

Newsletter No.

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Swiss IP News We provide you with updates on new decisions, the relevant legislative process and other trends in the fields of intellectual property and unfair competition law from a Swiss perspective.

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The Swiss Cross on Non-Swiss Products?

The Swiss cross has long been off-limits for products that do not meet the Swissness criteria. A recent announcement by the Swiss Federal Institute of Intellectual Property changes that.

Background

Swiss law sets comparatively high criteria for the use of Swiss indications of origin, such as "Swiss" and the Swiss cross (art. 47 et seq. of the Swiss Trademark Protection Act). These rules exist to protect the associations of quality, precision, and reliability that consumers worldwide attach to Swissness.

Swissness claims may not be used for products that do not meet the Swissness criteria, including products manufactured abroad, even by Swiss companies. There is, however, a limited exception: even where a product does not itself qualify as Swiss, indications of origin may be used to refer to a specific activity carried out in Switzerland in connection with that product – for example, "SWISS DESIGN", "SWISS RESEARCH", or "SWISS ENGINEERING". For such activity-related Swissness claims to be admissible, the relevant activity must have taken place entirely in Switzerland. In addition, the relevant activity must be sufficiently specific, and the reference to Switzerland must not be visually more prominent than the rest of the claim. The underlying rationale is to ensure that consumers understand the claim as relating only to the specific activity, and not to the product as a whole.

On the question of the Swiss cross, the Swiss Federal Institute of Intellectual Property (IPI) had long drawn a firm line. Arguing that consumers generally perceive the Swiss cross as a reference to the origin of the product as a whole rather than a specific activity, the IPI

considered the use of the Swiss cross in connection with activity-related claims such as "SWISS ENGINEERING" inadmissible, unless the relevant product itself met the Swissness criteria.

Change of Practice

On 23 March 2026, the IPI [announced](#) a "clarification" of its practice. In substance, however, the new approach amounts to a relaxation of its previous position. Going forward, it will consider the Swiss cross admissible in connection with activity-related Swissness claims, subject to strict formal conditions: the Swiss cross must be placed exactly between the two words making up the claim (for example, between "SWISS" and "DESIGN"), and the sides of the cross square must not exceed the height of the verbal elements. The intended effect is that the cross functions as a graphic element integrated within the claim, rather than as a freestanding origin symbol.

SWISS DESIGN

This change of practice takes effect immediately. It is subject to any special provisions to the contrary in industry ordinances, such as for watches and cosmetic products.

Comment

This change of practice offers new marketing opportunities for Swiss companies that innovate in Switzerland but manufacture abroad. The Swiss cross, one of the most powerful and internationally recognised Swissness

symbols, is no longer off-limits.

That said, and contrary to what some media coverage might suggest, this change of practice is neither a general relaxation of the Swissness rules nor a *carte blanche*.

First, the substantive requirements for activity-related Swissness claims remain unchanged and demanding. The relevant activity must have taken place entirely in Switzerland. For example, for "SWISS DESIGN", with or without the Swiss cross, the entire process of creating the design of the product covered by the claim must have been performed in Switzerland. The burden of proof lies with the company making the claim. Furthermore, discussions on how significant the Swiss activity must be relative to the product as a whole may be expected in the future. The Swissness legislation is silent in this regard. However, it is hardly in the spirit of the law, and may be misleading to consumers and thus constitute unfair competition, to advertise a product with the Swissness of certain activities if those activities are immaterial to the product.

Second, the formal requirements for use of the Swiss cross are strict. It must be positioned between the two verbal elements of the claim and must not exceed their size. In particular, it is not permitted under the changed practice to use the Swiss cross outside of, or in a manner detached from, the relevant Swissness claim. It is also reasonable to expect that the verbal elements must be clearly visible and legible. For example, a claim with the red and white Swiss cross and dark-grey lettering against a black background would likely be considered misleading regardless of how the Swiss cross is positioned.

Finally, the IPI's change of practice is not binding on the courts. It means that the IPI can be expected not to take enforcement action against the use of the Swiss cross in activity-related Swissness claims if the substantive and formal

requirements are met. However, upon complaint, for example by a competitor or consumer protection association, a court may take a stricter view and decline to follow the IPI's new approach.

The Walder Wyss Newsletter provides comments on new developments and significant issues of Swiss law. These comments are not intended to provide legal advice. Before taking action or relying on the comments and the information given, addressees of this Newsletter should seek specific advice on the matters which concern them.

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