German law in IP

Intellectual Property is a quite international field of law. Usually IP rights owners have IP rights in several nations or territories. With a series of articles, we want to give insights on the German law for IP owners and foreign IP counsel. This is relevant for people with IP rights in Germany and EU-wide IP rights.

At this year's Annual INTA meeting in Orlando, we once again met IP professionals from around the globe. We exchanged our experiences with our colleagues to become aware of the differences, possibilities and opportunities in handling IP matters for our clients on an international level. As attorneys we depend on our colleagues around the world since attorneys are only qualified to act in their own jursidiction, but IP rights are mostly protected in many countries and territories around the world. Thereby it is crucial to be aware of the differences and advantages some jurisdictions may have towards others.

Some of the experiences and insights on European and German law came as a surprise to many of our foreign colleagues. We've made the same experience with some of our international clients. That's why we decided to start a series with frequent articles to share these insights and experiences on European and German law, mainly focusing on litigation and enforcement, starting with this article.

So when might German law/jurisdiction become relevant?

Obviously when you have a German IP right or an IP infringement in Germany, German laws apply.

But that is not the only time German law might become appblicable. For instance, it might become relevant with European trademarks (EUTM) and European Community Designs (CD).

For litigation regarding these EU wide rights, national courts of EU member countries are competent, if the opponent is located in that country or in lack of any residence in the EU the IP rights owner has some place of business in that country. The court of a country is also competent, if the infringement of a EUTM or CD has occured in that particular country. That could be because an infringing product has been offered online to that country or it is located in that country, f.e. for transit in another country. This means that besides the European laws, the German laws and German jurisdiction apply.

Since Germany is the largest single market in the EU a lot of infringements related to EUTMs or CDs are likely to occur also in Germany, which means the IP right owner can choose to litigate and enforce before German courts.

Why that might be a good idea, we will explain in the follow-up articles. So stay tuned.