

X. (Title and date of the applicable national law)**Extract from the Trade Mark Law**
Version of 19/10/2013, Section 96 updated*Absolute obstacles to protection*

8. - (1) Signs eligible for protection as a trade mark within the meaning of section 3 which cannot be depicted graphically shall be excluded from registration.
- (2) The following trade marks shall be excluded from registration
1. those which are devoid of any distinctive character for the goods or services,
 2. which consist exclusively of signs or indications which may serve, in the course of trade, to designate the nature, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the services or to designate other characteristics of the goods or services,
 3. which consist exclusively of signs or indications which have become customary in the current usage or in the bona fide and established practices of the trade to designate the goods or services,
 4. which are of such a nature to mislead the public, in particular with regard to the nature, the quality or the geographical origin of the goods or services,
 5. which are contrary to public policy or to accepted principles of morality,
 6. which contain state coats of arms, state flags or other sovereign state symbols or coats of arms of a domestic locality or of a domestic municipal or other local authority association,
 7. which contain official certification marks or hallmarks which are excluded from registration as a trade mark in accordance with a notice made by the Federal Ministry of Justice in the Federal Law Gazette (BGBl.),
 8. which contain coats of arms, flags or other symbols, seals or designations of international intergovernmental organisations which are excluded from registration as a trade mark in accordance with a notice made by the Federal Ministry of Justice in the Federal Law Gazette,
 9. the use of which can evidently be prohibited in the public interest in accordance with other provisions, or
 10. which have been applied for in bad faith.
- (3) Subs. 2 Nos. 1, 2 and 3 shall not apply if, prior to the point in time of the decision on registration, the trade mark has become established in the trade circles involved as a result of its use for the goods or services for which the application was filed.
- (4) Subs. 2 Nos. 6, 7 and 8 shall also be applied if the trade mark contains the imitation of a sign listed there. Subs. 2 Nos. 6, 7 and 8 shall not be applied if the applicant is empowered to include in the trade mark one of the signs listed therein, even if it can be confused with one of the other signs listed therein. Subs. 2 No. 7 shall furthermore not be applied if the goods or services for which the trade mark application was filed are neither identical with nor similar to those for which the certification mark or hallmark has been introduced. Subs. 2 No. 8 shall further not be applied if the trade mark applied for is not suitable to create among the public the incorrect impression of a connection with the international intergovernmental organisation.

*Trade marks that have been filed or registered
as relative obstacles to protection*

9. - (1) The Registration of a trade mark may be cancelled
1. if it is identical to a trade mark applied for or registered which has older seniority and the goods or services for which it was registered are identical with the goods or services for which the trade mark with older seniority was filed or registered,
 2. if the likelihood of confusion exists, including the likelihood of association between the trade marks, for the public because of its identity with or similarity to a trade mark applied for or registered with older seniority and owing to the identity or similarity of the goods or services covered by both trade marks, or
 3. if it is identical with or similar to a trade mark applied for or registered with older seniority and has been registered for goods or services which are not similar to those for which the trade mark with older seniority has been filed or registered, if the trade mark with older seniority is a trade mark which has a reputation in this country and the use of the registered trade mark would without due cause take unfair advantage of, or be detrimental to, the distinctive character or the repute of the trade mark which has a reputation.
- (2) Applications for trade marks shall only constitute an ground for refusal within the meaning of subs. 1 if they are registered.

Opposition

42. - (1) Within a three-month period after the date of the publication of the registration of the trade mark in accordance with section 41, the proprietor of a trade mark or of a commercial designation with older seniority may lodge an opposition against the registration of the trade mark.
- (2) The opposition may only invoke that the trade mark may be cancelled
1. because of a trade mark applied for or registered with older seniority in accordance with section 9,
 2. because of a well-known mark with older seniority in accordance with section 10 in conjunction with section 9,
 3. because of its registration for an agent or representative of the trade mark proprietor in accordance with section 11, or
 4. because of a trade mark not registered with older seniority in accordance with section 4 No. 2 or of a commercial designation with older seniority in accordance with section 5 in conjunction with section 12.
- (3) (repealed)

*Objection of insufficient use,
decision on the opposition*

43. - (1) If the opposition has been lodged by the proprietor of a registered trade mark with older seniority, he/she shall, if the other party disputes the use of the trade mark, make a plausible case that he/she, within the last five years prior to the publication of the registration of the trade mark which is targeted by the opposition, has been used in accordance with section 26 insofar as it has been registered for at least five years at this point in time. If the period of five years of non-use ends after the publication of the registration, the opponent, if the other party disputes the use, must make a plausible case that the trade mark has been used in accordance with section 26 within the past five years prior to the decision on the opposition. Only those goods or services shall be taken into consideration in the decision with respect to which a plausible case has been made for use.
- (2) If the examination of the opposition reveals that the trade mark is to be cancelled for all or part of the goods or services in respect of which it is registered, the registration shall be cancelled in full or in part. If the registration of the trade mark cannot be cancelled, the opposition shall be refused.
- (3) If the registered trade mark is to be cancelled because of one or several trade marks with older seniority, the proceedings on further objections may be suspended until a decision has been handed down with legal force on the registration of the trade mark.
- (4) Section 52 subs. 2 and 3 shall be applied mutatis mutandis in the event of cancellation in accordance with subs. 2.

Domestic representative

96. - (1) Any person who has neither their residence nor principal place of business nor an establishment in Germany may participate in the proceedings before the German Patent and Trade Mark Office or the Federal Patent Court which are regulated under this Act and assert the rights deriving from a trade mark only if he has appointed as his representative a lawyer or patent attorney who is authorised and empowered to represent him in proceedings before the German Patent and Trade Mark Office, before the Federal Patent Court and in civil litigation affecting this trade mark, as well as to file motions for criminal prosecution.
- (2) The place where a representative appointed pursuant to subsection (1) has his commercial premises shall be deemed, within the meaning of section 23 of the Code of Civil Procedure, to be the place where the asset is located; if there are no such commercial premises, the place where the representative is residing in Germany shall be decisive or, if there is no such place, the place where the German Patent and Trade Mark Office has its seat.
- (3) The legal termination of the appointment of a representative in accordance with subsection (1) shall not become effective until the German Patent and Trade Mark Office or the Federal Patent Court has been informed of both the termination of this appointment and the appointment of another representative.

Application of the provisions of this Act; language

107. (1) The provisions of this Act shall be applied mutatis mutandis to the international registration of trade marks in accordance with the Madrid Agreement Concerning the International Registration of Marks (Madrid Agreement on Marks) carried out through the intermediary of the Patent Office or whose protection covers the territory of the Federal Republic of Germany unless provided otherwise in this Chapter or in the Madrid Agreement on Marks.
- (2) All and any applications, as well as other communications in the proceedings for international registration and the list of goods and services, shall be submitted in either French or English, at the choice of the applicant.

Opposition

114. - (1) The publication of the registration (section 41) for internationally-registered trade marks shall be substituted by publication in the Information Notice published by the International Bureau of the World Intellectual Property Organisation.
- (2) The time limit to lodge the opposition (section 42 subs. 1) against the granting of protection for internationally-registered trade marks shall commence on the first day of the month following the month stated as the issue month of the edition of the Information Notice containing the publication of the internationally-registered trade mark.
- (3) Refusal of protection shall take the place of the cancellation of the registration (section 43 subs. 2).

Extract from the Trade Mark Ordinance
version of 11 May 2004**Section 46**
Refusal of Protection

- (1) Where protection is, in full or in part, refused to an international registration the protection of which has been extended to the territory of the Federal Republic of Germany under Article 3ter of the Madrid Agreement or under Article 3ter of the Protocol Relating to the Madrid Agreement, and where this refusal is communicated to the International Bureau of the

World Intellectual Property Organization to be transmitted to the proprietor of the international registration, the time limit for appointing a representative in Germany shall, to avoid final refusal, be fixed to four months from the date on which notification of refusal was dispatched by the International Bureau of the World Intellectual Property Organization.

(2) Where the refusal of protection has become final because the proprietor of the international registration has failed to appoint a representative in Germany, a special motion (*Erinnerung*) or an appeal from the refusal shall be filed with the German Patent and Trade Mark Office within one further month after the time limit under subsection (1). Instructions about the proprietor's right to appeal shall be attached to the refusal. Section 61(2) of the Trade Mark Act shall apply *mutatis mutandis*.

still X.	Supplementary box grounds for refusal – <i>item V</i> – International Trade Mark 1 459 845 The company (companies) mentioned below has (have) lodged opposition to the admission of the trade mark because of earlier national or international application or registration of its (their) trade mark(s) listed below (Sec. 119, 124, 114, 43 (2), 42 (2), 9 (1) Trade Mark Law; Art. 5 Protocol Relating to the Madrid Agreement; Art. 6 quinquies B Paris Convention): Sahm GmbH + Co. KG 56203 Höhr-Grenzhausen, DE 1.) 1082707 sahm 2.) 888563 SAHM-GLAS <u>Note:</u> If no representative has been appointed within the provisional time limit of the first four months, this fact constitutes in itself a ground for refusal after the notification concerning the refusal of protection has become final (Sec. 96, 119 Trade Mark Law).	
XII.	Annexes (crossed off below) ☒ 1 reproduction of 2 opposed trade marks including a figurative element or a special graphic design ☒ List specifying the registration number as well as the relevant goods/services in respect of each opposed trade mark ☐ List of professional representatives ☐ List of goods/services	XI. Signature or official seal of the administration which pronounced the refusal 

Registerrauskunft

Registernummer: 1082707

Marke eingetragen

Stand am: 30.07.2019

Stammdaten Details schließen			
INID	Kriterium	Feld	Inhalt
	Datenbestand	DB	DE
111	Registernummer	RN	1082707
210	Altes Aktenzeichen	AKZ	S40340
540	Markendarstellung	MD	sahm
550	Markenform	MF	Wortmarke
551	Markenkatgorie	MK	Individualmarke
220	Anmeldetag	AT	04.05.1984
442	Tag der Bekanntmachung	BT	30.11.1984
151	Tag der Eintragung im Register	ET	07.10.1985
156	Verlängerung der Schutzdauer	VBD	01.06.2014
730	Inhaber	INH	Sahm GmbH + Co. KG, 56203 Höhr-Grenzhausen, DE
740	Vertreter	VTR	Schiedermaier Rechtsanwälte, 60322 Frankfurt, DE
750	Zustellanschrift	ZAN	SCHIEDERMAIER Rechtsanwälte Partnerschaftsgesellschaft, Eschersheimer Landstr. 60, 60322 Frankfurt
	Version der Nizza-Klassifikation		NCL8
511	Klasse(n) Nizza	KL	21, 34, 40
	Aktenzustand	AST	Marke eingetragen
180	<u>Schutzendedatum</u>	VED	31.05.2024
111 151	Internationale Registrierung		Internationale Registrierungsnummer: IR545507 Registrierungsdatum: 17.11.1989
450	Tag der Veröffentlichung	VT	15.11.1985

510	Waren- / Dienstleistungsverzeichnis	WDV		Gebrauchs- und Ziergegenstände aus Steinzeug, Keramik, Porzellan, Glas und Zinn für Haushalt und Gewerbe (Gastronomie), insbesondere Trinkgefäße wie Gläser, Krüge, Seidel, Humpen, Becher, Pokale, Kelche, Biertulpen, Bierstiefel, Schwenker, Schnapsstamper; Aschenbecher; Veredeln von Glas-, Porzellan- und Keramikwaren, insbesondere Gravieren, Schleifen, Ätzen, Bedrucken, Beschriften, Bemalen; Siebdrucken
	Tag der ersten Übernahme in DPMAregister	EREGT		20.10.2012
	Tag der (letzten) Aktualisierung in DPMAregister	REGT		15.05.2014 (alle Aktualisierungstage einblenden)

Position	Verfahrensart	Verfahrensstand	EDV-Erfassungstag 	Veröffentlicht im Markenblatt vom	Alle Details anzeigen
1	Anmeldeverfahren	Marke eingetragen	07.10.1985		Detail anzeigen
2	Widerspruchsverfahren	Marke nicht gelöscht	07.10.1985		Detail anzeigen
3	Umklassifizierung	Marke umklassifiziert	17.09.2004		Detail anzeigen
4	Verlängerung	Schutzdauer der Marke verlängert	22.09.2004		Detail anzeigen
5	Umschreibung - Vertreterbestellung/-änderung	Umschreibung abgeschlossen	03.02.2012	09.03.2012	Detail anzeigen
6	Verlängerung	Schutzdauer der Marke verlängert	15.05.2014	20.06.2014	Detail anzeigen

Datenfehler melden

St-66 Xml-Download	PDF-Download	In DPMAkurier übernehmen
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Registerrauskunft

Registernummer: 888563

Marke eingetragen

Stand am: 30.07.2019

Stammdaten Details schließen			
INID	Kriterium	Feld	Inhalt
	Datenbestand	DB	DE
111	Registernummer	RN	888563
210	Altes Aktenzeichen	AKZ	S24005
540	Markendarstellung	MD	SAHM-GLAS
550	Markenform	MF	Wortmarke
551	Markenkatgorie	MK	Individualmarke
220	Anmeldetag	AT	02.12.1970
442	Tag der Bekanntmachung	BT	30.06.1971
151	Tag der Eintragung im Register	ET	13.12.1971
156	Verlängerung der Schutzdauer	VBD	01.01.2011
730	Inhaber	INH	Sahm GmbH & Co KG, 56203 Höhr-Grenzhausen, DE
740	Vertreter	VTR	Schiedermaier Rechtsanwälte, 60322 Frankfurt, DE
750	Zustellanschrift	ZAN	SCHIEDERMAIER Rechtsanwälte Partnerschaftsgesellschaft, Eschersheimer Landstr. 60, 60322 Frankfurt
511	Klasse(n) Nizza	KL	21
	Aktenzustand	AST	Marke eingetragen
180	<u>Schutzendedatum</u>	VED	31.12.2020
450	Tag der Veröffentlichung	VT	15.02.1972
510	Waren- / Dienstleistungsverzeichnis	WDV	Klasse(n) Nizza 21: Glaswaren, nämlich Haushaltsgläser, insbesondere Trinkgefäße
	Tag der ersten Übernahme in DPMAreger	EREGT	20.10.2012

Tag der (letzten) Aktualisierung in DPMaregister	REGT	20.10.2012 (alle Aktualisierungstage einblenden)
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Position	Verfahrensart	Verfahrensstand	EDV- Erfassungstag	Veröffentlicht im Markenblatt vom	Alle Details anzeigen
1	Anmeldeverfahren	Marke eingetragen	13.12.1971		Detail anzeigen
2	Widerspruchsverfahren	Marke nicht gelöscht	13.12.1971		Detail anzeigen
3	Umschreibung - Rechtsübergang	Umschreibung abgeschlossen	01.08.2001		Detail anzeigen
4	Verlängerung	Schutzdauer der Marke verlängert	25.10.2001		Detail anzeigen
5	Verlängerung	Schutzdauer der Marke verlängert	11.03.2011	15.04.2011	Detail anzeigen
6	Umschreibung - Vertreterbestellung/- änderung	Umschreibung abgeschlossen	03.02.2012	09.03.2012	Detail anzeigen

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