MILK DES ALPES: when the Alps belong to the public domain

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Legal updates: case law analysis and intelligence

- **The Federal Administrative Court has upheld the refusal of MILK DES ALPES for a wide range of Class 30 goods**
- **The sign would be understood as 'milk from the Alps' by the relevant public**
- **The descriptive character of a mark in one of Switzerland's linguistic regions is sufficient for it to be deemed part of the public domain**

The Swiss Federal Administrative Court has issued an important ruling on the registrability of the trademark MILK DES ALPES (**Decision B-5079/2024**, 12 August 2025). The key question in this case was whether the sign MILK DES ALPES could serve as a distinctive trademark or whether it merely described a product characteristic, thus belonging to the

public domain (‘*Gemeingut*’) and being excluded from protection under Article 2(a) of the Swiss Trademark Protection Act.

Background

Chocolate producer Barry Callebaut filed an application in March 2023 to register MILK DES ALPES as a word mark in Class 30 for a wide range of goods, including cocoa, chocolate, couverture, sugar decorations and other confectionery. The Swiss Federal Institute of Intellectual Property refused protection as the sign was deemed descriptive for products containing milk, since ‘milk from the Alps’ would be perceived by consumers as particularly rich and flavourful. The sign thus lacked distinctiveness for such goods.

Callebaut appealed the decision to the Swiss Federal Administrative Court.

Decision

After scrutinising the words making up the mark MILK DES ALPES, it was clear for the court that the sign would be understood as ‘milk from the Alps’. The fact that the trademark consisted of English (‘milk’) and French (‘*des Alpes*’) words did not alter that conclusion.

Callebaut further argued that most of the products did not contain any milk at all. The court did not share that opinion and held that all the goods in question could at least contain milk, which also applied to cocoa and cocoa products. The appeal was thus dismissed.

Comment

The descriptive character of a mark in one linguistic region of Switzerland (German, French, Italian or Rhaeto-Romanic) is sufficient, according to established case law, for it to be considered part of the public domain (*FELSENKELLER* (BGE 131 III 495, 503). English terms are also understood by Swiss consumers, particularly when they belong to the basic vocabulary. However, practice shows that the authorities interpret the notion of ‘basic vocabulary’ in a very extensive manner. Even a combination of different languages does not alter the understanding by the public – as shown in this particular case, where the English and French languages were mixed in one trademark.

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