Recent changes in trademark law

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Implementation of the Geneva Act – improved international protection for geographical indications and appellations of origin linked to Switzerland.

On 1 December 2021, the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications and the corresponding implementing decrees entered into force in Switzerland. This accession will lead to better international protection of Swiss appellations of origin and geographical indications for Swiss products and in particular enables producers of products with a quality indication (e.g. PDO, PGI or AOP) faster and more cost-effective access to international protection of their products' distinctive designations.

Third parties will have the possibility to file an opposition against the registration of a foreign geographical indication on the basis of an earlier trademark (cf. Art. 50e para. 1 lit. c TmPA). The provisions of the opposition procedure against the registration of a trademark (Art. 31 et seq. TmPA) are applicable mutatis mutandis. Hence, the owner of the international registration contested in Swiss opposition proceedings may raise the objection of non-use in its first statement to the opposition.

This implementation results in various amendments to the TmPA and the corresponding ordinance (Ordinance on the Protection of Trade Marks and Indications of Origin (TmPO)). In this context, the Federal Council also used the opportunity to clarify some other aspects. For example, Art. 22 para. 3 TmPO now explicitly clarifies that a claim of non-use in opposition proceedings is only admissible if, at the time of filing the reply to the statement of opposition, the waiting period of five years stipulated in Art. 12 para. 1 TmPA has lapsed.

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No legal or tax advice

This legal update provides a high-level overview and does not claim to be comprehensive. It does not represent legal or tax advice. If you have any questions relating to this legal update or would like to have advice concerning your particular circumstances, please get in touch with your contact at Pestalozzi Attorneys at Law Ltd. or one of the contact persons mentioned in this legal update.

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