

**UNOX held to imitate United Nations' protected name
Switzerland - Meisser & Partners**Examination/opposition
National procedures

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The Supreme Court has **held** that the stylized trademark UNOX was not registrable on the grounds that it infringed the [Federal Act for the Protection of Names and Signs of Organizations of the United Nations and Other Intergovernmental Organizations](#) (Case 4A_250/2009, September 10 2009).

Italian company [Unox Srl](#) sought to extend protection of its UNOX mark (International Registration 820 974) to Switzerland for goods in Class 11 of the [Nice Classification](#) (including ovens). The mark consisted of the word 'Unox' in capital letters on a black background with a white border; the letters 'UNO' were written in white, while the letter 'X' was in black with a white border.

The [Federal Institute of Intellectual Property](#) (IGE) refused to register the mark on the grounds that it contained the protected designation 'UNO', which is exclusive to the United Nations under the act. The IGE pointed out that because the design of the mark split the word 'Unox' into 'UNO' and 'X', 'UNO' would be perceived as a separate element, while consumers would not recognize the coined sign UNOX.

Unox appealed. The Administrative Court reversed the decision of the IGE and allowed the registration of the mark. The court held that:

- the mark would be perceived as a coined sign; and
- the relevant consumers would not split the mark into 'UNO' and 'X'.

This, together with the fact that the mark covered Class 11 goods, led the court to conclude that the mark did not infringe the act.

The IGE appealed to the Supreme Court. The court analyzed the act carefully and pointed out that it prohibits the imitation of all protected signs, regardless of whether there is a likelihood of confusion. Therefore, the act goes beyond the scope of Article 6ter of the [Paris Convention for the Protection of Industrial Property](#). However, use of a protected sign as part of a trademark may be allowed if the sign is not recognizable in the mark - for example, the trademark UNO DUE TRE (Italian for 'one, two, three') was allowed to proceed to registration under the act.

Assessing the UNOX mark, the court agreed with the IGE, holding that the design of the mark (especially the difference in colour between 'UNO' and 'X') gave the impression that the mark was split into two elements and suggested the pronunciation 'UNO-X'. Finally, the court stated that since there was no need to prove a likelihood of confusion, the fact that the UNOX mark covered ovens and similar goods was irrelevant. The appeal was thus allowed.

The decision of the Supreme Court has not been without criticism, as it seems overly strict.

Registration of the mark may have been allowed if its graphic appearance had been different.

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