

1: German Trade Mark Act and regulation of January 1, (Book,) [www.enganchecubano.com]

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Otto Schmidt Verlag, German and English text with an extensive German and English introduction. The German Federal Law Gazette in full text since Free access to Part I from after registration. The full version and Part II a fee-based service. Features Part I as a free read-only pdf version beginning from January and Part II as a free version after registration. Rechtsdatenbank zum gewerblichen Rechtsschutz - A comprehensive industrial property database via Dr. Jochen Krieger, an attorney specializing in this field; full texts in the vernacular of German laws relating to industrial property along with supplementary sources and pertinent literature. Taxlinks - A comprehensive tax and accounting portal with links to German laws, legal literature, legal publishers, national and international institutions and organizations, and Internet sites. Beck Verlag, current as per Five-volume set in English providing very extensive and in-depth coverage of the various aspects of business dealings and business law in Germany. The different chapters were by authorities in these fields and gave an overview of the issues involved such as the government and legal system, general private and commercial law, and business organization. Separate volume of translations of pertinent laws and code sections. Each chapter is preceded by an extensive table of contents. Detailed index of all chapters in volume 3. Doing Business in Germany. Fritz Knapp Verlag in preparation. A manual in English providing a short introduction to the German legal system, the law of contracts and other aspects of law that you have to know for planning purposes. Comprehensive five-volume encyclopedia designed for the practitioner, scholar and researcher. It covers some countries, each of them in a separate chapter. This introduction is followed by a compilation of major publications in both German and English. It has a good subject arrangement by fields of law. Sources available in English are listed alphabetically at the very end of the chapter. This set is very current as it is supplemented three to four times annually. Also available online as a fee-based service here ; Germain, Claire M. A Guide for Attorneys. Transnational Juris Publications, Inc. This source covers the various procedural and practical aspects of foreign and international law, its substantive issues, and research sources in a well-organized loose-leaf volume with extensive bibliographical references and footnoting. One chapter deals with the legal systems of individual countries, providing references to English translations and digests of primary sources, research guides, reference works, and bibliographies. It has a good index with cross-references to main entries, and appendices featuring a list of publishers in the field, depository libraries, and international organizations. German Legal System and Laws. Droste Killius Triebel, ed. It has an extensive index updated by a "latest additions to the index" section, as well as a separate cumulative index of new developments, and cases and legislation. Finding lists lead the reader to legislation in the various fields and to cases decided by German courts. Both are updated by a "latest additions to cases" section. Checklists feature important addresses of authorities, translations of the titles of legislation, and a German-English glossary of terms as well as forms. A separate division deals with the international aspects of income tax. European Commercial Law Series. Intended to introduce the legal practitioner to German commercial law, this is a practical and straightforward guide which offers a wealth of information on a broad range of German legal issues, including industrial and intellectual property, competition law, business organizations, mergers and acquisitions, agency, insolvency, and others. The introduction explains the structure of the legal profession and the court system in Germany. It also features a legislation table and an index. British Institute of International and Comparative Law, Introduction to German Law. The Hague; London; Boston: Kluwer Law International, This book discusses the most important areas of private and public law and gives an introduction to German legal culture. Each chapter is written by an expert in the field. It features an extensive table of contents and a summary of contents, a list of abbreviations, and a detailed index with both English and German keywords and cross-references with translations into German of major keywords given in brackets. Each chapter has its own bibliography. Key Aspects of German Business Law: This book presents a clear and

precise overview of the key aspects of German business law. Its first part explains the major issues involved in acquiring or establishing a business in Germany. The second part deals with specific fields of law. Differences between the German and US legal systems are explained and highlighted throughout. Includes a basic glossary of German terms and abbreviations with English translations. A Guide for Corporate Executives and Attorneys. Seeking to foster an understanding of Germany as a business partner, this volume provides an overview of the general business environment in Germany, the main forms of doing business, the principal laws involved, arranged by subject, and major US companies in Germany. It features a selected bibliography of German and English source material and a rather modest index. General Private and Commercial Law 6. Agency Law Staubach, F. European Commercial Law Library series. A commentary and guide that intends to present in a clear and simple form to the businessman and his professional advisers the leading features of the national commercial laws of the country concerned, and covers all aspects of commercial and distributorship agreements in German law. It has a detailed and sizable index. A guide for practitioners through the intellectual property world of Germany with a side view to the provisions of the European Patent Convention and the practice of the European Patent Office. English and German Index. Trademark Practice and Forms. This multi-country guide includes section on Germany offers information on international trademark practice with detailed explanations of the laws and rules on initial registration requirements and procedures, transfers, assignments, licenses and means of enforcement, summaries of multilateral and bilateral agreements, and complete sets of forms for each country. Carl Heymanns Verlag KG, Annotated sample contracts under German and European law regarding patents, utility models, know-how, and computer softwares, synoptically arranged in German and English. Further, German and English indexes, a list of abbreviations, and an extensive bibliography of sources in German and English. Fritz Knapp Verlag, Everything you have to know about business tenancies Gewerbe-Mietrecht from conclusion to notice. This practical guide reflects years of experience with foreign companies and is tailored to meet their needs. Real Property in Germany. A guide through the legal, financial and taxation problems the foreign investor investing in German real property will encounter that is written in a clear and concise language by practitioners who are recognized experts in their fields. Two of the fifteen chapters deal specifically with the taxation aspects of real property transactions; one chapter provides sample contracts in synoptic presentation of the German and English texts. Includes two pocket-part supplements devoted to specific problems involved in real property investments in East Germany, a keyword index in German and English, and a bibliography on the subject. Business Operations in Germany. Detailed analysis of German income taxation as applied to individuals and corporations and a discussion of net worth tax, trade tax, the value-added tax and inheritance tax. Includes working papers such as forms of tax returns, model articles of incorporation, summaries of the effect of tax treaties of Germany on dividends, interest and royalties, and the texts of the German tax treaties with the US. Updated by "changes and analysis" pages that are filed right behind the table of contents. Index and several finding tools such as a master index by subject, a code sections index, an estate, gifts and trusts classification guide and key word index, and a foreign income classification guide and key word index. For the many countries it covers, it is good for comparisons. It has no index or footnoting at all and no citations to legislation, cases or literature. Taxation of Companies in Europe. Country-by-country survey including Germany covering all taxes in connection with the taxation of companies: Corporate income taxation, taxes on capital, group taxation, VAT and others. Corporate Taxation in Germany. This book provides foreign businesses interested in Germany with concise but comprehensive information on the current German tax system, and aids foreign managers and international business consultants in their German investment planning. The text is synoptically presented in German and English. There is no subject index. Labor Law Lingemann, S. A brief and succinct overview of the German system of employment and labor law including the impact of social security and tax law plus translations of the most important German labor law statutes and codifications, including Works Constitutions Act, Act on Co-Determination of the Employees excerpts from the Civil Code, the Commercial Code, the Law Pertaining to Companies with Limited Liability, the Stock Corporation Act and others. Extensive coverage of the pertinent legal provisions, as well as examples of cases, useful selection of sample contracts, notices of dismissal, and other documents in Part VIII, and a list of the official laws with an English translation.

Termination of Employment in Germany. This booklet covers the most important aspects of German termination of employment law of interest to foreign investors and their counsel. Corporate Acquisitions and Mergers in Germany. This book is addressed to business executives and their professional advisors, and provides a practical overview of the legal, financial and administrative aspects instrumental in corporate mergers and acquisitions in Germany. Mergers and Acquisitions in Europe.

3: German nationality law - Wikipedia

Supersedes. Act on the Protection of Trademarks and Other Signs (Trade Mark Act, as amended up to Act of December 22,) (DE) Act on the Protection of Trademarks and Other Signs (Trade Mark Act, as amended up to Act of July 31,) (DE).

It is unlawful for any person to misbrand any drug or device. Effective January 1, It is unlawful for any person to receive in commerce any drug or device that is misbranded or to deliver or proffer for delivery any drug or device. It is unlawful for any person to alter, mutilate, destroy, obliterate, or remove the label or any part of the labeling of any drug or device if the act results in the drug or device being misbranded. Any drug or device intended for export shall not be deemed to be misbranded under this part if it satisfies all of the following requirements: If the article is sold or offered for sale in domestic commerce, this section shall not exempt it from any of the provisions of this part. A drug or device is deemed misbranded under the laws of this state if it is subject to regulations issued by the United States Food and Drug Administration relating to tamper-resistant packaging, as set forth in Parts , , , and of Volume 21 of the Code of Federal Regulations, as amended, but is not in compliance therewith. The following drugs or devices, that are intended for use by man, shall be sold only upon a written prescription of a practitioner licensed by law to prescribe the drug or device, or upon an oral prescription of the licensee that is reduced promptly to writing and filed by the pharmacist, or by refilling the written or oral prescription if the refilling is authorized by the prescriber either in the original prescription or by oral order that is reduced promptly to writing and filed by the pharmacist: If any prescription for the drug does not indicate the number of times it may be refilled, if any, the prescription may not be refilled unless the pharmacist obtains a new order from the practitioner. The act of selling a drug or device contrary to Section shall be deemed to be an act that results in the drug or device being misbranded while held for sale. Any drug or device sold by filling or refilling a written or oral prescription of a practitioner licensed to prescribe the drug or device shall be exempt from the labeling requirements of Sections , , , , , , , , , , and , if the drug or device bears a label displaying all the following: Commonly used abbreviations may be used. If a pharmacist dispenses a prescribed drug by means of a unit dose medication system, as defined by administrative regulation, for a patient in a skilled nursing, intermediate care or other health care facility, the requirements of this section will be satisfied if the unit dose medication system contains the aforementioned information or the information is otherwise readily available at the time of drug administration. The exemption shall not apply to any drug or device dispensed in the course of the conduct of a business of dispensing drugs or devices pursuant to diagnosis by mail, or to a drug or device dispensed in violation of Section The department may, by regulation, remove any drug or device subject to Sections and from the requirements of Section , when the requirements are not necessary for the protection of the public health. Any drug removed from the prescription requirements of the federal act by regulations adopted pursuant to the federal act is removed from the requirements of Section The department may, however, by regulation, continue the applicability of Section for any drug or device, or make these sections inapplicable to any drug or device, whether or not the inclusion or exclusion of the drug or device is in accordance with the regulations adopted pursuant to the federal act. A device to which Section does not apply is misbranded if, at any time prior to dispensing, its label bears the caution statement quoted in the preceding sentence. Nothing in this article shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or that may hereafter be included within the classification stated in Division 10 commencing with Section or in the applicable federal law relating to controlled substances. A physician, dentist, podiatrist, or veterinarian may personally furnish his or her own patient with drugs as are necessary in the treatment of the condition for which he or she attends the patient provided that the drug is properly labeled to show all the information required in Section except the prescription number. For purposes of Section , the following definitions shall apply: The National Drug Code may be used as a code imprint. Manufacturers or distributors who only repack an already finished dosage form of a legend drug shall not have the responsibility to do the imprint. The department shall provide for the distribution of the information required to be submitted

under this subdivision to all poison control centers in the state. Manufacturers, distributors, and the department shall provide to any licensed health care provider, upon request, lists of legend drugs and code imprints provided to the department under this section, but may charge a reasonable fee to cover copying and postage costs. Updated lists shall be provided to the department annually or as changes or revisions occur.

4: Trademarks in Germany - Lexology

Sec. 4 No. 1 of the German Trademark Act of January 1, ("TMA") provides that trademark protection comes into existence by registering a trademark with the German Patent and Trademark Office ("GPTO").

Protected Trade Marks and Other Signs 1. The following shall be protected under this Law: Application of Other Provisions 2. The protection of trade marks, commercial designations and indications of geographical origin under this Law shall not exclude the application of other provisions for the protection of these signs. Accrual of Trade Mark Protection 4. Trade mark protection shall accrue 1. Business symbols and other signs intended to distinguish one business from another which are regarded within the affected trade circles as the distinctive signs of a business establishment, shall be equivalent to the special designation of a business establishment. Priority and Seniority 6. The following may be proprietors of registered and filed trade marks: Absolute Grounds for Refusal 8. Subsection 2 , Nos. Furthermore, subsection 2 , No. Well-Known Trade Marks Trade Mark Registered in the Name of an Agent The registration of a trade mark may be canceled where another person, prior to the date relevant for the seniority of the registered trade mark, has acquired rights to a trade mark within the meaning of Section 4, No. Other Earlier Rights Claims Against Agents or Representatives If the agent or representative undertakes such infringing action intentionally or negligently, he shall be liable for compensation to the proprietor of the trade mark for damage suffered therefrom. Section 14 7 shall apply mutatis mutandis. Claim to Destruction Claim to Information Chapter 4 Restrictions to Protection Limitation The proprietor of a trade mark or commercial designation shall not be entitled to prohibit third parties from using in the course of trade 1. Exclusion of Claims Due to Non-use Where the period of five years of non-use ends after the bringing of the action, the plaintiff shall, in response to an objection by the defendant, establish proof that the trade mark has been put to use pursuant to Section 26 within a period of five years preceding the conclusion of the oral proceedings. For the decision, only those goods or services shall be taken into account for which proof of use has been established. Use of a Trade Mark Sentence 1 shall also apply if the trade mark is also registered in the form in which it has been put to use. If the fee is not paid, the request shall be deemed not to have been filed. In other respects, the provisions concerning the division of the registration shall apply mutatis mutandis with the exception of Section 46 2 and 3 , sentences 1 to 3. Sentence 1 shall apply mutatis mutandis to other proceedings before the Patent Office, appeal proceedings before the Patent Court or proceedings of appeal on a point of law before the Federal Court of Justice to which the proprietor is a party. If a request for registration of a transfer has been received at the Patent Office, the orders and decisions referred to in sentence 1 shall also be served on the successor in title. Rights in rem; Levy of Execution; Bankruptcy Proceedings In the case of self-administration Section of the Insolvency Code [Insolvenzordnung] , the administrator shall act in place of the receiver. Trade Mark Applications Sections 27 to 30 shall apply mutatis mutandis to rights conferred by trade mark applications. Where registration is requested for goods or services falling within more than three classes of the classification of goods and services, a class fee as prescribed by the schedule of fees shall be paid in addition for each additional class. The request for registration shall be granted, unless the application requirements are not complied with or registration is prejudiced by absolute grounds for refusal. Where the applicant has provided these particulars, the Patent Office shall invite the applicant to indicate the file number of the earlier application and to file a copy of the said application within a period of two months after communication of the invitation. Particulars may be altered within those periods. Where particulars are not provided in due time, the priority claim for the application shall be forfeited. Where the applicant has provided these particulars, the Patent Office shall invite the applicant to file, within a period of two months after communication of the invitation, evidence of the display of the goods or services under the trade mark applied for. Where evidence is not provided in due time, the priority claim for the application shall be forfeited. Examination of the Application Requirements If, within this period, the application fee and the surcharge, but not the required class fees, are paid, sentence 1 shall not apply where the applicant indicates which classes of goods or services are to be covered by the amount of fees paid. Where there is no such indication, the leading class shall be

taken into account first followed by the other classes in the sequence of the subdivision of classes. Examination as to Absolute Grounds for Refusal If the fee is not paid, the request shall be deemed not to have been made. Withdrawal, Limitation and Correction of the Application Division of the Application The seniority of the original application shall continue to apply to each part of a divided application. Furthermore, a fee as prescribed in the schedule of fees shall be paid for the division. If the elements of the application are not filed within three months of receipt of the declaration of division, or the fee has not been paid within this period, the divisional application shall be deemed to have been withdrawn. The declaration of division cannot be revoked. Where an application meets the application requirements and is not rejected pursuant to Section 37 , the trade mark shall be recorded in the Register. The registration shall be published.

5: Australian Importation Trademark Act Amended

Act of January 1, ("TMA") provides that trademark protection comes into existence by registration of the trademark with the German Patent and Trademark Page 1 of

Legal framework Domestic law What is the primary legislation governing trademarks in your jurisdiction? The relevant law is the German Trademark Act, which came into force on January 1 and was last amended in International law Which international trademark agreements has your jurisdiction signed? The most relevant international trademark agreements are: Regulators Which government bodies regulate trademark law? Rights and protection Is ownership of a trademark in your jurisdiction determined on a first-to-file or first-to-use basis? Ownership of a trademark is determined on a first-to-file basis. Unregistered trademarks What legal protections are available to unregistered trademarks? If unregistered trademarks are protected by the German Trademark Act, their protection is generally equal to the legal protection of registered trademarks. However, if a sign has acquired a reputation only within a certain area in Germany, protection is limited to that area. How are rights in unregistered marks established? Rights in unregistered trademarks are established if a sign that has been used in commerce as a trademark for the relevant goods and services has acquired a reputation among the relevant public. Are any special rights and protections afforded to owners of well-known and famous marks? Under German trademark law, infringement of a famous or well-known trademark can be established based not only on the identity of the relevant signs and associated goods or services and a likelihood of confusion, but also on the grounds that the younger sign "without due cause" takes unfair advantage of or is detrimental to the distinctive character or reputation of the earlier well-known or famous trademark. To what extent are foreign trademark registrations recognised in your jurisdiction? A foreign trademark registration that has not been registered with the German Patent and Trademark Office, but which has been put to use in Germany, may enjoy protection under German trademark law if it has acquired a reputation through use. In addition, if a third party registers a foreign trademark which is not protected by German trademark law with the German Patent and Trademark Office, the holder of the foreign trademark registration may base claims against the third party on its violation of the German Act against Unfair Competition. Registered trademarks What legal rights and protections are accorded to registered trademarks? A trademark registration grants the trademark owner the exclusive right to use the trademark for the goods and services for which it is registered and to prevent third parties from using an identical sign for identical goods or services and from using an identical or similar sign for identical or similar goods and services if there is a likelihood of confusion. The trademark owner may file oppositions or requests for cancellation and revocation against trademarks that have been registered in violation of its earlier rights. In case of trademark infringement, the trademark owner may file an action with the competent court of law claiming: Who may register trademarks? Any natural person, legal entity or partnership to the extent that the partnership has the capacity to acquire rights and incur liabilities may own a trademark. What marks are registrable including any non-traditional marks? In general, any sign capable of being represented graphically may be protected as a trademark if it is also capable of distinguishing the goods or services of one undertaking from those of other undertakings Section 3 of the Trademark Act , including: This will make it easier to protect non-traditional trademarks. Nevertheless, the German Patent and Trademark Office will still carefully determine whether such non-traditional trademarks will be perceived by the relevant public as an indication of origin and not merely as decoration. Can a mark acquire distinctiveness through use? Trademarks that lack inherent distinctiveness, are descriptive or constitute generic terms can acquire distinctiveness through use. A trademark owner that wants to rely on acquired distinctiveness must prove that the trademark is perceived by the relevant public as having acquired a secondary meaning as a trademark due to its use in commerce in Germany. On what grounds will a mark be refused registration ie, absolute and relative grounds? The most important absolute grounds for refusal are if the trademark: Are collective and certification marks registrable? If so, under what conditions? Collective marks are registrable under German trademark law. The registration of a collective mark must meet the following conditions: Only signs that are capable of being represented graphically within the meaning of

Section 3 of the Trademark Act may constitute a collective mark. The sign must also be capable of distinguishing the goods or services of the members of the holder of the collective trademark from those of other undertakings in terms of corporate or geographical origin, nature, quality or other properties. In general, absolute grounds for refusal apply to collective trademarks. However, collective trademarks may also consist exclusively of signs or indications which may serve in trade to designate the geographical origin of the goods or services. Ownership of a collective trademark is limited to associations with legal capacity, including umbrella and head associations with legal capacity and whose members are themselves associations, and legal entities governed by public law. The application for a collective trademark must be accompanied by regulations governing the use of the trademark. German trademark law does not yet provide protection for certification marks.

Filing and registration

Filing procedure

Do agents filing for registration of a mark on behalf of the owner require power of attorney? If so, is notarisation or legalisation required? Agents need a power of attorney signed by the applicant or owner. No notarisation or legalisation is required. Filing the power of attorney is not necessary if the applicant or owner is represented by a German lawyer or patent attorney. Representatives other than German lawyers or patent attorneys should submit a power of attorney.

What information and documentation must be submitted in a trademark registration application? The minimum information and documentation that must be filed to receive an official confirmation of the filing date are: In general, the application form must be completed and the official application fee must be paid within three months of the application date. The amount to be paid must be stated in the application form and the applicant must indicate the preferred method of payment. The application form must further contain: If priority is claimed, the number, date and country of the earlier trademark application s or registration s must be indicated together with the relevant goods and services. What rules govern the representation of the mark in the application? The representation of the trademark must be clear, precise and represented graphically. Details depend on the form of the trademark. Most registrable trademarks can easily be represented graphically eg, words, numbers, graphical devices and three-dimensional shapes. Sound marks must show sound sequences. Tactile marks can be represented graphically by describing their haptic characteristics. Difficulties occur when applying for scents and tastes, as these cannot be represented graphically. In practice, most of these applications are refused. Are multi-class applications allowed? Multi-class applications may be filed for both goods and services. Is electronic filing available? The DPMAdirekt application software is free of charge and can be easily downloaded. What are the application fees? There is no official fee for claiming a foreign priority. Priority How are priority rights claimed? When claiming priority, the date and country of the earlier application or registration must be indicated. It must be clear whether priority is claimed for all goods and services or only parts thereof. The number of the relevant application and the priority documents no legalisation or notarisation needed must be submitted within two months of receipt of the corresponding request by the German Patent and Trademark Office. If necessary, a translation into German must be submitted one month after the date of claiming priority. Priority can be claimed only within six months of the application date for the trademark whose priority is claimed. Searches Are trademark searches available or required before filing? If so, what procedures and fees apply? There is no official search for earlier trademark registrations and applications. In doing so, German trademarks as well as EU trademarks and international registrations covering either Germany or the European Union should be considered. To be on the safe side, older trade names, title rights, domains and the like should also be included in the search. Examination What factors does the authority consider in its examination of the application? First, the German Patent and Trademark Office examines whether the application meets all formal requirements and whether the official application fee has been paid it must be paid within three months of the application date. If the application meets all formal requirements, the German Patent and Trademark Office will then check for absolute grounds of refusal. Details are set out in Section 8 of the Trademark Act. Does the authority check for relative grounds for refusal eg, through searches? If the authority raises objections to the application, can the applicant take measures to rectify the application? If so, what rules and procedures apply? If not all formal requirements are met eg, regarding the details of the applicant, the representation of the trademark or the list of relevant goods and services , the German Patent and Trademark Office will allow the applicant to rectify the application

accordingly. If the applicant does not remedy the deficiency by the deadline set or at least requests an extension of the deadline, the application will be deemed not to have been filed. If the German Patent and Trademark Office cites any absolute grounds for refusal, it will invite the applicant to submit a comment in response within a prescribed timeframe – usually one month for applicants which have their residence, registered office or place of business in Germany and two months for applicants from abroad. Extension requests are possible. Can rejected applications be appealed? If so, what procedures apply? Rejected applications can be appealed by lodging an appeal with the Federal Patent Court within one month of notification of the rejection. An oral hearing can take place, but is not compulsory. In some cases in which certain examiners depending on their service grade within the German Patent and Trademark Office reject the application, the applicant can either directly lodge the appeal with the Federal Patent Court or file a request for reconsideration with the German Patent and Trademark Office. No oral hearing takes place. If the Federal Patent Court rejects the application and allows a further appeal, a final appeal on a point of law can be filed with the Federal Court of Justice within one month of the notification. The grounds must be filed within one month of filing the appeal with the Federal Court of Justice.

6: All About Trademarks

Though the German Trade Mark Act came into force relatively recently, in January, the first amendments are already foreseeable. In order to be up-to-date, this second edition includes the future version of the law.

Recent developments are enabling traders to rely on less traditional forms of trademarks that appeal to the senses in a different way, namely through color, scent and sound, the adoption of which warrants special consideration. For example, now that the United States Supreme Court has confirmed that trademark protection may exist for a single color[1], trademark owners in the United States may be even more tempted to adopt single color marks. However, what seems appropriate in one country does not always translate easily into foreign marketplaces. Whether and how color, sound and scent marks are protected in certain leading jurisdictions, illustrates the challenges in protecting such marks globally. Color Marks Colors and color combinations play an important role in distinguishing products in the marketplace, and are particularly useful where traditional marks are not easily understood by consumers. Unfortunately, there is no global uniformity in statutory definitions or relevant case law concerning whether a single color, or a combination of colors, can function as a trademark. The current United States trademark law does not prohibit the registration or protection of colors per se. In one case a court denied relief to the plaintiffs against confusing usage of red and white labels on food product containers[3], quoting from a previous case: The primary colors, even adding black and white, are but few. If two of these colors can be appropriated for one brand of tipped matches, it will not take long to appropriate the rest. With time trademark registrability standards have been relaxed and single color marks have now been recognized as registrable and enforceable in the United States. And, when it does so, no special rule prevents color alone from serving as a trademark. The United Kingdom has also recognized and registered colors as trademarks, e. Unregistered color marks have also been protected in the United Kingdom under the theory of passing off, a type of unfair competition, albeit inconsistently. Green and black pharmaceutical tablets were considered sufficiently distinctive of a manufacturer so as to prevent use of the same color scheme by another trader. Although the Directive sought to harmonize the definition of a trademark, it remained silent on the issue of color marks, instead, stating in Article 2 that: Thus, each member state may determine whether a color or combination of colors complies with this definition. However, since the Trademark Office does not apply strict standards in its registrability examination, the discretion to enforce registered rights remains with the courts. Although the new German Marks Act, effective January 1, , specifically includes colors and combinations of colors as registrable marks, recently issued internal guidelines of the Patent Office appear to exclude registration for such marks, unless combined with other distinctive features, and it is likely that the courts will need to rule on this issue. Under the former Act, the courts protected colors provided they had acquired secondary meaning in the relevant trade circles, e. The position is even less consistent in other countries where colors may or may not be registered as marks or protected like trademarks under other legal theories. The agreement is silent on the issue of single color marks. Older Australian cases adopted a more restrictive approach to protecting colors than the United Kingdom. Also, more recent cases in Australia and New Zealand have protected colors, absent registration, under the theory of passing-off. Moreover, the courts have refused to protect a single color as a trademark, for example, the color yellow in respect of hand saws, notwithstanding substantial use. Even though Korean courts have not addressed protection for color marks, Article 21 of the Unfair Competition Prevention Act[29] theoretically prevents the unauthorized use of a color on products for which the color has become well-known in Korea as the mark of a particular party. Although Chinese law does not permit the registration of single colors, a combination of colors may be registered where the combination has acquired distinctiveness through use. The courts have not addressed color mark protection. Taiwan does not allow registration of single color marks, although a combination of colors that has acquired distinctiveness through substantial use may be registrable. Apparently the courts have not considered color marks, although the Fair Trade Commission is considering at least one case concerning the unauthorized use of an unregistered combination of two colors under the Fair Trade Law. Japan does not permit registration of single color or color combination trademarks, without other

identifying or distinctive features, and there are no judicial decisions which have addressed such issues. Sound Marks Even though trademarks consisting of sounds have existed for many years, there is no uniformity regarding protection for such marks in the global marketplace. As with color marks, even more delegations in the Trademark Law Treaty negotiations expressed reservations as to whether sounds could constitute a mark under their national laws. However, GATT member states may exclude protection for sound marks by requiring that registrable signs be visually perceptible. Even if permitted by statute, registration of sound marks may be frustrated by the practical difficulties of sufficiently describing such marks to satisfy local Trademark Offices. Apparently the courts have not considered whether unregistered sound marks are protected under a theory of unfair competition. The Mexican Industrial Property Law does not allow registration of sound marks since marks must be visually perceptible. Moreover, the courts have not yet considered the theoretical possibility of sound mark protection under the doctrine of unfair competition. Moreover, the courts have not addressed the protection of unregistered sound marks. Although South Korea does not provide for the registration of sound marks, it may be possible to protect such marks on the basis of the Unfair Competition Prevention Act, discussed above. In view of the inconsistency in protection for sound marks, trademark owners with multinational interests must be wary of adopting such marks, since they will be difficult, if not impossible, to register at foreign trademark offices or protect in the courts of many jurisdictions. Scent Marks Marks consisting of scents are the most problematic. In addition to the practical difficulties of describing such marks sufficiently to determine where conflicts may exist, there is little legislation or jurisprudence on the subject. A scent mark was first recognized in in the United States, where a scent, described as a high impact, fresh, floral fragrance reminiscent of plumeria blossoms, applied to sewing thread, was deemed a registrable trademark. The new United Kingdom Trade Marks Act neither provides for nor prohibits protection for scent marks, thereby presumably allowing registration of scents, although time and practice will tell. Likewise, registration of fragrance marks in France and Germany is not expressly excluded, although such marks require graphical representation, which may make them difficult to register under current practice. There also appear to be no judicial decisions concerning the protection of such marks under other theories such as unfair competition. Most countries of the world will likely choose to refuse protection for scent marks at their Trademark Offices. However, a window of opportunity may exist in the courts. In Mexico, for example, scent marks are unregistrable but it may be possible, although as yet untried, to protect distinctive scent marks under a theory of unfair competition. Although the South Korean Trademark Act does not provide for the registration of scent marks, the Unfair Competition Prevention Act may protect scent marks, as with color and sound marks. The door is firmly closed in most other countries, such as Brazil, Japan, China and Taiwan, where scent marks are neither registrable and the courts do not appear to have considered the protection of unregistered scent marks under other legal theories. The international standards that determine which signs qualify as distinctive and enforceable trademarks have been progressively relaxed. However, even though color, sound and scent marks should be capable of trademark registration and protection, significant obstacles to effective international protection remain. As a result, enterprises adopting color, sound or scent marks in the United States will be frustrated by inconsistencies among the various foreign legal systems. Accordingly, appealing to the senses of consumers may seem a good idea from a marketing perspective, but may not make sense in the realm of trademarks. Quoting from *Diamond Match Co. In re Owens-Corning Fiberglass Corp.*

7: Laws and Regulations

Trademarks in Germany The relevant law is the German Trademark Act, which came into force on January 1 and was last amended in of the Trademark Act and Sections 6 to 12 of the.

History[edit] Before the formation of the German Empire in , the states that became part of the empire were sovereign with their own nationality laws, those of the southern ones notably Bavaria being quite liberal. Prussian law became the basis of the legal system of the German Empire, though the state nationality laws continued to apply, and a German citizen was a person who held citizenship of one of the states of the German Empire. RuStAG established a German citizenship, either derived from the citizenship of one of the component states or acquired through the central Reich government. Under the Third Reich , in , the German nationality law was amended to abolish separate state citizenships and creating a uniform Reich citizenship, with the central Reich authorities having power to grant or withdraw German nationality. On 13 March the German nationality law was extended to Austria following the Anschluss which annexed Austria to Germany. On 27 April , after the defeat of Nazism, Austria was re-established and conferred Austrian citizenship on all persons who would have been Austrian on that date had the pre nationality law of Austria remained in force. Any Austrians who had held German nationality lost it. The Nazi amendments of and the Nuremberg Laws of were revoked by Allied occupational ordinance in , restoring the nationality law, which remained in force until the reforms. From the law was steadily tightened each year to limit the number of immigrants, requiring immigrants to prove language skills and cultural affiliation. Article 2 entitles persons and their descendants , who were denaturalised by the Nazi government, to be renaturalised if they wish. Those among them, who after May 8, take up residence in Germany are automatically considered German citizens. Both regulations, 1 and 2 , allowed a considerable numbers of Poles and Israelis, residing in Poland and Israel, to be concurrently German citizens. Birth in Germany[edit] Children born on or after 1 January to non-German parents acquire German citizenship at birth if at least one parent: In order to retain German citizenship, such children are required to take affirmative measures by age 23, after which their German citizenship otherwise expires. If they are not fulfilled, the applicant can alternatively prove that he or she does not hold any foreign citizenship other than in a European Union member nation or a nation such as Morocco , Nigeria , or Iran whose domestic law provides that its citizenship cannot be lost. Parents who are citizens of European Economic Area states or Switzerland are eligible to receive permanent resident permits after five years. Place of birth is not a factor in citizenship determination based on parentage. Those born after 1 January are Germans if the mother or father is a German citizen. Those born before 1 January could normally only claim German citizenship from the father and not the mother. Exceptions included cases where the parents were unmarried in which case German mothers could pass on citizenship or where the German mother applied for the child to be registered as German on or before 31 December Special rules exist for those born before 1 July if only the father is German and is not married to the mother. The father must acknowledge paternity and must have married the mother before 1 July The child would be stateless. In case both parents are German citizens, German citizenship will not be passed on automatically, if both parents were born abroad after 31 December and have their primary residence outside Germany. Exceptions are same as the above. Those born in Germany and adopted to a foreign country would need to contact their local German Consulate for clarification of German citizenship. Persons who are Germans on the basis of descent from a German parent do not have to apply to retain German citizenship by age If they acquire another citizenship at birth, they can usually continue to hold this. Adoption[edit] A child adopted by a German citizen becomes German national automatically if aged less than 18 on the date the application for adoption was made. So dual citizenship is granted. Naturalisation as a German citizen[edit] Naturalisation by entitlement[edit] An individual who fulfils all of the following criteria has an entitlement to naturalise as a German citizen: It also includes a section on the Constitution of the Federal State in which the applicant resides. The citizenship test is obligatory unless the applicant can claim an exemption such as illness, a disability, or old age. Applicants for naturalisation are normally expected to prove they have renounced their existing nationality, or will lose this automatically upon naturalisation. An

exception applies to those unable to give up their nationality easily such as refugees. A further exception applies to citizens of Switzerland and the European Union member states. Exceptions to the normal residence requirements include: The marriage must have persisted for at least 2 years. The Article also includes the descendants of Nazi victims, and does not require them to give up the citizenship of their new home countries. Although the law that German citizenship passed only through fathers was changed in , this was not made retroactive. The "applicable German law of citizenship" referred to states that "Children born in wedlock between Jan. Children born in Germany[edit] Under transitional arrangements in the reforms effective 1 January , children who were born in Germany in or later, and would have been German had the law change been in force at the time, were entitled to be naturalised as German citizens. An application for naturalisation was required by 31 December The child was required to apply for retention of German citizenship by age 23 and normally show that no other foreign citizenship was held at that time. Naturalization statistics[edit] Between and , 1,, people obtained German citizenship by naturalization. This means that about 1. Naturalization of foreigners in Germany per selected country and year.

8: KATZAROV Patent & Trademark Attorneys - Czech Republic

enacted on January 1, was a major amendment to the law, increasing the number of articles to The present German trademark law solidified certain concepts, such.

Local What are the local enactments governing trademark registration in Ghana? Implementing Regulations are yet to be promulgated. Trademarks Amendment Act, Act , entry into force July 25, Trade Marks Regulations, L. International What are the main international treaties signed by the Republic of Ghana in respect of trademarks? Any individual or legal entity claiming to be the proprietor of a mark being used or proposed to be used may apply for trademark registration in Ghana. Applicants not resident or not having their principal place of business in Ghana must be represented by a legal practitioner resident and practicing in Ghana. There are no special provisions for foreigners. They are protected in the same manner as those of nationals. What marks are registrable in Ghana? Any sign or combination of signs capable of distinguishing the goods or services of one undertaking from the goods or services of other undertakings including words such as personal names, letters, numerals and figurative element. Both collective and service marks are registrable in Ghana. What marks are not registrable in Ghana? Do agents filing for registration of a mark on behalf of the owner require power of attorney? If so, is notarization or legalization required? Agents need a signed power of attorney from the owner of the trademark or Principal. No notarization or legalization is required. What Information and Documentation must be submitted in a trademark registration application? If priority is claimed, the number, date and country of the mark on which the priority is based; Disclaimer as to the exclusive use where necessary. What documents are required for registration? What rules govern the representation of the mark in the application? Trademarks must be represented graphically and the representation must be clear and precise. Is electronic filing available? No, electronic filing is not available for trademarks applications in Ghana. What are the application fees? The trademark registration formally comes into effect when the Trademark Registrar registers the trade mark, publish a reference to the registration and issue the applicant with a certificate of registration. Registration of a trademark covers only Ghana. What is the timeline for registration? It takes about two years for trademarks to be registered in Ghana. Priority How are priority rights claimed? Searches Are trademark searches a requirement prior to filing? If so, what procedures and fees apply? Trademark searches are not a requirement prior to filing. However, it is advisable to conduct an availability search for the trademark to be filed to avoid the risk of possible objections. The search is conducted by sending a letter to the Registrar of trademarks requesting for the Registrar to conduct a search on the trademark in the proposed class of goods and services. Examination and Protection What factors does the Trademark Registry consider in its examination of the application? The Trademark Registry examines both the formal and substantive requirements. How are objections to trademark applications communicated by the Trademark Registry? Any objection to the trademark are communicated by official letters. What are the rules governing opposition of trademark applications? Oppositions against a trademark application may be filed by any interested party within two months from the date of advertisement of the application or within such extended period as shall be granted by the Registrar on request. Protection What is the term of protection for a trademark? The term of protection for a trademark in Ghana is ten years. Are trademarks renewable in Ghana? The registration of a trade mark may be renewed for consecutive periods of ten years upon payment of the fee prescribed for renewal. A grace period of six months is allowed for the late payment of the renewal fee upon payment of the prescribed surcharge. What are the rights conferred by registration? The registered owner may institute court action against any person who infringes a registered trademark by using it without permission. The rights extend to use of a sign similar to the registered mark and use in relation to similar goods or services where confusion may arise in the public. What penalties can be sanctioned against an infringer? Both civil and criminal penalties. Assignment What is the procedure for assigning a registered trademark? Assignment of a trademark or of an application for registration of a trademark must be filed with the Registrar for recordal in order to affect a third party. Licenses What is the procedure for licensing a registered mark? License concerning the registration of a trademark or an application

for registration must be submitted to the Registrar who shall record the license and publish a reference to it. License contracts shall not be valid against third parties until filed with the Registrar. Others Use Are there any rules regarding the use of trademarks in Ghana? Yes, a registered mark may be removed from the Register on request to the Registrar by any person interested, on the grounds that up to one month before the date of the request, a continuous period of five years or longer has elapsed during which there was no use of the mark by the registered owner or a licensee. Rectification Can trademark applications be rectified? Rectification or correction of Register may be made upon request to the Registrar and the Registrar may correct errors in any document filed or any entry made under the Act.

9: Codes Display Text

Act means the Trade Marks Act approved means, for doing an action, means the means specified for the action by the Registrar in a notice made under regulation AA and published by the Registrar.

A Cold Heart (Alex Delaware) Story boxes, story bags and story telling Understanding Mathematics Opportunities in Hotel and Motel Management Careers Radio Amateur Callbook 2000: More Than 1,550,000 Licensed Radio-Amateurs! Understanding Object-Oriented Programming With Java Big basket business plan Tubby Time for Little Ernie (Board Books) A modern prompt book of William Shakespeares The taming of the shrew Diet Away Your Stress, Tension, and Anxiety 2. And then came Hahnemann The Healing Experience Weasel in the turkey pen My brother plays the clarinet Section 16 of the Securities Exchange Act New York at a glance Visual handicaps and learning Lonely planet london Inside Microsoft SQL Server 2008 Global Consciousness Poems About Water (The Elements in Poetry) Ventura dlx owners manual Comparative political parties data, 1950-1962 Putting together an investigative team Advanced biology textbook Software watermarking Setting guidelines for your child History of the Worshipful company of pewterers of the city of London Number the stars chapter 16 Microbiology for nursing and allied health students From kin to class Circles of the world The architect of Blenheim (Sir John Vanbrugh) Gilkeys Weeds of the Pacific Northwest The Hispanics of New Mexico Nobody Loves a Centurion (SPQR VI) Vw caddy 2005 manual A British rifle man By force of instinct abigail reynolds Dorothy Wordsworth, selections from the journals