

Number of filings	866	842	2.8	833	801	1,003
– number of objects	2,752	2,635	4.4	3,162	2,633	3,310
Number of second term renewals	514	516	-0.4	551	517	591
Number of third term renewals	418	360	16.1	402	324	277
Number of fourth term renewals	114	88	29.5	117	118	132
Number of fifth term renewals	81	89	-9.0	81	54	59
Annulments	835	856	-2.5	798	860	848
Designs in force ⁴	9,723	9,689	0.4	9,686	9,639	9,697

Changes in the methodology of data collection possible.

¹ Sources: EPA, WIPO ² Per 05.07.2017 ³ Per 25.08.2017 ⁴ Per 30.06.2017 ⁵ From July 2012 to January 2013 one applicant alone submitted 1,456 applications.

The IPI had received its mandate to develop an administrative cancellation procedure due to non-use directly from Parliament. The basis for this was the amended Trade Mark Protection Act, which together with the revised Coat of Arms Protection Act, formed what is known as the “Swissness” package.

What may seem surprising at first glance, makes sense on closer inspection. Because the revised Trade Mark Protection Act also makes provision for cases when a product loses its status as being “Swiss”, such as when a manufacturer changes suppliers to work with foreign vendors that do not have any domestic production capacity. In such a case, it must be possible to cancel any associated trade mark containing the Swiss cross or references to the origin of the product as being Swiss.

Due to the “Swissness” legislation, the IPI also created two new instruments of protection. The first is the national register for geographical indications of source for non-agricultural goods in which such designations can be registered in line with protected geographical indications of source for agricultural products (such as Zug cherry cake).

The second instrument is a new category of trade mark, the “geographical mark”. This is primarily intended to provide better protection for geographical indications abroad. The first geographical trade mark was registered on 6 June 2017 under the number 703183: EMMENTAL for cheese with the protected designation of origin “Emmental”. In Switzerland, however, names of places – such as “Emmental” – belong, in principle, to the public domain. Previously, it was not possible to protect them as a trade mark, but the new rules effective from 1 January 2017 make provision for this under certain conditions.

Another component of the “Swissness” legislation, for which the IPI is responsible for implementing, is the revised Coat of Arms

Protection Act. The coats of arms of the Swiss Confederation, the cantons, and the communes are, in principle, excluded from commercial use. To help familiarise the business community with the signs affected, the IPI created a list of public signs – as provided for in the Coat of Arms Protection Act – which has been available for reference since 1 January. As of 30 June 2017, the list contained a total of 1,200 public signs of Switzerland. There were considerable changes in trade mark law during the reporting year. In addition to the revision of the legal framework, there were also changes in the case law of the Federal Administrative Court and the Federal Supreme Court.

Both have been incorporated into the day-to-day work of the more than 80 trade mark experts, who for their part, develop the official practice of the authorities. As a result, the IPI decided that its trade mark guidelines needed to be thoroughly revised – the first time since 2014. The guidelines comprise 250 pages and have been in effect since 1 January 2017. They create a coherent basis for taking action and making decisions within the trade mark division, which from the outside is perceived as reliability.

Patents

Once again, the majority of patents with effect for Switzerland and Liechtenstein were filed during the reporting year with the European Patent Office (EPO). At the IPI, 1,721 national patent applications were submitted as well as 74 PCT applications, the latter of which are forwarded on to the World Intellectual Property Organization (WIPO).

Today, around 95% of all applications are filed electronically, whether via the WIPO’s

ePCT platform, via an application with the EPO, or by using the portal of the relevant national patent office. It has been possible to file an international application designating the IPI as the Receiving Office via the WIPO’s ePCT portal since 1 July 2017. Since Switzerland joined the ePCT, the list of countries whose receiving offices provide access to this portal is now at 47 states.

In addition to maintaining the patent register, the IPI is also responsible for examining patent applications. This includes checking for statutory grounds for refusal. A surgical procedure on the human body, for example, cannot be patented. Also checked before a patent can be granted is whether it has the necessary technicality, whether it is clearly formulated and whether it actually discloses something.

However, there is no official examination in Switzerland for novelty or inventive step, which is why applicants in Switzerland have the right to a Swiss patent application search for CHF 500. During the reporting year, almost 200 patent applicants took advantage of this optional search.

An assisted patent search is also one of the sovereign services offered by the IPI. For CHF 300, inventors, SME representatives and other interested parties can spend half a day with an IPI patent expert searching and learning about the patent system. This service was used around 700 times during the reporting year.

Designs

The number of new Swiss design registrations increased slightly year-on-year. The positive trend therefore continues with this growing interest in design registrations also being reflected in the number of design renewals. They rose from 1,053 to 1,127.

The number of international registrations under the Hague Agreement on the International Deposit of Industrial Designs also increased. In addition, the relevant statistics show that it is not only in Switzerland that this procedure has gained in importance.

International cooperation at institutional level could also be further intensified in the reporting year with the 11th edition of the International Classification for Industrial Designs (known as the Locarno Agreement) entering into force in January 2017. In parallel, the IPI continued its bilateral

cooperation with the European Union Intellectual Property Office EUIPO in Alicante. The project work regarding the harmonisation of product information was successfully completed on schedule in the current business year. However, Switzerland will not adopt this harmonised product information for the time being. It is first to be verified that it is not too restrictive for those filing in Switzerland.

Copyright Supervision

For individual musicians, authors and film makers, a disproportionate amount of effort is usually involved in directly managing their copyright. This is why copyright law provides for the formation of collective rights management organisations (CMOs). There are currently five CMOs in Switzerland representing some 65,000 creative artists. They authorise the use of creative artists' works and collect the relevant

Overview of the Swiss Collective Rights Management Organisations

Collecting Society	SUISA	SUISSIMAGE	PROLITTERIS	SSA	SWISSPERFORM
Year founded	1923	1981	1974	1986	1993
Repertoire	Non-theatrical music works	Audiovisual works	Literary and dramatic works as well as visual arts works	Word-dramatic, music-dramatic and audiovisual works	Remuneration claims in the field of neighbouring protection rights
Members	Composers, writers and music publishers	Script writers, directors, producers and other rights holders of the film branch	Writers, journalists, visual artists, photographers, graphic artists, book, newspaper and periodical publishers as well as art publishers	Dramatists, composers, script writers and directors	Practising artists, producers of sound carriers and audio-visual carriers as well as broadcasting companies
Total membership	36,663	3,434	11,822	2,999	15,509
Income from the use of rights in millions of CHF					
2015	142.7	67.8	31.1	22.7	51.6
2016	147.1	72.1	32.1	22.9	54.8



remuneration on their behalf. The supervision of these CMOs is the responsibility of the IPI together with the Federal Arbitration Commission for the Exploitation of Copyrights and Related Rights (FACO). During the reporting year, the IPI changed its practice concerning costs incurred by appeals against CMOs. This change was made following a recommendation by the Swiss Federal Audit Office concerning verifying the plausibility of working hours that can be invoiced for supervisory activities. In autumn 2016, the costs of handling an appeal were passed on for the first time to the CMO concerned, even though the investigation revealed that no infringement had taken place, nor had there been any improper conduct on the part of the said CMO. The latter has contested the passing on of the costs before the Federal Administrative Court.

Also still pending is an appeal filed with the Federal Administrative Court by a CMO against an IPI decision. It concerns the reimbursement of employee contributions for supplementary payments made to the pension funds of several members of the executive board at the CMO concerned.

A third case involving an application from an organisation wishing to be approved as a CMO – which the IPI had rejected in December 2016 – was closed. Although the organisation concerned is based in Switzerland, it does not conduct any business activities within the meaning of the Copyright Act. An appeal lodged with the Federal Administrative Court against this decision was later withdrawn.

In exercising its supervision duties, the IPI engages in regular dialogue with CMOs. In November 2016, it invited them to take part in a discussion on current supervision issues. The IPI is also currently reviewing the directive on the supervision of the CMOs. The new directive, which will come into effect 2018, aims to ensure an effective and transparent supervision of

management and where possible electronic reporting. A first step towards paperless correspondence has already been taken, with CMOs being able to submit their documents to the IPI in electronic format since the beginning of 2017.

The IPI also played host on the international stage during the reporting year. In November 2016, it organised a meeting in Zurich with representatives of CMO supervisory authorities from Switzerland's German-speaking neighbouring countries.

<The Cornerstone of our Prosperity is the Credibility of Intellectual Property>

Committing to developing the IP rights systems is one of the IPI's core tasks. This political mandate is carried out by the Legal & International Affairs division of the IPI. Felix Addor, the head of this division, looks back at an intensive year.



Deputy Director General, General Counsel of the IPI and Head of Legal & International Affairs Division

What does the number 1,224 say to you, Mr Addor?

If I remember rightly, it's the number of comments we received on the consultation regarding the revision to the Copyright Act.

You say 'we'. What role is the IPI playing in the revision to the Copyright Act?

The same as with all legislative projects that concern our area of expertise. The IPI is responsible for the federal dossier and follows the instructions of the head of the Federal Department of Justice and Police, Federal Councillor Simonetta Sommaruga. She initiated the last revision to the Copyright Act and set up a copyright working group (AGUR), in which those stakeholders especially affected by a revision to copyright law are represented. The IPI chairs this group and was responsible for drafting the first proposed changes to the law.

What is the current revision to the Copyright Act about?

It's about adapting the current legislation to the digital reality of our times. The internet is a huge challenge for copyright law because anyone can easily produce copies of films, music albums or books protected by copyright, offer them on a massive scale and consume them free of charge. Some offerings are legal but others aren't. Illegal offerings infringe the copyright of creative artists, the film industry, book publishers and record companies, who as a result, are deprived of appropriate remuneration for their work. It is this development that the Federal Council is responding to. We want an open internet, but one that is at the same time fair.

Back to the 1,224 comments. What was the general tenor of them?

The modernisation of copyright law was welcomed, but the ideas on what and how were widely divergent. As a revision to the Copyright Act only has a chance when those directly affected collaborate with one another, Mrs Sommaruga reactivated the AGUR in August 2016. At first, only creative artists, producers, user associations and consumers were represented in the working group. However, they do not represent all interest groups. Hosting and service providers also play a key role in the fight against internet piracy. Swiss hosting providers should not host piracy platforms and should rapidly remove any content that infringes copyright via their servers. This meant that internet providers also had to be brought to the table. On the side of the Association of Swiss Internet Service Providers (SIMSA), commercial disadvantages were also feared as a result of tightening copyright law.

How justified are these concerns?

It is not up to the IPI to evaluate such a thing. Our job is to find broadly accepted

viable solutions based on the Federal Council's objective, which is to take tough action against those who make copyrighted material illegally available, but not criminalising consumers. AGUR succeeded in putting together a compromise package at the beginning of March 2017. The bridge over which all those involved finally crossed was SIMSA's Code of Conduct. It states that content providers who have attracted adverse attention can be banned from uploading content. In the future, rights owners should be able to report such black sheep and have them blocked by the provider.

What happens next?

Our experts worked on a draft for the dispatch, which was presented to the Federal Council at the end of 2017. As the Federal Council approved the bill, it will go to Parliament next year.

The Copyright Act revision is at the beginning of the legislative process. The "Swissness" package that strengthened protection of the "Swiss" brand has been in force since January, and the IPI played a key role in the preparation of this too. Do IPI employees sometimes have a feeling of fatherly pride?

Of course, it is a relief when a law that we have personally worked on for over ten years comes into force. However, it would be completely wrong to assume that the case of "Swissness" was over with its entry into force. We are also involved in its implementation. Our trade mark division, for example, has built up a national register of geographical indications of source for non-agricultural goods. This means that geographical indications for industrial products such as "Swiss" or "Geneva" for watches, "St.Gallen" for textiles or "Glarner" for printed fabrics can be protected. But we from the Legal & International Affairs division are still on top of

things too. For us, it is now a matter of taking action against free riders abroad.

No easy task. During the "Swissness" debate, many entrepreneurs were sceptical about the scope of action that a small country like Switzerland can provide.

In an ideal world, we would assert our claims concerning the protection of the Swiss cross and the designation of origin "Swiss" through multilateral channels based on international treaties such as the Paris Convention for the Protection of Industrial Property of 1883, which so far has been ratified by 176 states. But this isn't an ideal world, which is why we are now taking a bilateral approach in close cooperation with other federal offices and the State Secretariat for Economic Affairs (SECO).

Where do we stand today?

With certain states such as Russia, we were able to conclude a bilateral treaty on the mutual protection of geographical indications and appellations of origin. This treaty also commits to protecting the country names, national flags and coats of arms of both contracting parties. We have also started to monitor trade mark applications in those export markets important for Switzerland in which we haven't yet been able to negotiate a bilateral agreement. These include India, Argentina and China, and since 2017, Germany, France and the United Kingdom. We are also looking more closely at trade mark applications at the European Union Intellectual Property Office in Alicante with regard to "Swissness". If we believe that a specific trade mark application clearly and wrongly contains the Swiss coat of arms, the Swiss cross or a Swiss indication of origin, we raise an objection. We then inform the affected trade association in Switzerland, who decide on the measures to be taken

if the objection we have raised is rejected. All in all, the IPI intervened in more than 300 cases in Switzerland and abroad during the reporting year.

Have there been even harder nuts to crack? What's the situation with the USA and China?

In a first step, the US Trademark Office has agreed to add a Chapter 2-12 to its trademark guidelines called *Refusal: Swiss Confederation Coat of Arms & Swiss Flag*. And also in the USA, the IPI has been monitoring trade mark applications that include the Swiss coat of arms, the Swiss cross or signs that could be confused with them since 2017. We report any possible wrongful use to the US Trademark Office in a letter of protest.

China remains a place where not only many fake "Swiss Made" products come from, but also presents challenges to Swiss companies in protecting their intellectual property. What is happening with China?

With China, the IPI is in regular contact with the Chinese Trademark Office and the Chinese competition authorities. Our trade mark objections have already led to a positive decision for us in more than one hundred cases, not to mention a more rigorous trade mark practice in China. Thanks to cooperation with the Chinese authorities, "Swiss Made" counterfeits were also able to be confiscated on several occasions.

What role did the state visit of the Chinese Head of State, Xi Jinping, in January this year play here?

The fact is that Foreign Affairs Minister Didier Burkhalter and his Chinese counterpart signed an agreement during the visit, which put the prior intensive collaboration between us and the responsible Chinese authorities on a new footing at ministerial level in all areas of intellectual property

law. In May, I travelled to China with a Swiss delegation to the sixth official meeting between the IPI and the Chinese State Intellectual Property Office, which took place in Shanghai. At an industry roundtable, Swiss and Chinese company representatives were able to submit their concerns and questions directly to the representatives from the administration present. We then travelled to Beijing where we met with various Chinese authorities, including the trade mark office to discuss current "Swissness" cases.

The "Swissness" example clearly shows how much international enforcement is a work in progress in the field of industrial property rights. Is this a wrong impression?

Not at all. The importance and scope of intellectual property rights in international trade is quite controversial. New constructive solutions, which take the interests of the different stakeholder groups and states into consideration, have to be continuously found. This also includes taking into consideration ethical, developmental, environmental and public health aspects.

What role does Switzerland play in this global dynamic?

A very active one. Because as a land that is regularly to be found at the top of global innovation rankings, we depend on effective intellectual property protection. The cornerstone of our prosperity is the international credibility and respect of our patents and trade marks. It is therefore one of the IPI's core tasks to actively commit to developing the IP rights system.

What is the most important work currently going on in international patent law?

In the discussion about what appropriate patent protection is, there are opposing interests between researching countries and

states that predominantly use the innovations of others. Equally virulent are the differences in opinion about if and how the use of genetic resources and traditional knowledge in an invention should be taken into account during a patent examination. The fact is that many new biotechnological active ingredients have been copied from nature. They make use of the tropical rainforests' gene pool, or are based on the traditional knowledge of indigenous peoples. How should this contribution be recognised under patent law? Who is allowed to authorise what may be used, by whom and under what conditions? And who should participate in the proceeds from a patent?

How are these issues regulated in Switzerland?

Even though we are a country with a highly successful pharmaceutical and biotech industry, we have had what is known as the disclosure requirement since 2008. For patents on biotechnological active substances filed in Switzerland, the genetic resources used for the invention and the sources of the underlying traditional knowledge must be mentioned in the patent specification. This is a good foundation for future benefit sharing.

Has this Swiss compromise already been copied by others?

We are campaigning for this in the World Intellectual Property Organization (WIPO) in a body with the somewhat cumbersome name of Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore – the IGC for short.

What is the state of affairs?

We have managed to forge a rainbow coalition, which includes 11 countries as diverse as New Zealand, Norway, the Vatican, Kenya, Nigeria and Colombia. At the begin-

ning of 2017, representatives from these countries visited us in Switzerland for an initial meeting followed by a retreat.

Are there already results?

Within the coalition, we all agree that the issues concerning genetic resources and traditional knowledge must be solved internationally and homogeneously, otherwise there is a risk that the entire IP rights system will become discredited. The IPI is therefore committed to closing this gap and to helping find a solution.



Searches, Fight against Counterfeiting and Piracy, Training

The IPI is the federal government's centre of competence for patents, trade marks, designs and copyright, and as such carries out tasks in the areas of public awareness raising, training and information services. The IPI's services include commercial patent and trade mark searches for national and international business, which it provides under the label ip-search.

Searches

Have you heard of the company Belenos in Marin, Neuchâtel? It was founded by Nicolas Hayek senior, the father of Swatch. Its current shareholders include the Swatch Group, as well as Deutsche Bank, ETH Zurich and the actor George Clooney. One of its fields of research is electric mobility, in particular the development of high-performance batteries. Strategically, the company has set itself the goal of developing technology for a clean, CO₂-free supply of energy. Can the company meet this challenge? Does it really belong to those companies that are global leaders in the area of battery technology? Or are there competitors that are ahead of Belenos? Patent experts from the IPI wanted to find this out, so they used a patent landscape

analysis to evaluate international patent literature. Their findings? The state of the art in battery technology is currently defined by four companies: two German companies, as well as the Korean giant Samsung and Belenos. "The Belenos example was to showcase the patent landscape analysis," says Alban Fischer, head of the IPI's patent division and under whose responsibility the search service was developed. "We wanted to show what our new tool can do." The first part of the patent landscape analysis is to define a technology sector or the patent portfolio of a company. Then the patents are analysed: who is the inventor or owner and how far does the geographical scope of the patent extend? The second step is to gather information that is only available indirectly in the patent specification: how often has the patent been cited in other patent documents? How often has it been the subject of a legal dispute? From

the sum of this information, the search experts – assisted by software tools – can infer the level of relevance and quality of a patent portfolio. Such insights reveal information about the innovation pipeline of individual companies, but also research activities in individual countries and major regions. This therefore makes it interesting for economists as well as economic researchers. At the BAK Basel spring conference in 2017, an employee presented an investigation into 40 future technologies and asked where Switzerland stands. For the investigation, he had used the IPI's patent landscape analysis to find an answer and half-jokingly said that it is the only legal form of industrial espionage.

For Mr Fischer, the development of the patent landscape analysis was primarily about providing a service that allowed customers to make a data-supported assessment and take measures within their own research and development. "In this respect," says Mr Fischer, "it supplements the existing patent and trade mark searches, which the IPI has been providing for years." With a classic search, a customer wants to find out whether his product could infringe on existing IP rights, or whether a planned patent is truly new and innovative. Such clarifications provide a basis for taking decisions on how to proceed. With its subject search, the IPI provides an overview of the state of the art, while with technology monitoring, it delivers periodic information to the customer about new patent applications in a specific technology sector.

For trade mark searches, there is an equally broad product range. For example, a similarity search shows whether similar or identical trade marks have been registered or an application to do so been filed. A sequence search delivers a list of all trade marks that have a specific word component, while an owner rights search provides infor-

mation about the trade mark portfolio of a particular person or company. With these commercial services, the IPI achieved a turnover of 5.26 million Swiss francs during the year under report. Customers come primarily from Switzerland, Germany and Austria, while customers from the rest of the world account for only 10% of sales. Mr Fischer wants to change this in the medium-term with the help of the patent landscape analysis, which was officially launched in the summer of 2016. This is why a delegation from the IPI travelled to the USA in the autumn of 2016; more precisely to the Silicon Valley region in the San Francisco Bay Area, which is where the world's most prolific patenting activity takes place. There, IPI employees presented this new service to potential customers.

But the patent landscape analysis is not only for opening geographical doors. Mr Fischer is convinced that the customer base can be expanded in another direction. Specifically, he has got the financial industry in mind, because in both investment banking and asset management, companies need to be evaluated in order to analyse their current value and future potential. "For both of them," says Mr Fischer, "the innovative strength of a company plays a decisive role."

The Fight against Counterfeiting and Piracy

The STOP PIRACY Association is dedicated to fighting counterfeiting and piracy. Its members include the IPI as well as many associations from sectors affected by piracy, the Federal Office of Police fedpol, the Federal Customs Administration, and individual companies such as ABB and Lacoste. The STOP PIRACY Secretariat is situated at the IPI and has been headed by Florence Clerc since mid-2016. Since it was founded in 2007, STOP PIRACY has been organising exhibitions, campaigns and events with the specific goal of raising public awareness concerning the economic consequences of piracy and counterfeiting. In the spring of 2017, for example, the special exhibition "Beguiling appearance – murky shadows?" at the Swiss Customs Museum in Cantine di Gandria started its second season. This exhibition showcases the startling variety of counterfeit products and highlights the background to counterfeiting and illegal copying. STOP PIRACY worked together with the Federal Customs Administration to design the exhibition. It is set to run until October 2018.

In the reporting year, the association also carried out awareness-raising work at various consumer fairs, such as at Basel's Muba trade fair and the Zuger Messe trade fair. STOP PIRACY also laid the foundations for a new campaign primarily aimed at young people, which will be launched on social media in the next business year. Finally, the association started to seek dialogue with the advertising industry and credit card companies. The aim is to raise awareness about the issues of counterfeiting and piracy among these intermediaries and – in a second step – to foster long-term cooperation.

Training

During the reporting year, the IPI conducted 128 training events and sent IPI experts to events run by external providers. These events ranged from general introductions to in-depth subject-specific training in all areas of intellectual property. Altogether, some 1,800 people took part in these training courses.

32 As in the previous business year, there was again particular focus this year on disseminating information on the new “Swissness” legislation. To this end, three workshops were held in the German-speaking region of Switzerland and one in Lausanne to present the “Swissness” calculator. The developer of the calculator, Professor Thomas Rautenstrauch from the HWZ University of Applied Sciences in Business Administration Zurich, explained in these workshops how the percentage of “Swissness” in industrial products is calculated using practical examples. Also very popular were the workshops held in Zurich, Bern and Geneva on the trade mark cancellation procedure due to non-use, which came into effect on 1 January. Meanwhile, the IPI teamed up with OFCOM to organise the first ever course on the risk of conflict when registering domain names. This course was offered in German and French. Finally, the preparatory course for the Swiss part of the Patent Attorney Examination was held in German for the sixth time in a row.



Solid Operating Result and Increased Equity Capital

The IPI posted an operating profit of CHF 6.8 million in the 2016/17 financial year. Contributing to this in particular was an increase in productivity at the European Patent Office. Net profit and lesser provisioning requirements for pension obligations have led to a recovery in equity capital.

The most recent revision to the Trade Mark Protection Act ("Swissness") has resulted in the introduction of two new fee-based instruments: the register for geographical indications of source for non-agricultural products and a simplified procedure for cancelling trade marks on the grounds of non-use. This revision gave rise to a formal revision of the almost 20-year-old IPI fee ordinance, which also included adapting the ordinance to the current requirements of the federal government. The total revision did not include any adjustment to existing fees. Maintenance fees for patents and trade marks had already been increased at the beginning of 2014 in order to eliminate the IPI's structural deficit. Since then, positive operating results have again been regularly posted. The net profit amounted to CHF 6.8 million in the 2016/17 financial year. A change to the accounting method when posting revenues from international trade

mark registrations designating Switzerland under the Madrid Agreement has led to a restatement of the 2015/16 annual statement. As a result, the profits reported a year ago have been reduced by approximately CHF 200,000 (from CHF 7.1 million to CHF 6.9 million). For European patent annual fees, the half share forwarded to the European Patent Office (EPO) is now directly deducted from revenues for fees. This means that already the gross revenue – and not the net proceeds – is lower by this proportion. In the 2016 calendar year, the EPO significantly increased its productivity. 42% more European patents designating Switzerland were granted compared to the previous year. However, only a fraction of patents granted are validated through the payment of annual fees in Switzerland. Despite the low number of validations, the increase in productivity was nevertheless noticeable at the IPI, with 106,007 annual fees for European

patents being paid in the 2016/17 financial year. Not only does this represent an increase of 5.4% in comparison to the previous period, but also brought in additional revenues of more than CHF 1 million (net).

Net proceeds totalling CHF 61.2 million were offset by operating costs (including costs for third-party services) of CHF 54.3 million and a financial result of CHF –64,000. Personnel expenses in particular increased in comparison to the previous year. Additional positions had to be either permanently or temporarily filled in order to cope with the high workload. This was the result of new tasks due to the "Swissness" legislation, as well as a large company-wide project to renew the electronic IP rights administration system. At the same time, IT expenses could be substantially reduced.

With regard to pension accounting under IFRS (International Financial Reporting Standards) applied by the IPI, it could be clearly seen how changes in the investment markets can strongly influence the amount of equity capital since the abolishment of what is known as the "corridor method". Up until the 2012/13 financial year, actuarial gains or losses could be carried over to the following year without affecting the result as long as the amount was within a specific corridor. Since then, such gains and losses are recorded directly in the statement of comprehensive income of the year in question. In mid-2016, the technical interest rate, used to calculate the present value of the obligation for future staff pension entitlements, was reduced to 0.3% due to low long-term yield expectations. For this reason, provisions for pension liabilities had to be increased by almost CHF 22 million. As of mid-2017, a technical interest rate of 0.75% can now be expected. Together with an actuarial gain on plan assets, this leads to an actuarial gain totalling CHF 20.8 million and

raises the IPI's equity capital to CHF 49.2 million as of the end of the 2016/17 financial year.

The statutory auditors have unreservedly confirmed that the financial statements give a true and fair view.

The detailed IFRS-compliant financial statements can be downloaded from the website at www.ipi.ch (under About us > Annual reports and financial statements).

Balance Sheet

(in thousands of CHF)	2016/2017	2015/2016*
	30.06.17	30.06.16
Cash and cash equivalents	106,113	98,631
Receivables	690	803
Other receivables	917	891
Accrued receivables and prepaid expenses	2,055	2,073
Current assets	109,774	102,398
Tangible assets	21,964	22,704
Intangible assets	2,511	2,123
Fixed assets	24,476	24,827
Total assets	134,249	127,225
Accounts payable	1,826	2,006
Current accounts (amounts due to customers)	5,709	5,480
Other liabilities	9,175	9,764
Accrued expenses and deferred income	9,683	9,265
Short-term provisions	2,062	1,977
Short-term liabilities	28,456	28,492
Provisions for pension plans	53,364	73,683
Other provisions	3,213	3,440
Long-term liabilities	56,577	77,123
Balance sheet result (profit)	6,812	6,914
Reserves	68,670	61,756
Accumulated other income	-26,265	-47,060
Equity	49,217	21,610
Total liabilities	134,249	127,225

Statement of Total Comprehensive Income

(in thousands of CHF)	2016/2017	2015/2016*
	from 01.07.16 to 30.06.17	from 01.07.15 to 30.06.16
Fees**	53,694	52,066
Services	5,673	5,311
Miscellaneous revenues	1,517	2,234
Own contributions to software projects	538	488
Gross revenue	61,423	60,099
Other revenue decreases	-228	-229
Net revenue	61,195	59,870
Third party fees	-1,009	-1,066
Third party services	-1,249	-1,024
Other third party expenses	-573	-818
Third party expenses	-2,832	-2,908
Personnel expenses	-41,685	-38,932
IT expenses	-1,952	-2,717
Other operating expenses	-5,401	-5,586
Depreciation and impairment loss	-1,780	-1,873
Federal Patent Court	-670	-937
Operating expenses	-51,488	-50,045
Operating profit	6,876	6,917
Financial income	4	1
Financial expenditure	-68	-5
Financial result	-64	-4
Profit (+)/Loss (-)	6,812	6,914
Other income***		
Result from the revaluation of defined benefit plans	20,795	-21,824
Other income	20,795	-21,824
Comprehensive income	27,607	-14,910

* A restatement was carried out during the 2015/2016 financial year, as detailed on page 39.

* A restatement was carried out during the 2015/2016 financial year, as detailed on page 39.

** Fees are now expressed as net amounts after the deduction of the EPO's 50% share for European maintenance fees.

*** Other income consists only of those positions that are not subsequently transferred to the profit and loss sheet, which is why detailed subdivisions have been dispensed with.

Cash Flow Statement for Operating Result

(in thousands of CHF)	2016/2017 from 01.07.16 to 30.06.17	2015/2016* from 01.07.15 to 30.06.16
Change in cash flows from operating activities		
Profit after financial result	6,812	6,914
Depreciation (+) of fixed assets	1,770	1,866
Impairment loss on fixed assets	10	8
Depreciation (+) / appreciation (-) receivables	-8	-3
Other non-cash surplus (-) or loss (+)	-227	125
Increase / decrease in long-term provisions	476	1,605
Increase / decrease in short-term provisions	85	309
Increase / decrease in accounts payable and other liabilities		
– from services	-179	-101
– from accruals and deferrals	418	694
Increase / decrease in other liabilities and equities	-599	2,453
Increase / decrease in receivables		
– from services	121	20
– from accruals and deferrals	18	-287
Increase / decrease in other receivables	-16	2,592
Interest earnings	0	5
Interest income	0	0
Cash inflow/outflow from operating activities	8,681	16,200
Change in cash flows from investment activities		
Cash-effective investments in tangible assets	-685	-339
Cash-effective investments in intangible assets	-744	-614
Change in cash flows from investment activities	-1,429	-952
Change in cash flows from financing activities		
Change in current accounts	229	282
Cash inflow/outflow from financing activities	229	282
Change in cash and cash equivalents	7,481	15,530
Cash and cash equivalents at year begin	98,631	83,102
Cash and cash equivalents at year end	106,113	98,631

Statement of Changes in Equity

(in thousands of CHF)	Revaluation of pension obligations	Reserves	Total Equity
Opening balance on 01.07.2015	-25,236	62,389	37,153
Restatement MMA	0	-632	-632
Profit	0	6,914	6,914
Other income	-21,824	0	-21,824
Closing balance on 30.06.2016	-47,060	68,670	21,610
Opening balance on 01.07.2016	-47,060	68,670	21,610
Profit	0	6,812	6,812
Other income	20,795	0	20,795
Closing balance on 30.06.2017	-26,265	75,482	49,217

Explanatory notes on the restatement

The inaccurate estimates of the accounts and revenues are attributable to estimates of expected revenues from international trade mark registrations under the Madrid Agreement calculated on the basis of historical figures and unit prices, and in particular due to the regular fluctuations caused by the adjustment to actual payments in April.

Due to technical possibilities and the principle of materiality, the actual annual figures for revenue generated in April by international trade mark registrations under the Madrid Agreement are, as of the 2016/17 financial year, recorded directly as revenue without entering any further accruals. This represents a change in the accounting method under IAS 8, which must be applied retroactively and requires an adjustment to the comparative figures of the previous year in the current 2016/2017 annual accounts. On 1 July 2015, the amount of CHF 632,000 was offset through reserves. Consequentially, the adjustment in the total income statement for 2015/2016 was CHF 172,000.

* A restatement was carried out during the 2015/2016 financial year, as detailed on page 39.



Nicole Wyss is a specialist in corporate communications (inside cover, page 2) She works in the IPI, as do all other portrait subjects



Manuel Gentinetta is a content manager (page 4) Pumadame Cheyenne lives in René Strickler's zoo in Subingen and the mastiff Illaya lives with Erika and Michel Ducret beside Lake Thun



Christa Hofmann is head of the Trade Mark Examination 1 Section (page 9)



Jürgen Howarth is head of the Information Technology Division (page 17)



Melanie Lienhard is an English translator (page 23)



Yvonne Bühler is a division secretary and Lucas von Wattenwyl is deputy head of International Trade Relations (page 29)



Frank Langlotz is head of Patent Expert Team 4 (page 33)



Lukas Schädeli is a commercial apprentice (page 42)

Go, Pokémon GO!

Pokémon GO was released in the Google Play Store and in Apple's App Store on 6 July 2016. A short time later, millions of players were searching for virtual Pokémon in the real world using their smart phones. Nintendo had previously registered the Pokémon GO trade mark for Switzerland at the IPI in April 2016 because when a product is successful, it is usually copied very quickly. By registering the Pokémon GO trade mark, Nintendo was able to stake its claim to its brand and protect it from free riders.

Right of priority

Art. 6 Trade Mark Protection Act (TmPA)

A trade mark right belongs to the person who first files the trade mark.

The logo dispute between PUMA and the dog from Ermatingen

The logo of the wooden cutting board manufacturer Urwyler & Hostettler, from the town of Ermatingen in the canton of Thurgau, originally showed a mastiff in mid-leap. The German company PUMA found it too similar to their own logo and filed an objection with the IPI in Bern. However, the IPI agreed with the Thurgau manufacturer and rejected PUMA's opposition. PUMA then threatened to file a lawsuit. As co-owner Andy Hostettler did not want to risk a lengthy court process, he made PUMA an offer: the wooden cutting board manufacturer would willingly change its logo, but the costs for doing so would have to be covered by PUMA. The German global corporation agreed. The new logo – a dog with its tongue sticking out – has already been registered with the IPI.



Opposition

TmPA Art. 31 para. 1

The proprietor of an earlier trade mark may file opposition to a registration on the basis of Article 3 paragraph 1.

The word "Mindfuck" is not socially acceptable in Switzerland

A Berlin coaching academy wanted to register the trade mark "Mindfuck" in all German-speaking regions. However, the Federal Administrative Court decided that the trade mark cannot be registered in Switzerland because the word "fuck" is a component of the name of the brand. Despite the connection with "mind", "fuck" is a vulgar designation for sexual intercourse, and this is what is key. In the court's reasons for the judgment, it said that this could offend the "moral sensibilities of conservative circles at a minimum". The trade mark application is contrary to morality and therefore contravenes trade mark law.

Absolute grounds for refusal

TmPA Art. 2

Excluded from trade mark protection are:
d. signs contrary to public policy, morality or applicable law.

His photobook – your photobook – MYPHOTOBOOK

Nobody would want to register the term "my shoes" as a trade mark for shoes because it is purely descriptive and lacks distinctiveness. But what about "MyShoes"? With the rise of the internet as a mass medium, the English prefix "my" has become widely used to mean "tailored to the needs of the user". In the tricky case of MYPHOTOBOOK, which the IPI trade mark experts had to deal with, they argued that the name is too direct for the service being used by the customer. MYPHOTOBOOK is directly descriptive of the book-binding work offered to create a personal photo book. The Federal Administrative Court confirmed this opinion.

Absolute grounds for refusal

TmPA Art. 2

Excluded from trade mark protection are:

a. signs that are in the public domain, except where they have become established as a trade mark through use for the goods or services for which they are being claimed.

"Red shoe soles cannot be protected"

The shoe designer Christian Louboutin sought to get his red-soled high-heeled shoes registered as a trade mark in Switzerland. He claimed that the bright red outer sole of his high heels was an original way of identifying the shoes, and that they characterised one of the most innovative shoe brands of the past 25 years. The Federal Supreme Court, however, did not consider the red sole to be unusual and distinctive enough to be an unmistakable reference to its commercial origin. It supported the IPI's decision that the colour of the sole alone is not sufficiently distinctive, especially considering the diversity of design in the fashion industry, which also includes high-heeled shoes with green, yellow, blue and purple soles.

Absolute grounds for refusal

TmPA Art. 2

Excluded from trade mark protection are:

a. signs that are in the public domain, except where they have become established as a trade mark through use for the goods or services for which they are being claimed.

Landed! The SKA trade mark has a new owner

Older readers might remember that in the 1970s, half of Switzerland was wearing knitted hats in red, white and light-blue bearing the logo of the Swiss credit institute SKA – at least on the ski slopes. These hats were a widely distributed giveaway from the financial institute in response to the damage its image had suffered in the wake of the Chiasso scandal. Although the bank has only used the name Credit Suisse since 1996, it was still – until recently – the owner of the SKA trade mark. Because the trade mark had not been used for more than five years, a Zurich company quickly snapped it up and registered it with the IPI in 2017, along with all of the well-known SKA symbols.

Consequences of non-use

TmPA Art. 12 para. 1

Where the proprietor has not used the trade mark in relation to the goods or services for which it is claimed for an uninterrupted period of five years following the expiry of the opposition period with no opposition having been filed or upon conclusion of opposition proceedings, he may no longer assert his right to the trade mark, unless there are proper reasons for non-use.

Does a product always contain what the label suggests?

Last year, the footballers Granit and Taulant Xhaka registered their surname as a trade mark. They were obviously anticipating that their name will not only be used for two sports professionals, but one day also for all kinds of lucrative merchandise. They are not the only Swiss sports professionals to have taken this step. Roger Federer registered his name as a trade mark in 2001; Lara Gut registered hers in 2008 and Carlo Janka in 2011. The difference is that Federer, Gut and Janka registered their names for a much shorter list of goods and services than the Xhakas – the Xhakas have registered their name for almost all everyday products. Securing trade mark rights does have its limitations, however. Because if a trade mark has not been used for more than five years, anyone can make a request for it to be cancelled.

Use of the trade mark

TmPA Art. 11 para. 1

A trade mark is protected if it is used in relation to the goods or services for which it is claimed.

This Lächerli is on the tip of everyone's tongue

Have you heard of the Lächerli Huus? If you live in Switzerland, you probably know that it is a well-known chain of stores that sells confectionery. Even though the name is highly descriptive (in Swiss German), the company was successful in registering the name as a trade mark because it could be proven that "Lächerli Huus" is meaningful to the "relevant public", i.e. all those who like sweets. In technical terms, this is called "acceptance of a trade mark through use", and any company who uses this line of argumentation must also be able to provide the IPI with documentation or a survey that substantiates this fact.

Absolute grounds for refusal

TmPA Art. 2

Excluded from trade mark protection are:

a. signs that are in the public domain, except where they have become established as a trade mark through use for the goods or services for which they are being claimed.



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