
Switzerland: New Non-Use Cancellation Procedure

By Karen Lim

Article 12 of the Swiss Trademark Act provides that trademark rights may no longer be asserted if the trademark has not been in use for an uninterrupted period of five years unless the owner can show good cause for the non-use. [More](#)

By Karen Lim

Article 12 of the Swiss Trademark Act provides that trademark rights may no longer be asserted if the trademark has not been in use for an uninterrupted period of five years unless the owner can show good cause for the non-use. However, until this year, cancellation of a registered trademark had to be sought before a civil tribunal, a long and expensive legal procedure. As of January 1, 2017, it is now possible for anyone to file a cancellation petition with the Swiss Federal Institute for Intellectual Property by means of a simplified administrative procedure for a modest fee of CHF 800.

Under the new procedure, a petitioner must assert the non-use of the challenged trademark and provide evidence showing that the non-use seems likely based on objective consideration. Conversely, in defense, the trademark owner must provide evidence of genuine use of the trademark in connection with the claimed goods and services in the form of copies of invoices, documented advertisements, labeled products, and other documentary proof. Or the owner could provide important reasons for non-use of the challenged mark, such as government regulations, import regulations, and so forth.

The simpler and less costly non-use cancellation procedure is likely to invite an increase in non-use cancellation actions. Trademark owners would be well-advised to bear this possibility in mind when drafting their identification of goods and services, and to keep documentary records of use of their trademarks in Switzerland.

Primary Contacts

Karen Lim

