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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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## QATAR 2022: Trademarks Will Still Not Compete in the Championship and How the IPI Reacts

In the aftermath of the Swiss Federal Supreme Court ruling in the proceedings between PUMA and FIFA (cf. [IP Newsletter No. 13](#)), the Commercial Court of Zurich prohibited PUMA the use of its now deleted trademarks “PUMA WORLD CUP QATAR 2022” and “PUMA WORLD CUP 2022” for unfair competition law reasons ([HG220065-0](#)). And the Swiss Federal Institute of Intellectual Property (“IPI”) announced a change in practice with regard to the registration of event marks.

### Background

As already discussed in our [IP Newsletter No. 13](#), the Swiss Federal Supreme Court ruled in its judgment [4A 518/2021](#) and [4A 526/2021](#) that the trademarks “PUMA WORLD CUP QATAR 2022” and “PUMA WORLD CUP 2022” created the expectation of a special relationship between PUMA and the football World Cup 2022 and thus the (false) impression that PUMA was the main sponsor of such event. Therefore, the trademarks were declared invalid for a risk of misleading pursuant to Art. 2 let. c of the Trademark Protection Act (“**TmPA**”). In the meanwhile, the IPI has cancelled the trademarks. The assessment of the unfair competition law claims as regards the use of such marks was referred back to the Commercial Court of Zurich (cf. below).

In the same proceedings, the Swiss Federal Supreme Court also decided that FIFA’s trademarks “QATAR 2022, fig.” and “WORLD CUP 2022, fig.” had descriptive character and therefore were devoid of any distinctive character within the meaning of Art. 2 let. a TmPA. It found the figurative element to be directly descriptive and banal in its graphic design and therefore not capable of conferring the necessary minimal original distinctiveness on the word combinations. Consequently, the IPI also cancelled these trademarks.

### Decision of the Commercial Court

On 28 June 2022, the Commercial Court of Zurich (“**Court**”) decided on the claims for injunctive relief under unfair competition law in the rejection proceedings ([HG220065-0](#)). For the substantiation of the injunctive relief pursuant to Art. 2 and Art. 3 para. 1 let. b, d and e of the Unfair Competition Act (“**UCA**”), the Court referred entirely to the Swiss Federal Supreme Court’s statements in its ruling of 6 April 2022. It held the arguments put forward under trademark law to be decisive also for the assessment of the unfair competition law provisions. According to the Court, the incorrect/misleading statements within the meaning of Art. 3 para. 1 let. b UCA lied in particular in the misleading impression conveyed by the trademarks of PUMA being the title or main sponsor of the 2022 World Cup. Based on this, the Court prohibited PUMA from using its trademarks in connection with the relevant goods including sporting goods, clothing and accessories and did not examine any further violation of the UCA.

### Planned change in the IPI’s practice on the registration of event marks

Given that the IPI’s practice on the registration of event marks was called into question by the discussed proceedings, the IPI intends to change its respective

practice (cf. [here](#)). Until now, event marks consisting of “event location plus year” or “event name plus year” were registered if the word elements were enriched by rather insignificant graphic elements. Distinctiveness was denied only for goods and services that had an immediate or at least close proximity to the referenced event.

In the future, the IPI intends to reject a mark according to the above pattern in full unless it features an additional distinctive element. These signs will be considered public domain if they refer to a known place and a date in the (near) future – hence creating a reference to an event.

The envisaged practice corresponds to EUIPO's practice and will simplify trademark examination. In any case, the current practice of the IPI accepting event marks if acquired distinctiveness (through use) can be shown shall remain. Interested parties have until 25 November 2022 to comment on the envisaged change in practice.

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.