

## **New Patent Office in Switzerland:**

### **Stringent Requirements regarding cease and desist claims in patent proceedings**

After many years of preparation, with effect to January 1, 2012, the new Swiss Federal Patent Court has commenced its work. In one of the first published court orders dated March 7, 2012 (Ref.: S2012\_002) the new Swiss Federal Patent Court has stated its requirements with respect to cease and desist requirements for actions in patent proceedings. In seeking injunctive relief, the plaintiff had requested to prohibit the defendant to produce, advertise or bring into commerce a “thermal insulation plate according to the product description in the flyer submitted as exhibit 10 hereto”.

The Swiss Federal Patent Court held the sole reference to a **product description** of the thermal insulation plate in dispute was not sufficient to justify the cease and desist request. A product description, so the Swiss Federal Patent Court, is not geared to describe in detail the technical features of the relevant product according to the claims of the patent protecting such product. Rather, so the Court, such product description would merely serve to promote a certain product. Further, the Swiss Federal Patent court stated as follows: In order to comply with the requirements of this Court with respect to the wording of the cease and desist request in a patent process, the plaintiff in a first step would need to provide the Court with the detailed analysis of all the technical characteristics of the claims supporting the cease and desist request. In a second step, so the Swiss Federal Patent Court, the plaintiff would have to lay out the technical implementation of those features in the challenged product. Only in addition thereto, the plaintiff may refer to a product description.

The new Swiss Federal Patent Court has not rejected the motion as being inadmissible. Rather, the Court requested from the plaintiff to restate their claim in accordance with the a. m. requirements.