

GRUR

International

Journal of European and International IP Law

Published by the German Association for
Intellectual Property Law (GRUR)

In collaboration with the Max Planck Institute
for Innovation and Competition

www.ip.mpg.de

12/2023

Volume 72 – December 2023

Table of Contents

Editorial

- 1105 TATSUHIRO UENO
The Internationality of Legal Academia

Articles

- 1107 HANNS ULLRICH
Patent Dependency under European and European Union Patent Law – A Regulatory Gap
- 1125 CHARLOTTE J.S. VRENDENBARG
Towards a Judicial Sustainability Test in Cases Concerning the Enforcement of Intellectual Property Rights
- 1132 CONCEPCIÓN SAIZ GARCÍA
Is the Script of a Television Programme the Crux of Being a Legal Performer?

Opinion

- 1142 RUDOLF A. RENTSCH / RAPHAEL ZINGG
The Copyrightability of Works of Applied Art in China – Case Note of Guiding Case No. 157 by the Supreme People's Court of the People's Republic of China

Official Statement China

- 1146 Guiding Case No. 157 – Zuoshang Mingshe Homeware (Shanghai) Co., Ltd. v Beijing Zhongrong Hengsheng Wood Industry Co., Ltd. and Nanjing Mengyang Furniture Distribution Center (Copyright Infringement Dispute)

Decisions

- Italy** 1149 **PLANT VARIETY PROTECTION**
Supreme Court of Cassation, Civil Division, Section 1 (Corte Suprema di Cassazione, Sez. 1 Civ.) 28 February 2023 – 6074/2023
Assessing the Distinctness of a Variety – **Asgrow Seed**
- Austria** 1152 **TRADE MARK LAW**
Supreme Court (Oberster Gerichtshof) 22 November 2022 – 4 Ob 134/22t
Liability for a Trade Mark Infringement Resulting from a Commissioned Advertisement – **AIRBUTLER**
- South Africa** 1157
Supreme Court of Appeal 1 December 2022 – 636/2021

Assessments of Shape Marks' Distinctiveness and Passing-off – **Dart Industries Incorporated and Another v Botle Buhle Brands**

Italy	1165	GEORGRAPHICAL INDICATIONS Supreme Court of Cassation, Civil Division, Section 1 (Corte Suprema di Cassazione, Sez. 1 Civ.) 20 March 2023 – 7937/2022 Comparison Reveals That the Trade Mark Does Not Infringe the PDO – Cacio Romano
Turkey	1171	COMPETITION LAW Council of State 15 November 2022 – Case No. 2022/2966, Decision No. 2022/4240 No-Challenge Clauses in SEP Licensing Agreement as an Abuse of a Dominant Position – TV Subtitling Software
Germany	1177	UNFAIR COMPETITION Federal Supreme Court (Bundesgerichtshof) 26 January 2023 – I ZR 27/22 Exclusion of Liability of a Business Owner for Competitive Acts of Third Parties – Haftung für Affiliates [Liability for Affiliates]
France	1182	COPYRIGHT LAW Court of Cassation (Cour de Cassation) 8 March 2023 – No. 172 F-D on appeal P 22-13.854 When Music Box Melody Infringes Author's Moral Rights – Crank-Operated Music Boxes
Portugal	1184	Supreme Court (Supremo Tribunal de Justiça) 24 May 2022 – 3349/08.0TBOER.L2.S1 Equitable Remuneration for the Use of Performances Contained in Videograms – GDA v TVI and SIC
China	1199	RESTRAINTS OF COMPETITION Supreme People's Court 23 June 2022 – (2021) Zui Gao Fa Zhi Min Zhong No. 1977 Assessing the Joint Dominant Position in the Mobile Communications Service Market – Lijie Ma v China Mobile Communications Group