

Revision of company names legislation will affect trademark law Switzerland - Meyerlustenberger Lachenal

Registration

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Within the context of the revision of the provision of the Swiss Stock Corporation Law (part of the Swiss Code of Obligations) on limited liability companies, the law on company names is due to be substantially revised.

The new Swiss Stock Corporation Law entered into force on January 1 2008. Under the new law, Swiss limited liability companies are granted protection against the use of similar company names in the whole of the country. In contrast, under the former legislation, companies were protected against such use only within a limited geographical area.

Moreover, following the revision of the law on company names, it will be possible to register descriptive company names with the Register of Commerce. Descriptive company names will not be protected against the use of earlier similar company names. However, companies using fanciful names will still be able to claim exclusivity over their name, and will thus be protected against the use of identical or similar company names.

The new legislation will have an impact on Swiss trademark law. Previously, the legislature sought to establish a unified legislation for trademarks, company names and domain names. However, the revised law on company names will intentionally create a discrepancy between trademarks and company names. The threshold of distinctiveness will become considerably higher for trademarks (even considering the rigid practice of the Swiss [Federal Institute for Intellectual Property](#)) than for company names, since it will be possible to register descriptive company names. The reasoning behind the change was that companies are often incorporated under time pressure, and the registration of company names should thus be a quick process.

Finally, companies often use their name as a house mark. However, companies should not be misled by the new regime for the registration of company names: it will not possible to register purely descriptive company names as trademarks. In addition, service mark holders which previously used their trademark as the company name may need to reconsider their position.

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