



i n g r e s Institut für
gewerblichen
Rechtsschutz

ETH zürich

Zurich IP Retreat 2018 – Injunctions at a junction?

Friday, 2nd / Saturday, 3rd November 2018

Zunfthaus zur Waag, Zurich

The overwhelming success of last year's retreat on "the hindsight bias" encourages us to invite again academics, judges and practitioners from all over the world to discuss another fundamental topic of intellectual property law:

Is there or should there be room for a balance of interest analysis before the issuance of an injunction, or are injunctions to be granted unless the requirements for compulsory licensing are met? What are the alternatives?

For a long time the general opinion in Europe had been that an infringement of an IP right automatically entails the right to injunctive relief. Only recently did the principle of proportionality ("Verhältnismässigkeit") emerge in black letter law (EU Enforcement Directive) and case law (German Federal Court of Justice: *Wärmetauscher* [X ZR 114/13]). The specter of pan-European injunctions granted by the Unified Patent Court in every case of infringement haunts some.

The Common Law principle of equity makes the grant of a permanent injunction conditional on the showing of irreparable harm, the inadequacy of other remedies, a balance of hardships and the consideration of public interest (U.S. Supreme Court: *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388 (2006)).

We will be focusing on the remedies not only in patent law but also discuss injunctive relief based on other intellectual property rights. We will consider (permanent and temporary) injunctions in a doctrinal framework, learn about the economic implications, discover how various national legal systems are handling injunctive relief, look at specific industries and finish with a case-study, while giving sufficient time for discussion.

Friday

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| 12:00 | Lunch |
| 13:15 | Welcome and Introduction
Tobias Bremi and Michael Ritscher |
| 13:30 | Injunctions and Balance of Interests
Stefan Bechtold |
| 14.15 | Balance of Interests by Means of Remedies (moderated by Stefan Bechtold) <ul style="list-style-type: none">- the Anglo-American law perspective: Rochelle Dreyfuss- the civil law perspective: Franz Hofmann |
| 16:00 | Coffee Break |
| 16:30 | National views (moderated by Mario Franzosi) <ul style="list-style-type: none">- Japan: Christoph Rademacher- United Kingdom: Daniel Alexander- Germany: Jörn Feddersen and Andreas von Falck- Netherlands: Peter Blok- Switzerland: Cyrill P. Rigamonti and Mark Schweizer |
| 19:00 | Aperitif and Dinner |

Saturday

- 9:00 **Injunctions and Essential Medicines** (moderated by Peter Picht)
Herman Deichfuss, Daniel Alexander
- 10:00 **Injunctions and Essential Telecom Devices** (moderated by Peter Picht)
Beat Weibel, Christoph Rademacher, Gabriele Mohsler
- 11:00 Coffee Break
- 11:30 **Case Study** (moderated by Tobias Bremi)
Thierry Calame
- 13:00 **Final Discussion and Closing Remarks** (moderated by Michael Ritscher)
Mario Franzosi, Tobias Bremi, Stefan Bechtold, Peter Picht
- 13:30 **Lunch**