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November 2021



Catherine Chammartin, Director General

The World Trade Organization's (WTO) International Agreement on Trade-related Aspects of Intellectual Property Rights, TRIPS Agreement for short, requires the contracting states to comply with minimum international standards for the protection of intellectual property. Over the course of the coronavirus pandemic, this agreement, which has existed since 1994, became the subject of criticism from various sides. For example, on 2 October 2020, South Africa and India submitted a proposal to the TRIPS Council entitled 'Proposal for a Waiver of the TRIPS Agreement for the Prevention, Containment and Treatment of COVID-19'.

On 5 May 2021, Biden's government indicated that it would be prepared to discuss a TRIPS waiver, at least with regard to the patent protection of new COVID-19 vaccines.

In Europe, the TRIPS waiver proposal is being met with opposition, as is the USA's stance on the matter. The Federal Council also felt compelled to reiterate Switzerland's position. The members of the government indicated in various public statements that they believe a temporary suspension of the TRIPS provisions would be counterproductive. They are of the view that, to achieve the common goal of rectifying the shortage of COVID-19 vaccines and manufacturing the complex biological vaccines in the required quantity, the technical and logistical hurdles need to be tackled first. Furthermore, the Federal Council added that a suspension of the TRIPS Agreement carries the risk that the pharmaceutical industry would find itself in a legal vacuum. This would have negative effects on the cooperation that is currently urgently needed to expand production capacities and also on future research and development.

The debate on the rules governing intellectual property protection is as old as the IP rights themselves. Such discussions also regularly take place in Switzerland. At the moment, the Hefti Motion 'In favour of a modern Swiss patent' is sparking debate. It aims to introduce full examination for patents filed in Switzerland. To enable the parliamentary debate to be based as much as possible on numbers, data and facts, some interesting questions need to be explored in greater depth, such as whether the reform will benefit Switzerland as a centre of innovation and whether there are any disadvantages to be concerned about.

It is the task of the IPI's Economics Unit to provide evidence-based answers to these and other questions. The team conduct their own studies and also commission third-party studies. For example, from a study published last spring, we know that around two billion Swiss francs are spent around the world on products that are supposedly "made in Switzerland", which is costing Switzerland around 10,000 jobs.

During the reporting year, the IPI reinforced the Economics Unit once again. We did so because we want to be able to provide a solid empirical basis for the political and societal debates on IP protection.

My colleague Hansueli Stamm leads the team. He describes his work in an interview on page 12. He explains how he and his colleagues proceed and how they prepare studies, evaluate them and condense them into reports. I wish you an insightful read.

An Overview of the Year at the IPI

September

2 September 2020

SEF.Growth – special event for SMEs and young enterprises



Parallel to the Swiss Economic Forum (SEF) 2020, the special event 'SEF.Growth' for young enterprises and SMEs took place on 2 September in Montreux. The programme included inspiring presentations and a panel discussion with Caspar Coppetti, co-founder of 'On'. During the (Speed-)Dating4Growth part of the programme, participants discussed their individual challenges with experts from fields such as financing and risk management. Experts from the IPI were on hand to offer tips and tricks and suggestions on protecting innovation. SEF4KMU is an initiative of the Swiss Economic Forum and renowned partners and is aimed at SMEs and start-ups looking to grow their businesses. The IPI supports the initiative as a main partner.

4 September 2020

Global Innovation Index 2020 – Switzerland remains the most innovative country in the world

Switzerland is the most innovative country in the world for the tenth consecutive year. This was the conclusion of the Global Innovation Index 2020 (GII), based on an assessment of 131 economies worldwide. Sweden, the United States and the United Kingdom were next in the rankings. Compared to the EU, Switzerland outperformed in all areas. Switzerland succeeds in transforming investment in innovation into high-quality output.

Switzerland also distinguishes itself through the innovative spirit of its business sector, with a large share of knowledge-intensive employment and high R&D expenditure financed by the private sector. The Global Innovation Index evaluates the innovative performance of individual countries based on around 80 indicators. The ranking is published annually by the French business school INSEAD, Cornell University and the World Intellectual Property Organization. The IPI's SME portal provides a lot of valuable information on protecting innovation for start-ups and SMEs.

4 September 2020

Switzerland ratifies the constitutional reform of WIPO



On 4 September, Switzerland ratified the constitutional reform of the World Intellectual Property Organization (WIPO), thereby accepting an institutional reform drawn up by the member states. The reform amends ten international treaties to which Switzerland is a party, such as the Paris Convention for the Protection of Industrial Property and the Patent Cooperation Treaty. "The constitutional reform of WIPO simplifies the structures and procedures of this UN organisation," explained Reynald Veillard, Intellectual Property Attaché at the Swiss UN Mission in Geneva. "It modernises the budgetary procedure and facilitates the organisation of the annual meetings of the member states. By approving this reform, Switzerland emphasises its support for WIPO. It is

a reminder of the importance of promoting lean and transparent procedures to enable the organisation to function optimally." The reform will enter into force once 135 WIPO member states have formally accepted it.

October

14 October 2020

An attractive Swiss patent system for SMEs

The Federal Council wants to modernise the Swiss patent system and adapt it to international standards. On 14 October, it opened the consultation procedure on the partial revision of the Patents Act. The consultation proposed that a patent should only be granted if the invention to be patented is novel and innovative. This would lead to more legal certainty and increase the value of granted patents. For SMEs and individual inventors, the Swiss patent would therefore become an advantageous alternative to a fully examined European patent. The consultation also proposed the introduction of a utility model, which would be granted without a substantive examination and have a shorter term of protection. Innovators could thus better tailor their IP strategy to their economic needs and opportunities. The consultation period ran until 1 February 2021.



November

2 November 2020

Successful dialogue – Indonesia adopts the Omnibus Law

On 2 November, Indonesian President Joko Widodo enacted the Omnibus Law (Job Creation Law, No. 11 of 2020). By way of derogation from the WTO/TRIPS Agreement, Article 20 of Patent Law No. 13 of 2016 previously required patent owners to manufacture their patented products in Indonesia ('local manufacturing requirement'). Otherwise, patent protection was not guaranteed. Article 20 was revised by the Omnibus Law and now states that the use of the patent ('working the patent') does not necessarily require the patented product to be manufactured in Indonesia. Instead, the import of a protected product is now also considered as use of the patent. Since the end of 2016, the IPI had been working in close cooperation with the Swiss Embassy in Jakarta (FDFA) and the State Secretariat for Economic Affairs (SECO/EAER) to maintain contact with the relevant Indonesian authorities. It had also been working towards a WTO-compatible adaptation of the Indonesian Patent Law within the framework of the EFTA-Indonesia free trade agreement negotiations. This goal was achieved with the adoption of the Omnibus Law by the Indonesian Parliament, thus eliminating problematic legal uncertainty. It has also improved the bilateral trade and investment climate between Switzerland and Indonesia.



17–19 November 2020

Swiss Innovation Forum 2020 held as an online festival



Due to the circumstances, the Swiss Innovation Forum (SIF) 2020 was not held as a one-day conference, but took place in virtual form instead. True to its motto "It's Time To Innovate – NOW", giving up and cancelling was not an option for the leading Swiss innovation conference. The IPI was a main partner once again and participated in the digital event with a virtual stand and a break-out session.

An Overview of the Year at the IPI

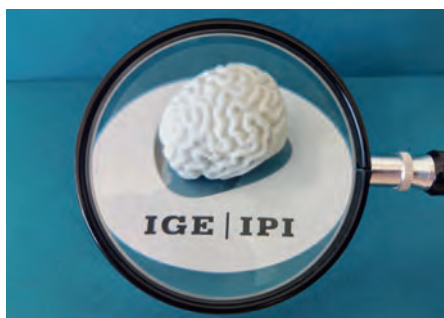
December

17 December 2020

New record – over one thousand Swiss inventions under the microscope

By November 2020, the IPI had already carried out one thousand assisted patent searches that year. This service enables inventors to find out whether it is worth applying to patent their inventions. Customers also get to know the various application procedures. There have never been so many searches carried out in one year since the service was launched 15 years ago.

The IPI supported inventors, start-ups and SMEs with free assisted patent searches during the lockdown, which invariably contributed to the high demand. Within eight weeks, the IPI had received 380 requests for searches. The assisted patent searches have mainly been conducted online since the lockdown in March, which has worked well. Nevertheless, the patent experts have found that an in-person search offers advantages because direct dialogue is more spontaneous, and there are no technical hurdles to overcome. Innovative SMEs and start-ups have been seriously challenged by the coronavirus crisis. The IPI wanted to continue to support them in this arduous marathon and decided to offer assisted patent searches and assisted patent landscape analyses for 100 instead of 300 Swiss francs up until 30 June 2021.



18 December 2020

The 'Swiss' brand is adequately protected



The legal criteria for the long-term protection of *Swissness* are fulfilling their purpose. Studies commissioned by the Federal Council show that the *Swissness* legislation has an overall moderately positive impact on the Swiss economy. The calculated net macroeconomic benefit of the revision, after deducting the newly incurred costs for compliance with the legal requirements, is at least 0.2 percentage points of the annual economic performance (gross domestic product). In absolute terms, this corresponds to 1.4 billion Swiss francs or 163 Swiss francs per capita per year. This also includes indirect effects because, along with the producers, other economic stakeholders such as suppliers and exporters benefit from the new legislation and therefore contribute to the above-mentioned economic benefit. Based on the results of the studies, the Federal Council concluded that the new *Swissness* legislation is achieving its overall objective. However, in a report approved on 18 December, it identified potential for action with regard to enforcement abroad and dealing with the exceptions for foodstuffs. The IPI and the Federal Office for Agriculture (FOAG) will examine concrete measures for the areas where the evaluation has identified potential for improvement.

January

1 January 2021

sic! journal in partnership with the Helbing Lichtenhahn Verlag from 2021

The sic! journal for intellectual property, information and competition law has been published since 1997 and is indispensable to the professional community. For more than 23 years, an independent editorial board has ensured that this high-quality publication keeps Swiss IP lawyers up to date with the latest case law and academic discourse. It is supported by the IPI, the International Association for the Protection of Intellectual Property (AIPPI Switzerland), 14 further professional organisations, as well as numerous subscribers. From January 2021, the sic! journal started being issued by the sic! foundation and published by the Helbing Lichtenhahn Verlag. The content and quality remain unchanged.



1 January 2021

Revised patent examination guidelines from 1 January 2021

The IPI has updated its guidelines for the substantive examination of national patent applications. The new guidelines (PDF) apply to all pending procedures from 1 January. The updated guidelines define, in particular, the criteria for the examination of supplementary protection certificates (SPCs) and paediatric SPCs (Chapters 13 and 14). In addition, the information on the time limits that must be observed for objections by the

February

IPI was adapted to reflect current practice. The IPI grants a period of three months for all objections issued in the course of the substantive examination of a patent application. For objections concerning SPCs and paediatric renewals, the time limit is two months (Chapter 1.2.3). As before, these time limits can be extended. The other changes to the guidelines were mostly editorial.

22 February 2021

Limitless film consumption?

Thanks to tablets and laptops, you can consume films and series anytime, anywhere. If you are abroad, however, the screen often remains black due to what is known as geo-blocking. The EU has taken individual steps to resolve this. The Monitoring Office for Technological Measures (OTM) examined what the situation is like for Swiss nationals staying abroad as part of the Digital Switzerland Action Plan. For example, online content services sometimes provide recording functions or regionally adapted offers when customers are abroad. Switzerland joining the EU's measures could improve the situation somewhat further, but it would require corresponding bilateral negotiations. However, a relaxation of geo-blocking could possibly be achieved on a contractual level between the rights holders and the online content services. The question of limitless film consumption for Swiss nationals abroad was explored in a report published by the OTM on 22 February.

25 February 2021

Iran project – the IPI sees positive interim results



IP rights are also of significance in Iran – especially for the vibrant start-up scene. The IPI is supporting Iran in strengthening its IP rights system. The technical cooperation project with Iran is one of several international cooperation projects conducted by the IPI as part of its legal mandate. This par-

ticular one is fully financed by the IPI, while the other ongoing projects are financed by the State Secretariat for Economic Affairs (SECO). The project includes, for example, a review of the current IP legislation, training sessions and technical advice. The large number of Iranian products with geographical indications (GIs) is impressive. These include rugs, saffron, pistachios and hand-crafted products, for example. In 2018, the Intellectual Property Office (IPO) in Iran contacted the IPI for the first time and in January 2020, the project was launched. The IPI's project leader assesses the results after one year as positive. Apart from one visit in early 2020, the IPI had to build and implement the entire project online because of the coronavirus. Normally, missions take place on site for five to ten days to establish personal contacts and implement project activities. The virtual solution was a big challenge for both sides, but it was mastered thanks to much commitment and flexibility.

26 February 2021

Points of contact for Swiss inventors and creatives score highly

If innovative and creative SMEs have a question about protecting their intellectual property, they generally turn to institutions that they are familiar with such as regional innovation funding agencies or cantonal chambers of commerce. These intermediaries advise SMEs intending to apply for trade marks, patents and designs and therefore act as the interface between the enterprises and the IPI. The IPI also offers services which inform innovators about the IP rights system. With a study, the IPI wanted to find out about the needs of the above-mentioned intermediaries when working with the IPI. According to the authors of the study, intermediaries and SMEs are generally satisfied with the IP services landscape. One of the intermediaries' main needs is to obtain information on intellectual property – either for themselves or for SMEs. Intermediaries

March

who receive IP-related enquiries from SMEs usually refer them to the IPI. With regard to the services provided by the IPI, the Assisted Patent Search performs particularly well. SMEs' knowledge of intellectual property continues to vary but the study says that the level of knowledge has improved. Patents, trade marks, trade secrets, IP strategy and IP in collaborations are listed as the most important topics. The study found that all types of intermediaries are being called upon and that the IPI is known by SMEs. As there is a strong need for information on the topic of IP strategy, the IPI created a checklist, which is an initial help for SMEs and start-ups drafting an IP strategy.

23 March 2021

IPI Director General becomes delegate in the Administrative Council of the European Patent Organisation

The Administrative Council of the European Patent Organisation (EPO) unanimously elected Catherine Chammartin as its delegate at its meeting on 23 March. The Director General of the IPI will prepare the business of the Administrative Council in this eight-member body for the next three years. The Council supervises the activities of the European Patent Office. The 38 member states of the EPO, which has its headquarters in Munich, include all EU states as well as Switzerland and Liechtenstein.

25 March 2021

Counterfeits are costing Switzerland dearly

Buying counterfeits costs consumers huge sums of money. In 2018, customers across the world paid over 2 billion Swiss francs for counterfeit 'Swiss' products – believing they were buying an original. The corresponding trade damages the good reputation of Swiss companies and reduces their turnover by billions each year. As a result, Switzerland forfeited over 10,000 jobs in 2018; the watch and jewellery industry alone lost four out of ten jobs. The public sector was also affected – according to the study authors' estimates, it lost out on almost 160 million Swiss francs in revenue. This was revealed in a new study by the Organisation for Economic Co-operation and Development (OECD), mandated by the IPI, which quantified the implications of the global counterfeiting industry for Switzerland for the first time. The authorities and the business community are already actively involved in the fight against the counterfeiting industry, for example, through campaigns aimed at raising consumer awareness. The study provides a solid basis for decision-making – together with policy – to disrupt the underhanded practice of counterfeiters

in a more targeted manner. To this end, in future, the IPI will advocate even more intensively for minimum standards for the enforcement of intellectual property rights in free trade agreements. The goal is to uncover and stop the activities of counterfeiters where the infringement of rights begins.



April

1 April 2021

The Swissness Enforcement association – an alliance defending the ‘Swiss’ brand

The IPI was actively involved in 280 cases of misuse of Swissness in 2020. It consistently takes action against any wrongful use of the Swiss coat of arms and has these goods destroyed at customs. Private and state players have now come together in a new association in order to better represent the interests of the Swiss economy in the fight against Swissness free riders abroad. Individual trade associations have been fighting back for years, while companies and the IPI have also been fighting back individually against the wrongful use of the Swiss cross and Swiss coat of arms abroad. The most important players in the legal enforcement of Swissness have now founded the association Swissness Enforcement in order to monitor the markets globally and together establish country-specific instruments to combat such misuse.



20 April 2021

Swiss biotech companies make valuable contribution to combatting the COVID-19 pandemic

Whether they are developing rapid diagnostic tests and new therapies or manufacturing vaccines – Swiss biotech companies have made valuable contributions to combatting the pandemic. This was the conclusion of the 2021 Swiss Biotech Report, which the IPI supports. Research-based Swiss biotech companies have created 8% more jobs within a year and employ a total of 16,300 people, according to the media release of the Swiss Biotech Association. First-class patent applications were one reason why Switzerland was ranked at the top of the Global Innovation Index for the tenth time in a row. Capital investment in

Swiss biotech companies almost tripled between 2019 and 2020, reaching 3.4 billion Swiss francs. Investment in research and development (R&D) increased by 10% to 2.2 billion Swiss francs.

24 April 2021

Swiss Youth in Science – young researchers present their work virtually for the first time

At the virtual final of the 55th National Swiss Youth in Science Competition, 107 young researchers presented their work to the expert jury. Swiss Youth in Science awarded cash prizes totalling almost 100,000 Swiss francs, as well as 27 special prizes. These entitle the young researchers to participate in international project competitions and scientific events in Europe, Asia and the USA or to undertake research internships in Switzerland. Due to the current circumstances, the research results were on display for the first time at a virtual exhibition specially designed for the occasion. The IPI has been working with young researchers for many years, with its experts supporting young people in the various phases of the competition and teaching them the basics of intellectual property. In addition, the IPI offers assisted patent searches to participants.



May

26 May 2021

The high-performing data economy



At its meeting on 26 May 2021, the Federal Council acknowledged the IPI's report on access to non-personal data in the private sector. The data economy significantly contributes to the economic performance of Switzerland. In August 2018, the Future of Data Processing and Data Security expert group, appointed by the Federal Department of Finance, recommended examining what measures facilitate access to non-personal data in the private sector. The IPI took on this task in cooperation with external specialists and other federal agencies. The report presented showed that Switzerland is performing rather well in this field compared to EU states. This also reflects the view of the private sector, which indicated in a survey that the non-personal data market is developing favourably. To simplify access to non-personal data, together with experts, the IPI has drawn up an initial set of model agreements, which are available free of charge on the IPI website. The IPI will continue to work with the private sector and federal agencies on complementary support measures, particularly in the form of model agreements, summaries of the legal situation regarding data, checklists, and guidelines on drafting agreements and best practices.

June

26 May 2021

Protecting local tradition – learnings from Indonesia shared with the world

In 2021, WIPO conducted a series of webinars on how to protect and promote culture. A webinar held on 26 May centred on how developing countries can use the geographical indication (GI) system to protect traditional knowledge and traditional cultural expressions. These countries often do not yet have their own protection system, so existing forms of intellectual property must therefore be used to protect aspects of local culture. Protection may be provided by trade marks, patents or GIs, for example. In Indonesia, the GI system is primarily used. The topic raised by WIPO is very relevant for Tenun Ikat Sikka (traditional hand-woven fabrics from Flores, Indonesia), a GI that the IPI supported and implemented for eight years as part of a SECO-funded project with Indonesia. Through the project, the IPI was able to connect Alfonsa Horeng from



the producer organisation Tenun Ikat Sikka GI with WIPO. In the webinar mentioned above, she shared her experiences with an international audience, made new contacts and received recommendations on how to protect the aspects of cultural identity that are relevant for Sikka.

2 June 2021

IPI's 'Your photo. Your copyright.' special prize awarded at the LernFilm Festival 2021



Whether artistic photography, an amateur snap, or a simple product photo, the modernised Copyright Act (CopA) protects all photos whether taken by an amateur or a professional. To raise young people's awareness of this, the IPI sponsored the special prize 'Your photo. Your copyright.' at this year's LernFilm Festival. During the annual competition, young people from all over Switzerland acquire digital skills with the help of specific teaching materials and submit short educational films on certain topics. A total of 740 videos were submitted in 2021 – a record-breaking year. The LernFilm Festival 2021 was broadcast on 2 June on SRF mySchool. Awards were presented for the most creative and educational films in a total of five categories. With their educational video 'What's mine is mine – copyright explained simply', the winners of the IPI's special prize impressed the jury with their humour, creativity and specific tips on using image material.

11 June 2021

CIPCO/IPI workshop – 'Intellectual property law in the age of artificial intelligence'

Is intellectual property protection becoming superfluous? Or will there soon be no need for patent or trade mark examiners? Following the prevalent views on the future role

of artificial intelligence, one would have to answer such questions with a yes. A new series of events on the topic of 'AI & IP' attempts to provide a more differentiated picture, taking into account views from different disciplines and institutions. It is being organised by the University of Zurich's Centre for Intellectual Property and Competition Law (CIPCO) and is being supported by the IPI. The first event in this series entitled 'Intellectual property framework conditions for artificial intelligence from an economic and legal perspective – status quo and outlook' took place on 11 June in the form of an online conference.

23 June 2021

IPI participates in Startup Days

On 23 June, Startup Days (SUD) took place in the Kursaal in Bern and the IPI and its experts were in attendance as a sponsor of the event. In one session, event participants learned which specific aspects of protection are relevant for start-ups looking to protect their inventions and creations. Intellectual property and its protection is a key piece of the puzzle on the path to success, particularly for young companies. Startup Days was one of a few pilot events in the Canton of Bern selected to gain insights into holding conferences in COVID times. The pilot project was scientifically monitored. International speakers also took to the stage at Startup Days. The idea of community is central to the event and participants were invited to share their experiences with one another.





"For evidence-based policy"

The Economics Unit is the IPI's centre of competence that ensures a factual basis for decision-making for stakeholder groups in politics and business. Head of the unit, Hansueli Stamm, tells us about its mandates, recent studies and his lectureship at the University of St. Gallen.

12



Hansueli Stamm, Head of the Economics Unit

Mr Stamm, at the end of May, the Federal Council acknowledged the report on 'Access to non-personal data in the private sector'. The economic component came from your team. What was it about?

Hansueli Stamm: Data is of key importance in an increasingly digital economy. People often think exclusively about personal data and its specific protection needs. From an economic point of view, however, non-personal data is also not to be underestimated. This data is generated wherever computers, counting systems or sensors are used. Examples include trade data in the financial sector, traffic data or data on the wear and tear of machinery. These play an important role in the development of innovative goods and services, which is why an expert group appointed by the Federal Council set about analysing the availability of such data.

And why did the request end up with the IPI?

Because data – like intellectual property – is an intangible good. Therefore, as with IP rights, the question of a possible market failure arises.

You will have to explain that to us...

Patents are designed to prevent the creators of intellectual property from being discouraged by free riders and abandoning their efforts

to create novel technical solutions. To avoid this, and to ensure that the public has access to technical innovations, the state offers a deal – exclusive use in exchange for disclosure. We evaluated whether such a mechanism is also needed in the field of non-personal data.

What did you find out?

That non-personal data can only be compared to a limited extent with intellectual property. The main difference concerns the possibility for owners to protect their property from unauthorised use. It's relatively easy to keep non-personal data confidential by using commercial encryption technologies. There is therefore no danger that someone would choose not to collect and analyse non-personal data because they could be denied the fruits of their labour by a third party. We were unable to identify either a market failure or an undersupply. Non-personal data is actively exchanged where the parties involved consider it necessary.

You took up your position as the IPI's Chief Economist in 2008. You were a one-man show for a long time, but now you have two co-workers. Why is that?

Four years ago, the IPI's Executive Board decided to reinforce the Economics Unit in order to provide our stakeholder groups in politics and business with the foundations for evidence-based policy. If a topic concerns us, we are authorised to entrust independent providers with conducting empirical studies. It's then our job to condense the findings into a report. The work we have done in connection with counterfeiting and product piracy is a good example of our approach. The Swiss export economy, particularly the watch industry, has been complaining about unlawful imitation products for decades. Moreover, cross-national studies indicate that Switzerland is particularly affected by product and brand piracy. Up until now, we have not been able to quantify this, which is why we commissioned experts at the OECD to search through their database of all the customs statistics for seizures of Swiss branded products.

What was the result of the analysis?

Consumers around the world spend around two billion Swiss francs on counterfeit Swiss products. Swiss companies are doubly affected by this – they are losing revenue and suffering reputational damage. According to the study, Switzerland is losing around 10,000 jobs as a result of counterfeiting and piracy.

The study was co-financed by the Federation of the Swiss Watch Industry, Swissmem, Scienceindustries and the association for brand-name products, Promarca. What conclusions have the associations drawn from the data presented?

The parties involved have agreed to step up the fight against the counterfeiting industry on all levels. STOP PIRACY, the Swiss anti-counterfeiting and piracy platform, for example, plans to expand its awareness campaigns. On the political stage, the IPI will work even harder in future to ensure that free trade agreements involving Switzerland contain minimum standards for the enforcement of IP rights.

Under Article 170 of the Federal Constitution, Parliament must ensure that federal measures are evaluated in terms of their effectiveness. Are you and your colleagues also asked to evaluate relevant legislation?

Within the IPI, we are the economic service centre. It's therefore up to us to evaluate revisions such as the new Swissness regulations.

The Swissness package has been in force since 1 January 2017. What effect has it had?

The net macroeconomic benefit of the revision, according to the study commissioned by us, is 0.2% of the annual economic performance. This corresponds to around 1.4 billion Swiss francs or approximately 160 Swiss francs per capita.

The next biggest reform project in IP law – the introduction of a Swiss fully examined patent with novelty examination by the IPI – is in the pipeline.

As you can see, we have a lot to do... We published a first version of the corresponding regulatory impact analysis during the reporting year. The corresponding consultation procedure showed, however, that various changes need to be made to draft, so we are already working on updating the study.

As a lay person, I'm wondering how you can measure the impact of a legislative amendment that's not yet in effect?

It's up to my team and me to draft a study design that will lead to meaningful results. For the first study on the 'fully examined patent', we included a survey of inventors and patent attorneys in the specifications for the institute conducting the study. We wanted to know the expectations, hopes and fears of those who are directly affected.



An Interview with...

The initiator of the ongoing patent law reform, Councillor of States Thomas Hefti from the canton of Glarus, wrote in the statement of reasons for his motion that the “Swiss patent has become unimportant and unwieldy compared to the important European patent”. In the study, over 40% of the patent attorneys active in Switzerland indicated that they would not request a fully examined Swiss patent. Did you find this surprising?

No one expected it. But, that’s exactly why independent studies are so valuable to us and our stakeholder groups – they draw attention to things that were not on our radar. I would even go a step further and say that caution should be exercised when study findings fully corroborate one’s own expectations.

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Compiling studies is a business and providers are in competition with one another. How do you avoid a scenario where the authors deliver findings that they believe you want to see?

To be honest, the temptation to present facts in a way that pleases the client is always there. However, as we are part of the Federal Administration, we are subject to the provisions of procurement law. We only work with the most reputable providers, i. e. with companies and institutes with university connections that have a reputation to lose.

Alongside your job at the IPI, you lecture on the topic of ‘Law and Economics of Innovation’ at the University of St. Gallen. How do the roles of academic and public official fit together?

(Laughs) It works out just fine. Naturally, as a teacher you have a bit more freedom than as an employee in the public sector. But, in both positions, I have a duty to be objective and impartial.



Trade Marks, Patents, Designs and Copyright

Two of the IPI's core tasks are the administration of trade mark, design and patent rights and the supervision of the copyright collective management organisations. The digitalisation of IP-related processes initiated in 2014 was largely completed during the year under report. The vertical structure of the administrative units for trade marks, designs and patents has been replaced by a horizontal organisation with a focus on the customer.

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Trade marks

For the first time in the history of the IPI, the Trade Mark Division received over 20,000 Swiss trade mark applications. This represents an increase of 16% compared to the previous reporting year. Looking at the trade mark register, it is evident that, in addition to an increase in applications, there have been shifts in the claimed classes of goods and services.

In the second half of 2020, significantly more trade marks were registered for medical devices, masks and medicines, while in the first half of 2021, it was primarily producers and distributors of foodstuffs that submitted an above-average number of trade mark applications.

It is clear why there were more applications for medical and hygiene products, but it is not so clear why there was a general increase in the other classes of goods and services. The assumption is that many companies used the lockdown stage of the pandemic as a chance to update their trade mark portfolios. Another factor which may have influenced this trend is the shift from stationary to online

trade, which has been observed for years and which was accelerated by the pandemic. The growth of online channels may have led to more demand for corresponding trade marks.

What was noticeable during the reporting year was that fewer owners of foreign trade marks requested to extend protection to Switzerland via the international Madrid System, while conversely, the extension of Swiss trade marks increased in line with domestic filing activity.

The number of early trade mark examinations conducted rose from 57.9% in the last reporting year to 64.2%. A good fifth (22.6%) of all applications were apparently unproblematic and could be registered within a maximum of six working days after the early trade mark examination. The processing period for applications which required a more detailed examination decreased from 21 to 18 weeks in the reporting year.

Like in the previous year, the number of objections by third parties to new trade mark registrations also decreased. A possible reason for this may be the slowdown in economic activities due to the pandemic. Experience shows that, in times of crisis, companies tend to focus on their core activities.

Patents

The coronavirus pandemic is leaving its mark on the Swiss patenting system. There was a surge in patent applications relating to COVID-19 mainly during the first wave of infection in spring 2020, which led to a slight increase in the number of applications in that reporting year. In the current year under report, the number of national patent applications decreased slightly from 1,666 to 1,628.

The other indicators relevant to patenting activity remained in the normal range. The number of applications for early patent examinations only changed marginally following last year's remarkable increase. The number of annual fees paid for nationally validated European patents rose by 6.8% to 136,115, while 6,727 annual fees were paid for national patents, which is 2.6% less than the previous year.

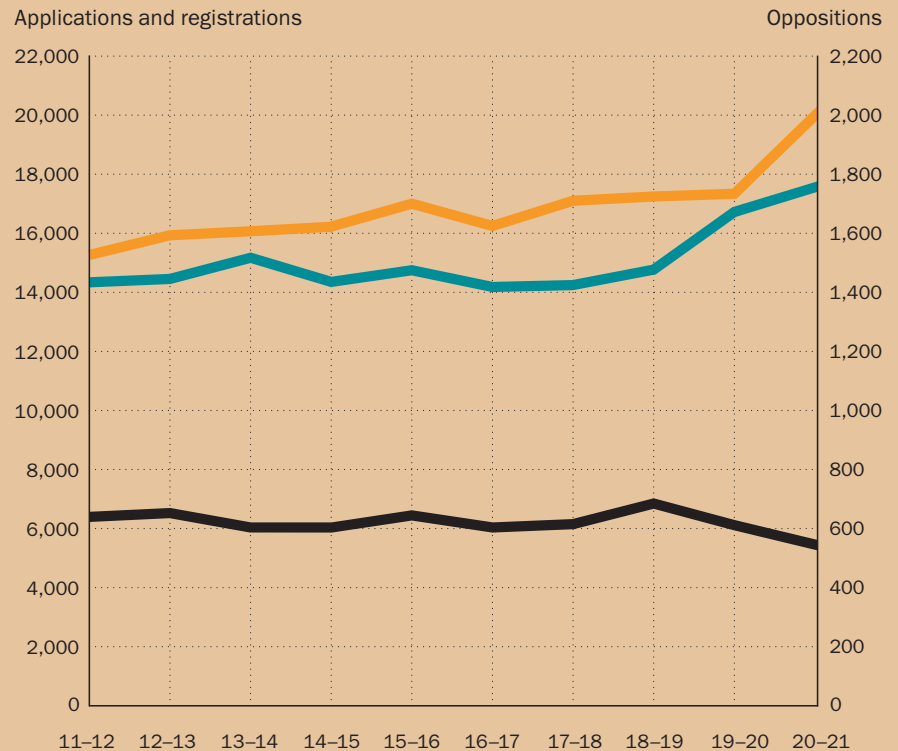
While patenting activity followed the usual trend, requests for assisted searches increased by 17% to 1,127. The growing popularity of this service shows that it provides great value to customers. Our excellent connections with national, regional and cantonal innovation promoters, as well as the temporary reduction in price from 300 to 100 Swiss francs due to the pandemic are also likely to have contributed to the strong performance.

The migration of our non-commercial search services to online channels, which took place under great time pressure in spring 2020, has become the new normal. Despite initial concerns, the change had no negative effect on the quality and availability of the service and was highly appreciated by customers.

The additional workload due to the increased demand for assisted searches coincided with a major in-house project, which was prompted by the parliamentary deliberations on the 'Hefti Motion'. The aim of the procedural request by the Council of States rep-

Trade Mark Trends

Trade mark applications showed a significant increase in the year under report.



- National applications
- National registrations
- Oppositions filed



representative for the canton of Glarus was to introduce a Swiss fully examined patent and novelty examination.

In order to be able to quickly implement a patent law revision, the Patent Division has been working on reducing the list of pending examinations during the year under review. Until the beginning of the reporting year, approximately 36 months passed between the filing of a patent application and the collection of the examination fee. In view of possible changes to the examination procedure, this period will be gradually reduced to 24 months by the end of the 2023/24 business year.

Designs

The number of design rights registered during the reporting year increased by almost 26% from 631 to 795. The total number of design objects included in the registrations also saw an increase (3,200 compared to 2,398 in the previous year). Numerous telephone and written enquiries received at the start of the business year pointed to a growing interest in the design protection right. It was noted that customers addressed the financial aspects of IP protection much less frequently. This was surprising considering that economic issues was the most common reason given for cancelling registrations during the last reporting year.

Finally, another interesting development was the introduction of the 13th edition of the Locarno Classification for industrial designs. To give some context: in contrast to the procedure for registering a trade mark, where the customer selects the relevant goods categories according to the Nice Classification, for designs, this is done by IPI staff. The in-house changeover took place without any problems.

Digitalisation

The IPI is also working on the topic of digitalisation. Under the unassuming title Electronic IP Rights System, a profound transformation of the entire institute has been in progress over the last few years. Essentially, it concerns the digitalisation and automation of all IP rights-related processes – from applying for a trade mark or patent to renewing or cancelling them.

When the project was launched in 2014, the IPI's directorate set three objectives: to automate repetitive tasks, to introduce electronic files and to implement a future-proof product that can be easily adapted to new needs.

The transformation is now close to being complete. The IPI's internal processes have been digitalised using the Business Process Model and Notation (BPMN) standard and, where possible, harmonised or automated.

This laid the foundation for the organisational changes that have been in planning since 2019. The previous vertical organisation of IP rights administration with the three administrative units – trade marks, designs and patents – has been broken up and replaced by a horizontal organisation which focuses on the customer. Since July 2021, all processes relating to the filing, formal examination, publication and registration of IP rights will be carried out by the 20 employees of the new Applications & Registers unit.

The unit is part of the newly formed Trade Mark & Design Division. Since mid-2021, the staff of the division have been implementing all of the IPI's IP rights-related digitalisation projects in collaboration with the IT department.

The digital business processes are being gradually developed and are being used as a basis for other optimisation measures relating to quality and efficiency. The eGovernment project, for example, aims to directly link customer processes with the IPI's digital processes and therefore make them simpler, faster and more transparent. For the first time, customer-centred, cross-register requests will be able to be filed for several IP rights.

eGovernment is being introduced on a staggered basis. The Trade Mark & Design Division, formally the Trade Mark Division, which is responsible for the majority of interaction with customers in terms of numbers, has taken on a pioneering role within the institute and has already launched a number of eGovernment modules in the last two reporting years.

Customers have access to a database of all Swiss trade marks and all international trade marks with protective effect in Switzerland. They can receive electronic correspondence from the IPI quickly, safely and seamlessly. They can submit requests via the eGovernment platform – for example to make changes to the trade mark register – and they can also set up a user account which allows them to check the status of their requested register changes at any time, for instance.

Financial Year

Trade Marks

	2020/21	2019/20	% change from previous year	2018/19	2017/18	2016/17
National						
Trade mark applications	20,018	17,310	15.6	17,231	17,109	16,229
– expedited service	1,799	1,496	20.3	1,461	1,114	992
– e-filings	19,451	16,789	15.9	16,663	16,554	15,663
Registrations	16,981	16,017	6.0	14,763	14,238	14,172
Pending applications	9,421 ¹	8,621	9.3	9,106	8,307	7,129
Renewals	11,961	11,699	2.2	10,914	11,519	10,847
Oppositions						
New cases	549	607	–9.6	684	616	605
Closed cases	628	699	–10.2	664	606	661
Pending cases	584 ¹	667	–12.4	757	705	695
International						
International registrations designating Switzerland	16,150 ²	16,604	–2.7	16,840	15,631	15,342
Renewals	14,329 ²	13,513	6.0	13,652	13,863	13,821

Patents

National patent applications and patents

Patent applications submitted	1,628	1,666	–2.3	1,658	1,591	1,795
– Swiss origin	1,336	1,382	–3.3	1,285	1,305	1,464
– foreign origin	292	284	2.8	373	287	331
Patents granted	745	651	14.4	615	718	646
Processed patent applications	2,244	1,983	13.2	2,048	2,238	2,200
Pending patent applications	5,229 ³	5,761	–9.2	5,969	6,271	6,820
Patents in force	6,727 ³	6,904	–2.6	7,127	7,304	7,371

European patent applications and patents

Submitted to the IPI and forwarded to the EPO	8	32	–75.0	30	39	36
European patents granted designating Switzerland and Liechtenstein ⁴	122,418	135,473	–9.6	136,472	107,728	96,065
European patents paid designating Switzerland and Liechtenstein	136,115 ³	127,443	6.8	121,695	111,172	106,007

International patent applications (PCT)

Applications submitted to the IPI and forwarded to WIPO	35	50	–30.0	59	93	128
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Designs

Number of filings	795	631	26.0	671	780	866
– number of objects	3,200	2,398	33.4	2,687	2,888	2,752
Number of second term renewals	491	518	–5.2	408	556	514
Number of third term renewals	327	303	7.9	333	374	418
Number of fourth term renewals	227	240	–5.4	218	169	114
Number of fifth term renewals	58	74	–21.6	84	86	81
Annulments	855	787	8.6	822	839	835
Designs in force	9,284 ¹	9,346	–0.7	9,500	9,649	9,723

Changes in the methodology of data collection possible.

¹ Figures as of 30.06.2021 ² Sources: EPO, WIPO; figures as of 06.08.2021 ³ Figures as of 09.07.2021 ⁴ Sources: EPO, WIPO

Monitoring Office for Technological Measures

Rights owners may use technological measures such as access control and copy barriers to control the use of their works and other protected subject matter. The Monitoring Office for Technological Measures (OTM) is the specialist authority of the federal government for determining the effects of such measures on legal uses of copyright-protected content. It is affiliated to the IPI.

In the reporting year, the OTM did not receive any reports regarding technological measures.

In 2020, the OTM concluded its examination into the cross-border portability of audio-visual online content. In its report, the OTM came to the conclusion that consumers are affected by what is known as 'private geo-blocking' when they travel abroad. As a result, they cannot access all film or TV subscription services that they are subscribed to when abroad. The reasons for this are diverse and generally do not qualify as unfair. For example, private geo-blocking is important for financing films because it allows films to better realise their full financial potential in the individual countries. However, in their examination, the OTM determined that providers of audio-visual online content try as much as possible to tailor their offering to subscribers' needs. For example, by allowing their subscribers to access content while abroad; the content available is adapted to the region, however. The Federal Council acknowledged the report on 17 February 2021. The OTM will continue to keep an eye on the situation and will inform the Federal Council of any developments at the end of 2023.

Supervision of the collective rights management organisations

Collective rights management organisations (CMOs) collectively administrate the rights of composers, singers, authors and film producers, in particular where it is not possible for the individual rights owners to manage their own copyright or if it would be impractical to do so (e.g. for photocopying). This permits the public to use protected content, whilst ensuring that the copyright owner is appropriately compensated. Currently, there are five CMOs in Switzerland (SUISA, SUISSIMAGE, ProLitteris, SSA and SWISSPERFORM).

Together with the Federal Arbitration Commission for the Exploitation of Copyrights and Related Rights (FACO), the IPI is responsible for the supervision of the Swiss collective rights management organisations. The IPI is therefore in regular contact with the CMOs.

The ongoing coronavirus pandemic has presented the cultural sector with major challenges. As a result, the collective rights management organisations were partly confronted with a noticeable decrease in revenue. The solidarity measures taken by the CMOs to support creative artists were regarded as important by the IPI and the IPI approved such measures where possible.

Overview of the Swiss Collective Rights Management Organisations

	Year founded	Repertoire	Members	No. of members including principals
SUISA	1923	Non-theatrical musical works	Composers, writers and music publishers	40,150
SUISSIMAGE	1981	Audio-visual works	Script writers, directors, producers and other rights holders of the film branch	4,042
PROLITTERIS	1974	Literary and dramatic works, as well as visual works of art	Writers, journalists, visual artists, photographers, graphic artists, book, newspaper and periodical publishers as well as art publishers	>14,000
SSA	1986	Spoken, dramatico-musical, choreographic, audio-visual as well as multimedia works	Dramatists, composers, script writers and directors	3,458
SWISSPERFORM	1993	Related rights	Practising artists, producers of sound carriers and audio-visual carriers as well as broadcasting companies	19,777

Gross income from the management of rights (in Switzerland and abroad) in millions of CHF

	2020	2019	2018
SUISA	138.5	155.2	152.6
SUISSIMAGE	77.7	108.7	59.6
PROLITTERIS	35.2	35.2	36.4
SSA	23.9	25.3	23.3
SWISSPERFORM	59.2	58.3	58.5



The 'Confederation's Attorney's Office'

The IPI is the national centre of competence for all issues concerning patent and trade mark protection, indications of source, design protection and copyright. As the federal government's 'attorney's office' in the field of intellectual property, the IPI has numerous tasks in the fields of legislation and international cooperation.

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COVID-19 – access to vaccines and medicines and the role of IP

The outbreak of the coronavirus pandemic impacted practically every aspect of society. Politics, healthcare, the economy and science were faced with unprecedented challenges. When the first vaccines against COVID-19 were being developed, questions relating to the intellectual ownership of inventions also started attracting attention. The Swiss media covered the topic at length: “Profit for pharma or vaccines for the poor?” “Vaccine patents should be suspended” and “EU Parliament in favour of suspending patents on corona vaccine” were some of the headlines. Critics view intellectual property rights as a barrier to access to medicines and vaccines. The Federal Council holds a different view, namely that intellectual property rights are important for equitable global access to vaccines and medicines. They form the basis of licensing agreements, which enable know-how to be shared when companies work together and the necessary technology transfer to take place so that safe vaccines can be produced as quickly as possible in sufficient quantities. Furthermore, IP rights form a system of incentives for investment in innovative therapeutic products in the first place, which is why they are also important for dealing with future pandemics and other health-related challenges. The IPI has taken this stance in national and international

bodies and, within the Federal Administration, it has served as the centre of competence for all IP-related issues connected with the coronavirus pandemic.

Effectiveness of the revised Copyright Act

In April 2019, based on a request by its Science, Education and Culture Committee (SECC), the Council of States mandated the Federal Council to examine the effectiveness of the revised Copyright Act (CopA). The revision has been in effect for approximately one year and initial conclusions can now be drawn which may be factored into considerations on further developing copyright law. The IPI has been in contact with the parties concerned and is currently analysing the relevant points.

A second evaluation mandate relating to copyright was issued by the National Council's Legal Affairs Committee (LAC) and concerned the collective rights management organisation SUISA, a cooperative of composers, lyricists and music publishers. The LAC requested that the Federal Council examine the legal situation and SUISA's practice for collecting remuneration for the use of background music in businesses. As part of the evaluation, a consultation was conducted with SUISA and the affected user associations. In its report of 13 January 2021, the IPI stated that SUISA's

practice could not be faulted. However, there are various open questions relating to its application that could be clarified as part of the tariff negotiations. The report also points out that the Copyright Act would provide tariff relief for small businesses. The examination concluded that there is no need for action on the part of the Federal Council or the IPI.

How to modernise the Swiss patent system?

On 12 December 2019, the National Council, as the second chamber, approved the motion 'In favour of a modern Swiss patent', submitted by Councillor of States Thomas Hefti. The IPI, as the competent federal authority, then prepared a preliminary draft and explanatory report on the revision of the Patents Act. A consultation took place from 14 October 2020 to 1 February 2021, which made it clear that modernising the patent examination procedure is generally welcomed by the parties consulted. However, a clear majority of the feedback called for adjustments to be made to the individual provisions of the preliminary draft. The IPI is now preparing the results of the consultation for submission to the Federal Council so that it can decide on how to proceed.

Intellectual property rights in plant breeding?

According to Councillor of States Maya Graf from Basel-Landschaft, there is substantial legal uncertainty in the field of plant breeding. She therefore submitted the motion on 'Adapting intellectual property rights in the field of plant breeding' on 17 June 2020. The procedural request aims to adapt the Patents Act, and where necessary the Plant Varieties Protection Act, in order to improve transparency in relation to IP rights and to simplify further breeding. The motion is currently being discussed by the Council of States.

Report on access to non-personal data in the private sector

More and more machines and devices, vehicles and consumer goods are continuously collecting operational and environmental data. It is said that, in the 21st century, data is more valuable than oil. This is why a group of experts appointed by the Federal Council set about analysing the availability of such data for the private sector. The report entitled 'Access to non-personal data in the private sector', drafted under the guidance of the IPI, was acknowledged by the Federal Council at its meeting on 26 May 2021. The total of six studies compiled by external experts explored the economic aspects of the subject, the existing legal framework and possible legislative interventions. The report underlines the importance of the digital economy for Switzerland as a business location. It views the legal framework as sufficient and it does

not recommend undertaking any legislative initiatives at this time. To facilitate access to non-personal data, the report recommends establishing 'data spaces'. As these infrastructures are not yet operational, the IPI will propose complementary support instruments for SMEs in cooperation with other offices as well as the private sector. As an immediate step, the IPI has made several model agreements available for free on its website.

Greater efficiency in the fight against counterfeiting

An OECD study commissioned by the IPI and four industry associations in 2020 examined the impact of global trade in counterfeit products on the Swiss economy for the first time. The findings were eye-opening: Swiss IP right holders lost over 4.5 billion Swiss francs in revenue in 2018 alone. Around 10,000 jobs were wiped out as a result. To better combat the underhanded practices of the counterfeiting industry in future, at the start of 2020, the Federal Council submitted a draft for consultation which aims to simplify the procedure for assistance provided by the Customs Administration. The draft proposes that the written administrative procedure which follows the seizure of small consignments is to be carried out by the IPI. This measure will considerably relieve the burden on the Customs Administration, which will be able to concentrate again on its main activity – border controls. The proposals have been met with broad approval. The draft and dispatch will be supplemented accordingly and presented again to the Federal Council.

Enforcement of the Swissness regulations

The legislative package on the protection of the 'Swiss' indication of source also assigns the IPI executive tasks regarding the enforcement of the regulations abroad. In 2020, the IPI intervened in 86 cases (66 in the previous year). Like last year, the IPI did not have to initiate any criminal proceedings as mutual agreements could be reached with each party concerned. Enforcing the 'Swiss' brand abroad remains a major challenge for the Swiss authorities and the business community. As a result of the IPI's interventions, there was a decrease in the number of trade mark applications which unlawfully used the Swiss cross in key markets such as the EU and the USA. However, there is still a lot to be done. For this reason, at the start of 2021, the IPI founded the public-private partnership Swissness Enforcement in conjunction with *economiesuisse* and eleven other associations and companies. The new organisation combines the strengths of the trade associations, companies and governmental agencies involved, makes information available and coordinates measures that help to improve law enforcement.

Multilateral activities

On 19 March 2021, Parliament approved the accession of Switzerland to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications and, at the same time, it adopted the amendments to the Trade Mark Protection Act drafted by the IPI. Just a few months later, on 18 August, the Federal Council approved the associated implementing ordinances and enacted the Geneva Act, which will come into force at the end of 2021. From January 2022, Swiss producers will be able to register their geographical indications in several states simultaneously via a simple procedure.

26 Within the framework of the World Trade Organization (WTO), Switzerland organised a specialist event with other members of the informal group Friends of IP and Innovation, which shed light on how intellectual property can support SMEs with the development of green technologies. Among the speakers was Remy Buser, CEO and co-founder of Bloom Biorenewables, a start-up from the Canton of Fribourg which develops chemical technologies. These technologies facilitate the replacement of the raw material petroleum with plant-based materials; for example, in the production of plastics, cosmetics and textiles. Mr Buser highlighted that patent protection plays a key role in this business model.

Bilateral activities

Free trade agreements break down trade barriers such as customs duties or non-tariff barriers. Given that Switzerland has a high proportion of trade mark and patent-protected exports, it is nearly always of central importance that intellectual property is protected in the partner country. Together with the other EFTA States (Iceland, Liechtenstein and Norway), Switzerland opened negotiations in March 2021 with a view to concluding a free trade agreement with Moldova, continued negotiations with Malaysia and Vietnam and pursued the modernisation of the existing agreement with Chile. Two years after the conclusion of the free trade agreement with the MERCOSUR states of Argentina, Brazil, Paraguay and Uruguay, Switzerland negotiated the addition of lists which protect specific geographical indications.

Furthermore, the IPI fostered cooperation with key partner countries and, in particular, advanced its joint projects with the priority partners Brazil, Singapore and the United Kingdom. And finally, the IPI advised and supported Swiss companies faced with specific challenges relating to the protection of intellectual property in China and other partner countries.

International cooperation

International cooperation in the field of intellectual property is part of the IPI's legal mandate. The country currently at the focus of the IPI's self-funded projects is Iran. Around 30 individual activities have been carried out since the project began on 1 January 2020. These have centred around copyright, patents, trade marks and geographical indications.

Parallel to this, the IPI is planning and working on international cooperation projects on behalf of the State Secretariat for Economic Affairs (SECO). During the reporting year, experts from the IPI conducted projects with Albania, Ghana, Indonesia, Colombia, Myanmar, Peru, Serbia (two projects) and South Africa. Additional projects with Benin, Morocco, Palestine, Peru (phase two) and Tunisia are still in the planning stages. The range of topics covered is broad and is geared towards the needs of the target countries, from drafting strategies and laws and advising customs authorities and courts, to training small and medium enterprises, patent attorneys and producers of agricultural products.

The coronavirus pandemic has massively impacted the IPI's cooperation activities, as all missions and visits by experts to the project countries had to be cancelled. Nevertheless, thanks to the measures taken – for example hosting virtual instead of physical meetings – numerous project activities could still be carried out.

Sustainable development

Six years ago, the member states of the United Nations unanimously agreed on the 2030 Agenda. It defines 17 Sustainable Development Goals for the planet which take equal account of the economic, social and ecological dimensions of the challenge. On 23 June 2021, the Federal Council adopted the national 2030 Sustainable Development Strategy (2030 SDS), together with the associated action plan. It outlines the priorities it intends to set for the implementation of the agenda over the next ten years. The IPI participated in the development of the 2030 SDS by contributing its IP expertise.

Studies and evaluations

A reliable data basis is required for rational political, economic and social decisions to be made. This is why the IPI regularly publishes studies and reports on IP-related topics. A key project during this reporting year was the evaluation of the revised *Swissness* legislation, which came into effect in early 2017. Various studies and a consolidated report were prepared for submission to the Federal Council. The IPI also examined how non-personal data is handled in Switzerland; this also resulted in a corresponding Federal Council report. At the request of the IPI and four Swiss trade associations, the OECD produced a study on the impact of counterfeiting and piracy on the Swiss economy. And finally, another study took a close look at the IP-related services currently offered by various institutions in Switzerland.

All of the studies have been published and can be downloaded from www.ipi.ch.

Searches, Combatting Counterfeiting and Piracy, and Training

As the federal government's centre of competence for patents, trade marks, designs and copyright, the IPI also carries out tasks in the areas of public awareness raising, training and information services. These services include commercial patent and trade mark searches for national and international business.

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Commercial searches

Revenue from patent searches for corporate customers in Switzerland and abroad rose to 4.98 million Swiss francs in the year under report, which represents a growth of 5% compared to the previous business year (19/20: 4.72 million Swiss francs). After a slow-down due to the coronavirus pandemic in the first half of 2020, demand recovered in the first half of 2021 and was only 2% below pre-crisis levels.

As a result of the pandemic, customer communication was completely moved to virtual platforms during the reporting year. Many valuable customer connections were maintained or established thanks to the accelerated digitalisation. Workshops and direct discussions with customers also work very well online. However, it proved difficult to bring physical appearances, such as at trade fairs, into the virtual world. Various concepts involving 'virtual stands' were tested, but they failed to attract much interest.

In order to further develop our products and services, we focused on redesigning the search report and changing the technology used to produce the reports. Our customers now benefit from a report with an attractive layout, which is easier to navigate – particularly for digital use, and which emphasises the additional information compiled by the patent expert during the search. This allows the customer to comprehend the search results more quickly and efficiently and to integrate them into other analyses.

With regard to the number of trade mark searches, a clear downward trend has been observed for several years. This is despite the fact that, at 443,000 Swiss francs, gross revenue from trade mark searches was around 16% higher in the year under report than in the previous year (384,000 Swiss francs). Against this backdrop and due to optimised search options in free databases, at the beginning of 2021, the IPI decided to discontinue the ip-search trade mark searches. The closure will take place in mid-2022, which gives customers enough time to find another service provider. In the meantime, the high quality of the search service will be maintained.

Assisted searches

To support the economy, namely innovative start-ups and SMEs, in the first half of 2020 the IPI decided to offer its assisted searches free of charge during April and May. The initiative was a huge success. The Executive Board decided to continue to support the economy by reducing the price of the Assisted Patent Search from 300 to 100 Swiss francs for the entire year under report.

Those who use the services appreciated the IPI's response to the coronavirus crisis and the number of assisted searches conducted during the reporting year rose to 1,127 (19/20 business year: 967), which is an increase of almost 17%. This is after demand had already increased by 27% in the 19/20 reporting year.

This positive trend is not least thanks to the IPI's partners from the innovation ecosystem, which include economic development agencies and knowledge and technology transfer authorities. We continued to expand our cooperation with these partners during the crisis and the IPI's network now consists of over 20 organisations from all over Switzerland. Some of these conduct assisted searches at their premises using the IPI's online infrastructure, while others have permanently integrated the assisted search service into their funding programmes. If an applicant from these programmes fulfils certain requirements, the IPI will offer them a free assisted search.

Our partnership with Innosuisse is particularly worth highlighting. During the reporting year, the IPI carried out a total of 273 free assisted searches for applicants who fulfilled the requirements of the various Innosuisse funding programmes. This represents an increase of 19% (19/20: 229).

Due to the distancing measures and rules regarding movement introduced by the Federal Council, the assisted searches took place practically exclusively online, which generally worked very well and was valued by applicants. The high level of satisfaction with the assisted searches was also reflected in the results of the customer surveys. In the 2020 calendar year, the survey response rate was around 25%. The price/performance ratio was rated 'very good' by 95% (2019: 83), the quality 'very good' by 92% (2019: 89) and the IPI's employees were rated 'very good' by 99% (2019: 98).

The fight against counterfeiting and piracy

According to a recent study by the OECD, the global trade of counterfeit and pirated products that infringe Swiss IP rights is reducing the turnover of Swiss companies by around 4.5 billion Swiss francs. Those offering the illegal goods are underworld cartels that also earn money through drug smuggling, the arms trade and human trafficking.

Almost anything that can make a profit is counterfeited. Three categories of goods are particularly attractive – watches and jewellery, clothing and shoes, and medicines. They make up the majority of goods seized by customs and criminal authorities in terms of volume and value.

Taking a look back – in 2004, a survey and discussions between the IPI and representatives of the private sector and authorities revealed that the issue of counterfeiting is highly relevant. To combat the problem over the long term, a broad alliance of companies from industry and trade, and the IPI, founded the Swiss Anti-Counterfeiting and Piracy Platform in July 2005. Two years later, this platform became the STOP PIRACY association. The purpose of the association is to prevent counterfeiting by raising public awareness. On 1 July 2008, new legal provisions came into effect in Switzerland to combat counterfeiting and piracy. These provisions prohibit the importation and purchase of counterfeit goods, even for private use. The new legislation reinforced the measures taken by the association.

At first, these measures were focused on the main target group – holidaymakers. Swiss tourists received specific tips on what to do if they were offered supposedly cheap branded products abroad. Eveline Capol, who became head of the STOP PIRACY secretariat two years ago, says she has to smile when she looks at the initial campaigns. The cheap watches on the beach are still a thing, but nowadays it is more of a reminder of the good old days. "The situation has changed," says Capol, "The internet is now the number one distribution channel for fake products, and more and more for high-quality ones too."

The counterfeiting industry recognised early on that cyberspace offers the ideal conditions for targeting, enticing and deceiving consumers. At the same time, the constant growth of online trade is supplying the industry with more and more new customer groups. Eveline Capol says there is an unfavourable dynamic, which has

been further aggravated by the stationary retail closures during the pandemic. “This is why we have stepped up our awareness activities once again.”

For example, the online media conference organised by STOP PIRACY at the end of March 2021. “We focused on the power of facts and images,” says Eveline Capol. After an OECD study, commissioned by the IPI, on the economic damage caused by counterfeiting had been presented, the journalists were shown videos of the destruction of seized watches and medicines.

In spring, STOP PIRACY also launched its first fully online campaign under the slogan ‘Don’t be fake. Be original.’ Four well-known Swiss influencers drew their followers’ attention to the problem of counterfeiting in a variety of sectors. The four influencers’ respective posts and stories received over 1.3 million clicks.

The STOP PIRACY association targets its campaigns towards three groups. The largest group is made up of those who are looking to buy an original in good faith, but end up falling for a counterfeit. Empirical studies indicate that more than half of counterfeit buyers belong to this particular group.

Alongside these consumers, there is a group that is not to be underestimated – people who are looking for a bargain and would willingly accept counterfeit goods. And lastly, there are those looking for products that they cannot ordinarily obtain themselves – primarily prescription medications and dietary supplements.

The pharmaceutical grey market is the El Dorado of the counterfeiting industry. Statistics on seizures by the customs authorities show that around one third of impotence treatments sold online are counterfeits. In an ideal scenario, the pills would be ineffective, and at worst toxic. “Anyone who buys such products from unsafe sources needs to know that, in addition to financial loss, they are also risking their health,” says Eveline Capol.

Training

Despite the coronavirus-related restrictions, the IPI was able to conduct 85 training events during the reporting year. The events offered ranged from general introductions to in-depth subject-specific courses. The content for both the in-house courses and events organised by external providers was prepared in digital form and shared virtually via the common channels. As a result, the training team reached over 1,600 course participants.

The Course for IP Specialists and the Swiss Patent Attorney Examination took place both in person and online. Thanks to the speakers’ and participants’ great flexibility, all 14 course days could be conducted by the end of June 2021.

Based on its legal mandate, the IPI supports organisations and programmes that foster ambition for new ideas and innovation. These include the Swiss Innovation Forum (SIF), Swiss Youth in Science, and Young Enterprise Switzerland (YES).

The YES Company Programme gives upper secondary school students the opportunity to establish their own mini-companies over the course of a year. During the reporting year, a representative of the IPI sat on the jury for the programme for the first time and helped to select Switzerland’s best mini-company. As part of this collaboration, an IP trainer from the IPI visited students in ten Swiss schools, instructed three schools online and carried out two workshops. The winner of the IP Management Award, sponsored by the IPI, was the team ‘Sironia’.

Within the framework of international cooperation, IP trainers from the IPI conducted a total of ten online workshops with Iran. One of the topics covered was how to maintain and enforce trade mark law with examples from the Swiss examination practice, and the Iranian examiners also received an introduction to the EPO and PCT procedures and the IPI’s patent examination practice. In Serbia, our IP trainers supported the competent authorities in evaluating promising start-ups.





From left to right: Luc-E. Amgwerd, Barbara Hübscher Schmuki, Evelyn Zwick, Oliver Gassmann, Corina Eichenberger-Walther (President), Sara Stalder, Yves Bugmann, Peter Walser; missing from the photo: Beatrice Renggli (Vice President)

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.

Corina Eichenberger-Walther

Attorney-at-Law and Mediator,
President

Beatrice Renggli

lic. iur., Vice President

Luc-E. Amgwerd

lic. iur., CEO Gjosa SA

Yves Bugmann

lic. iur.

Oliver Gassmann

Prof. Dr., Full Professor of Technology
and Innovation Management,
University of St. Gallen

Barbara Hübscher Schmuki

lic. rer. pol.

Sara Stalder

Swiss Consumer Protection
Foundation Manager

Peter Walser

Dr. sc. nat. ETH, Patent Attorney

Evelyn Zwick

Dipl. Phys. ETH, Patent Attorney

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: Alban Fischer, Felix Addor, Catherine Chammartin (Director General), Eric Meier, Jürgen Horwath

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 and Head of the Finance & Human Resources Division

Alban Fischer

Vice Director General and Head of the Patent Division

Eric Meier

Vice Director General and Head of the Trade Mark & Design Division

Felix Addor

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

Jürgen Horwath

Vice Director General and Head of the IT Division

Positive Result despite the Pandemic

In the 2020/21 financial year, the IPI recorded an operating profit of CHF 3.2 million with a net revenue of CHF 63.6 million. The total actuarial gain from revaluing pension obligations and pension fund assets in accordance with IAS 19 amounted to CHF 26.6 million. Equity increased from CHF 55.2 million to CHF 85.0 million.

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The IPI's income from fees increased by CHF 2.4 million to CHF 55.6 million in the year under review, which was the IPI's largest revenue item accounting for 87% of total revenue, followed by revenue from services at 9% or CHF 5.5 million. The latter showed an increase of CHF 0.3 million compared to the previous year.

Despite the dominance of the pandemic, income from annual patent fees increased by CHF 1.2 million compared to the prior year. Similarly to last year, income from fees for designs saw an increase of CHF 200,000.

There was an increase again in fee revenues from trade marks, which recorded a plus of CHF 1.2 million. This was largely due to fees from trade mark registrations at CHF 0.8 million. In addition, income from both trade mark renewals and international trade marks designating Switzerland was CHF 0.2 million higher than the previous year.

Third-party expenses decreased by CHF 0.3 million to CHF 2.5 million, while operating expenses were up on the previous year by CHF 2.0 million to CHF 57.7 million.

Overall, the IPI posted an operating profit of CHF 3.2 million in its 25th year of business. The revaluation of long-term pension obligations and pension fund assets under IAS 19 led to a total actuarial gain of CHF 26.6 million. The gain on pension obligations is mainly due to changes in the demographic assumptions (change in the calculation basis from the 2015 to the 2020 Occupational Pensions Act). The gain on pension fund assets is a result of strong asset performance.

With the actuarial gains, this results in a positive comprehensive income of CHF 29.8 million for the 2020/21 business year. As of the end of the financial year, the IPI's equity amounted to CHF 85.0 million.

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

The complete financial statements are available at www.ipi.ch/afs (in German only).



Statement of Financial Position

(in thousands of CHF)	2020/2021 30.06.2021	2019/2020* 30.06.2020
Cash and cash equivalents	134,133	128,513
Receivables from services	875	518
Contract assets	568	426
Other receivables	1,724	1,142
Accrued income and prepaid expenses	2,650	2,783
Current assets	139,950	133,381
Tangible assets	20,073	21,617
Intangible assets	1,340	1,652
Leased assets	19,607	20,049
Fixed assets	41,021	43,318
Total assets	180,972	176,700
Trade accounts payable	765	1,102
Contract liabilities	10,199	9,944
Customer prepayments (current accounts)	6,459	7,482
Financial liabilities to third parties	558	558
Other liabilities	11,288	10,350
Accrued expenses and deferred income	3,813	3,872
Current provisions	3,257	2,754
Current liabilities	36,339	36,064
Other provisions	3,164	3,933
Leasing liabilities	19,206	19,602
Provisions for pension fund liabilities	37,315	61,906
Non-current liabilities	59,685	85,441
Profit (+) / loss (-)	3,163	1,491
Retained earnings	90,779	89,288
Accumulated actuarial losses	-8,994	-35,584
Equity	84,948	55,195
Total liabilities	180,972	176,700

* See chapter two of the annex to the complete financial statements (available in German only), which explains the accounting principles applied and the adjustment of the accounting method.

Statement of Profit and Loss / Comprehensive Income

(in thousands of CHF)	2020/2021	2019/2020*
	01.07.2020 to 30.06.2021	01.07.2019 to 30.06.2020
PROFIT AND LOSS STATEMENT		
Fees	55,555	53,122
Services	5,497	5,213
Miscellaneous revenues	2,806	2,157
Gross revenue	63,858	60,492
Other revenue decreases	-291	-274
Net revenue	63,566	60,218
Third-party fees	-174	-954
Third-party services	-1,255	-1,207
Other third-party expenses	-1,109	-717
Third-party expenses	-2,538	-2,879
Personnel expenses	-46,580	-46,299
IT expenses	-2,262	-1,899
Other operating expenses	-4,733	-4,041
Depreciation, amortisation and impairment loss	-2,659	-2,326
Contributions to the Federal Patent Court	-694	-789
Contributions to the sic! Foundation	-330	-337
Contributions to the STOP PIRACY association	-282	-
Contributions to the Swissness Enforcement association	-131	-
Operating expenses	-57,672	-55,691
Operating profit	3,356	1,649
Financial income	93	14
Financial expenses	-287	-172
Financial result	-193	-158
Profit (+) / loss (-)	3,163	1,491
STATEMENT OF COMPREHENSIVE INCOME		
Profit (+) / loss (-)	3,163	1,491
Actuarial gains / losses	26,590	-7,867
Other comprehensive income	26,590	-7,867
Comprehensive income	29,753	-6,376

Actuarial gains and losses (other comprehensive income) are not transferred to the profit and loss statement.

* See chapter two of the annex to the complete financial statements (available in German only), which explains the accounting principles applied and the adjustment of the accounting method.

Cash Flow Statement

(in thousands of CHF)	2020/2021	2019/2020*
	01.07.2020 to 30.06.2021	01.07.2019 to 30.06.2020
Income/(expenditure) from operating activities		
Profit	3,163	1,491
Depreciation of tangible assets	1,906	1,562
Amortisation of intangible assets	312	323
Depreciation of leased assets	441	441
Non-cash income / expenses	20	5
Interest accrued on lease obligations	100	102
Increase / decrease in non-current provisions for long-service awards	-769	326
Increase / decrease in non-current pension fund provisions	1,999	1,955
	7,172	6,205
Increase / decrease in receivables for services	-376	142
Increase / decrease in contract assets	-142	-227
Increase / decrease in other receivables	-582	-172
Increase / decrease in accrued income and prepaid expenses	133	-901
Increase / decrease in trade accounts payable	-337	72
Increase / decrease in contract liabilities	255	-168
Increase / decrease in other liabilities	938	-1,966
Increase / decrease in accrued expenses and deferred income	-60	888
Increase / decrease in current provisions	502	426
Cash flow from operating activities	7,502	4,300
Investments in tangible assets	-362	-1,910
Divestments in tangible assets	-	-
Investments in intangible assets	-	-83
Divestments in intangible assets	-	-
Cash flow from investment activities	-362	-1,993
Increase / decrease in financial liabilities to third parties	-	30
Repayment of lease obligation	-496	-496
Increase / decrease in customer prepayments (current accounts)	-1,024	1,287
Cash flow from financing activities	-1,520	821
Net increase / decrease in cash and cash equivalents	5,621	3,128
Cash and cash equivalents at start of year	128,513	125,385
Cash and cash equivalents at year end	134,133	128,513

* See chapter two of the annex to the complete financial statements (available in German only), which explains the accounting principles applied and the adjustment of the accounting method.

Statement of Changes in Equity

(in thousands of CHF)	Accumulated actuarial gains/losses	Retained earnings*	Total Equity*
Opening balance on 01.07.2019 without adjustment	-27,717	90,301	62,584
Adjustment of the accounting method	-	-1,013	-1,013
Opening balance on 01.07.2019	-27,717	89,288	61,571
Profit	-	1,491	1,491
Other comprehensive income	-7,867	-	-7,867
Comprehensive income	-7,867	1,491	-6,376
Closing balance on 30.06.2020	-35,584	90,779	55,195
Opening balance on 01.07.2020	-35,584	90,779	55,195
Profit	-	3,163	3,163
Other comprehensive income	26,590	-	26,590
Comprehensive income	26,590	3,163	29,753
Closing balance on 30.06.2021	-8,994	93,942	84,948

* See chapter two of the annex to the complete financial statements (available in German only), which explains the accounting principles applied and the adjustment of the accounting method.



Alexandra Nightingale is a project manager in the Sustainable Development and International Cooperation unit (inside front cover).

Robidog

With mini dachshund Pudding, she is presenting an invention appreciated by us all. Forty years ago, dog lover Joseph Rosenast from Thun, Switzerland invented the Robidog together with his colleague Heinrich Bisaz. The Robidog is a green box for the disposal of bags containing our four-legged friends' business. Joseph Rosenast patented the invention. On 20 August 1982, the following headline appeared in the Thuner Tagblatt newspaper: "Do metal containers help combat the plague of dog muck?" In 1987, Rosenast won a prize for the green box at the International Exhibition of Inventions in Geneva. Later, in a newspaper interview, he was asked if his invention had made him a millionaire. "My wife and I have worked very hard on Robidog over the past 20 years, so it's only fair that we earn something for it. Inventing something is not at all the same thing as commercialising it." The inventor raises an important point. An innovation or a patent is not a sure-fire success. The Robidog company still exists today. The brand name is a combination of Rosenast, Bisaz and dog. Joseph Rosenast died in 2008 at the age of 78.



Jon Jegerlehner is in the third year of his business administration apprenticeship (page 11).

Guitar

As the son of a photographer, he is used to being in front of the camera and is also a keen amateur photographer himself. Jon's favourite invention is the electric guitar, which he likes to both listen to and play. As soon as he picks up his Fender guitar, he becomes immersed in another world and forgets what's going on around him. His favourite music to play is rock and his repertoire ranges from seventies classics to nineties grunge. Jon's guitar was invented by and named after Leo Fender, who founded his company in California in 1946 and was a true pioneer in guitar manufacturing. As a result of the original innovations, the company has grown to become one of the most renowned manufacturers of electric guitars, electric basses, guitar amplifiers and PA systems. The 'Stratocaster' electric guitar model (often shortened to 'Strat') has been manufactured since 1954 and was seen as revolutionary when it first appeared. Today, it is still considered the most popular, most sold and most copied electric guitar in the world. On the occasion of the 30th anniversary of Nirvana's cult album 'Nevermind' in 2021, Fender honoured grunge icon Kurt Cobain, who died in 1994, by launching a guitar in his name. If that's not inspiring to young musicians...



Esther Marchetti works as a legal adviser in the Industrial Property Rights unit (page 15).

'Nuggi'

Esther's current favourite invention is the 'Nuggi' (Swiss German for soother or pacifier). It has been her favourite for the last 16 months as it helps her son Lorenz to get through challenging moments and makes daily life easier for the young family. Whether it's frustration, boredom or pain – the Nuggi comforts and soothes. As a 'secret weapon in their bag', it also gives the parents a sense of security. Until the 'Nuggi-fee' (soother fairy) collects the soother from Lorenz one day, this small object will continue to hold great power and is therefore a welcome everyday support. The precursors to the soother date back to Egypt 4,500 years ago. And during the Middle Ages, 'Lutschbeutel' were used. Poppy seeds and alcohol were often added to pouches to aid sleep. The soother, as we know it today, was invented in Germany shortly after the end of the Second World War by dentist Adolf Müller and his orthodontist colleague Wilhelm Bartels. At the time, they called their invention a "natural and orthodontic soother and jaw shaper".



Daniel Schwab works in the Trade Marks & Designs Staff Unit and his job requires a sharp eye for detail (page 18).

Bike

His favourite invention is the 'Street-machine Gte' travel recumbent bike by HP Velotechnik. When out and about, Daniel likes to be able to see things from new perspectives and to take in the scenery. Instead of being bent over the handlebars, looking at the street, he can enjoy a panoramic view while comfortably reclined in the seat. Whether you are on holiday, exercising for fitness or travelling to work – a slight change in position can provide you with fantastic new perspectives, as evolution has shown (and as emphasised by the manufacturer). Admittedly, going uphill quickly becomes arduous due to the frame geometry, which is why powerful gears are essential. Thanks to the Rohloff patented planetary gear system in the rear axle, Daniel can also easily change gears while standing still if necessary. So the only limit is your own fitness level... According to the manufacturer, the 'Streetmachine Gte' is a culmination of more than 25 years of development work at HP Velotechnik. Good inventions take time and demand quite a lot of investment and perseverance.



Daniela Schneider is Human Resources Manager at the IPI (page 23, back cover).



Kamran Houshangpour is a patent expert and IP trainer (page 31).



Eveline Capol is Head of the STOP PIRACY Secretariat, the anti-counterfeiting and piracy platform (page 35).



Beat Zurflüh is a designer and has his own studio (page 42).

House cat / lucky cat

Her favourite 'invention' is the house cat. Her favourite of all is her three-year-old tomcat Tigi, who loves to play hide and seek and cuddle with his owner. Animal breeds, plant varieties and biological procedures for breeding plants or animals cannot be patented in Switzerland. Biotechnological inventions such as the extraction of human insulin from yeast cells, however, can be patented. The general principle is that a patent is an IP right for technical inventions that use technology to solve specific problems. The human body, at all stages of its formation and development (including the embryo), is also not patentable. In addition, naturally occurring sequences or partial sequences of genes cannot be patented, whether they be from humans or another origin. However, designs, such as the one of this famous waving cat, can be protected. It is said that the constant waving brings luck and prosperity to businesses or homes – and hopefully that inspires many more brilliant ideas.

Velcro

His favourite invention is the Velcro fastener. Kamran always found it fascinating that something that was originally a burdock burr stuck to dog fur had made it into space. The Velcro fastener was invented by Swiss electrical engineer George de Mestral. He was always finding burrs in his dog's fur after going for walks. However, he was not content with just pulling them out of the fur, instead he carefully removed them and placed them under a microscope. He patented the original Velcro fastener in 1955. In Kamran's opinion, the simplicity of this invention shows us that we still have a lot to learn from nature. It is also proof that many small individual parts can have great power when combined. And it's practical too – just one hand movement and your shoes are secure!

Kitchen machine

As part of her work, she once shredded counterfeit medicines to raise media awareness and also rolled over copies of watches with a bulldozer. In her private life, her favourite invention is her kitchen machine, which can be used for virtually any culinary purpose. Eveline received the Kenwood Chef Titanium Swiss Edition as a classic wedding gift and was a bit sceptical at first. However, she soon realised that the metallic appliance was not just nice to look at – it was also very useful for baking and preparing fruit and vegetables. When smoothies suddenly exploded in popularity, Eveline decided to purchase the food processor attachment for her 'kitchen fairy', which also makes wonderful ice cream using fruit and cream. This is Eveline's son's favourite creation and, incidentally, it was quickly devoured at the photo-shoot, too.

Duct tape

The trained decorator ensures that the backdrop for the photographs in the IPI's annual report is perfect. This requires not just creativity and inspiration, but also a lot of craftsmanship. Beat's favourite invention is duct tape. It is essential for laying and securing cables, for covering exposed edges or blending. It is used in the studio to stick things down until the real glue has hardened. Not a week goes by in which the scenographer has not used this highly-adhesive, durable and easily removable tool at work or at home; he even calls it his 'third hand'. Duct tape was originally developed by Johnson & Johnson for the American military (based on an idea by Vesta Stoudt) to protect ammunition boxes from water damage. It was not long before the soldiers noticed that the tape not only worked for sealing ammunition boxes, but also for repairing rifles, jeeps, airplanes, etc. The Second World War was followed by a housing boom and duct tape became popular among caretakers and homeowners, for example, for repairing leaking pipes. Today, it is widely used in stage technology and is also a big hit with DIY enthusiasts.





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