

Press release of February 26, 2014

## **BARDEHLE PAGENBERG successful in invalidating German part of International Registration No. 797277 “HOT” before the German Federal Supreme Court**

On February 19, 2014, the German Federal Supreme Court confirmed a decision of the German Federal Patent Court of October 9, 2012, which had invalidated the German part of International Registration No. 797277 “HOT” registered on behalf HOT Distributions & Logistik GmbH.

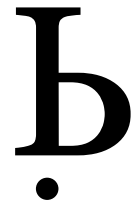
The contested mark had been registered for *“bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumes, essential oils, cosmetics, including shampoos, shower gels, body lotions, massage oils, gels, face creams; hygienic products for medicine; nutritional supplements (adapted for medical use); lubricants for pharmaceutical purposes; paper, cardboard and goods made thereof, not included in other classes, printed matter, including calendars, labels for goods, photographs; clothing and footwear”* in classes 3, 5, 16 and 25. The validity of the registration was challenged by Australian Gold, Inc., represented by BARDEHLE PAGENBERG. The challenge was based on the absence of distinctiveness of the mark for all the goods.

On March 22, 2011, the German Patent and Trademark Office issued a decision, invalidating the contested mark as regards *“bleaching preparations and other substances for laundry use; soaps; perfumes, essential oils, cosmetics, including shampoos, shower gels, body lotions, massage oils, gels, face creams; nutritional supplements (adapted for medical use); lubricants for pharmaceutical purposes; printed matter, including calendars, labels for goods, photographs, clothing and footwear”* due to lack of distinctiveness, but maintained the registration for the goods *“cleaning, polishing, scouring and abrasive preparations; hygienic products for medicine; paper, cardboard and goods made thereof, not included in other classes”*. Both parties appealed. The Federal Patent Court confirmed and extended the invalidation to all goods. Protection for the same mark was also refused by the Australian, UK and Japanese Patent Offices.

### **BARDEHLE PAGENBERG**

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Representatives HOT Distributions & Logistik GmbH:

**Dr. Brunhilde Ackermann** (Karlsruhe):

Dr. Brunhilde Ackermann (Attorney-at-Law)

Federal Supreme Court (1st Civil Senate):

**Professor Dr. Joachim Bornkamm** (Presiding Judge)

BARDEHLE PAGENBERG combines the professional expert know-how of attorneys-at-law and patent attorneys, European patent attorneys, European trademark and design attorneys, technical advisors and qualified legal counsel. Hand-selected teams of patent attorneys and attorneys-at-law provide top-quality services tailored to the specific needs of the client and the characteristics of the case.

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