

Published by the German Association for the Protection of Intellectual Property (GRUR)

In collaboration with the Max Planck Institute for Innovation and Competition

www.ip.mpg.de

10/2023 Volume 72 – October 2023

Table of Contents

Editorial	917	MARCO BOTTA
		The 'Scattered' EU Acquis on B2B Data Sharing
Articles	919	STEFAN SCHEUERER The Fairness Principle in Competition-Related Economic Law
	933	TIM SPRENGER Enforcing Put Backs in German and European Law
	939	KATERYNA MILITSYNA Human Creative Contribution to Al-Based Output – One Just Can('t) Get Enough
Opinion	950	LIANG XU New Trends, New Possibilities: A Comment on the Proposed Fifth Amendment to China's Trade Mark Law
Decisions Japan	958	PATENT LAW Intellectual Property High Court 29 March 2022 – 10057 (Ne) of 2020 Technical Restrictions for Third-Party Providers in Aftermarkets Under the Lens of Competition Law – RICOH Toner Cartridge II
Italy	961	TRADE MARK LAW Supreme Court of Cassation, Civil Division Section 1 (Corte Suprema di Cassazione, Sez. 1 Civ.) 23 December 2022 – 37697/2022 Challenging the Refusal to Register an Advertising Slogan as a Trade Mark for the Lack of Distinctiveness – Hulka v Ministry of Economic Development, Italian Patent and Trade Mark Office
Netherlands	967	Supreme Court (Hoge Raad) 23 December 2022 – 20/03965 Burden of Proof for the Exhaustion of Trade Mark Rights – Sporttrading Holland B.V., Sport Concept B.V., Ferro Footwear B.V. and Brandustry B.V. v Converse Inc., Kesbo Sport B.V.

France	971	PHARMACEUTICAL LAW Council of State (Conseil d'État) 1 August 2022 – No. 453036 Legal Requirements of Public Financial Incentives to Prescribe Drugs That Do Not Belong to the Same Generic or Similar Biological Groups – Toujeo
Germany	974	COPYRIGHT LAW Federal Supreme Court (Bundesgerichtshof) 15 December 2022 – I ZR 173/21 Originality and Scope of Copyright Protection of Works of Applied Art – Vitrinenleuchte [Showcase Lamp]
China	980	TRADE SECRETS Supreme People's Court 18 December 2021 – (2020) Zui Gao Fa Zhi Min Zhong No. 621 Non-Disclosure Obligations after the Contract Termination – Junde Tongchuang
France	988	Court of Cassation (Cour de cassation) 1 February 2023 – 95 FS-B+R on appeal S 21-22.225 Ensuring Protection of Trade Secrets in Saisie-Contrefaçon Proceedings – Laboratoires Vivacy v Teoxane
Germany	991	PRESS AND MEDIA LAW Federal Supreme Court (Bundesgerichtshof) 13 October 2022 – I ZR 111/21 The Possibility and Limitation of the Domain-Blocking Claims – DNS-Sperre [DNS Block]
Book Review	999	Boris Catzeflis: Les marques contraires à l'ordre public ou aux bonnes mœurs. Étude du droit des marques suisse dans une perspective de droit compare (Michal Bohaczewski)
Corrigendum	1005	Corrigendum to: Accessibility via URLs and the Right of Making Available to the Public