

Firm Profile

Focus: Intellectual Property

May 2014

LET'S GET TO THE POINT.

GENERAL ABOUT FIEBINGER POLAK LEON ATTORNEYS-AT-LAW

Fiebinger Polak Leon Attorneys-at-Law is a full service business law firm based in Vienna/Austria.

Established in 1990, Fiebinger Polak Leon Attorneys-at-Law is a modern and dynamic firm; our clients range from medium size private to large stock exchange listed national and multinational companies but also encompass artists, universities, governments, nonprofit organizations and private individuals.

International Experience

With many of our lawyers trained both in Austria and abroad Fiebinger Polak Leon Attorneys-at-Law emphasis is on international business transactions. Fiebinger Polak Leon Attorneys-at-Law lawyers have substantial experience in assisting multinational clients in Austria and Eastern Europe and are regularly chosen by large Austrian companies for their ventures abroad.

Fiebinger Polak Leon Attorneys-at-Law regularly co-operates with many law firms and international tax advisors all over the world; Fiebinger Polak Leon Attorneys-at-Law is the Austrian member of Legalink and ADVOC, world-wide non-exclusive networks of more than 100 law firms, with each of the members responsible for work performed for the client. Fiebinger Polak Leon Attorneys-at-Law is also part of the Energy Law Group (www.energylawgroup.eu), a network of strong, independent law firms in the energy law sector.

Lawyers of Fiebinger Polak Leon Attorneys-at-Law have worked in law firms and industry in places such as New York, Mexico City, San Francisco, Paris, Munich and Rome. Fiebinger Polak Leon Attorneys-at-Law provides legal services in German, English, French, Czech, Italian, Mandarin, Russian, Slovak, and Spanish.

Areas of practice

- Corporate / M&A
- Real Estate
- Litigation & Arbitration
- Life Science
- Banking & Capital Markets
- Competition & Antitrust
- Energy
- Employment & Benefits
- IP & Media
- Public Procurement & Infrastructure
- Art Law



A framework of strong characters.

LET'S GET TO THE POINT.

TEAM FIEBINGER POLAK LEON ATTORNEYS-AT-LAW

Fiebinger Polak Leon & Partners lawyers are handpicked: many of them have dual qualifications and are also permitted to practice in countries other than Austria; all of them have held positions in industry and public service or worked in major law firms abroad prior to joining Fiebinger Polak Leon Attorneys-at-Law.

Intellectual property

Fiebinger Polak Leon & Partner Rechtsanwältinnen GmbH is a full-service business law firm with international orientation. Our team and infrastructure are designed to handle complex cases to the satisfaction of our clients. In meeting our clients' needs we take an economic and legal approach. The firm has a long-standing experience in IP matters, as all name partners started their careers with an IP focus. Fiebinger Polak Leon Attorneys-at-Law regularly advise on all issues pertaining to intellectual property:

- Patents – litigation, strategic advice
- Trademarks – prosecution and administration, litigation, strategic advice
- Unfair Competition – litigation, general and strategic advice
- Copyright and Design Protection – prosecution, litigation, strategic advice
- Domain and internet-related issues
- Anti-piracy
- IP Licensing
- IP issues in transactions



Yes we can.

LET'S GET TO THE POINT.

Your contacts

Amongst others, one of our key area of service is intellectual property and competition law. The head of our IP-Department is Mr. Constantin Kletzer. He is heavily engaged in patent, trademark and unfair competition litigation and specialised in copyrights. We have a number of associates, who are experienced in IP-law with different focuses. Karina Hellbert is a lead partner in life science matters.



Mag. Constantin Kletzer

Head of IP/IT Department

born 1972 in Vienna; 2003 admitted in Austria.

EDUCATION: University of Vienna (Mag. iur., 1996); Associate Weiss-Tessbach in Vienna (1999-2000).

LANGUAGES: German and English.

MEMBER: GRUR, AIPPI, LES, INTA, AIJA.

AREAS OF PRACTICE: Trademark Law, Copyright and Design Law, Patent Law (in particular in the pharmaceutical field), Product Piracy, Unfair Competition Law, Media Law, License and Publishing Agreements, Litigation.



DDr. Karina Hellbert, LL.M.

Head of Life Sciences Department

born 1973; 2007 admitted in Austria.

EDUCATION: University of Innsbruck (Mag. rer. nat., 1996, Mag. iur., 1999, Dr. rer. nat., 1999, Dr. iur., 2002), Pallas Programm - University of Nijmegen (LL.M. 2000), Associate Covington & Burling Lawyers (2001 - 04/2004);

LANGUAGES: German, English, French.

MEMBER: Association des Jeunes Avocats; Austrian Medical Society.

AREAS OF PRACTICE: Pharmaceutical Law, Medical Devices, Intellectual Property Law, Patent Litigation, Unfair Competition Law, Licensing, Custom Matters, IT, Product Liability, Food Law.



WHAT OTHERS SAY ABOUT OUR IP EXPERTISE

The Legal 500 EMEA Edition, 2014

“Fiebinger Polak Leon Rechtsanwälte’s ‘extremely good’ IP team takes a ‘practical approach’ and ‘understands the commercial issues at stake’. It handles patent litigation, with a focus on the pharmaceutical sector, as well as trade mark, design and unfair competition work. The ‘insightful’ Constantin Kletzer is always ‘to the point’, and recently took over the Austrian trade mark portfolio of Conoco/Philips 66.”

The Legal 500 EMEA Edition, 2013

in “Intellectual property & media” and “IT”:

“Fiebinger Polak Leon Rechtsanwälte is appreciated for its ‘responsiveness and appropriateness of advice’. It advises fashion house Sportalm on trade mark, design and unfair competition issues, in particular on EU anti-counterfeiting measures. Constantin Kletzer impresses with his ‘experience, and in-depth knowledge of Austrian and EU IP law’.”

“Constantin Kletzer is head of Fiebinger Polak Leon Rechtsanwälte’s IT team, and impresses with his experience and ‘concise opinions’. The firm saw an increased flow of regulatory work, and also advised on e-invoicing systems.”

Managing International Property (MIP) Handbook, 2012

in “patent contentious” and “trademark / copyright contentious:

“Fiebinger Polak Leon & Partners is a general-service law firm in Vienna. Its IP team is made up of six fee earners and does mostly trade mark litigation. The firm represents Antenne Österreich in trade mark litigation concerning the right to use its own name. Constantin Kletzer heads the IP department and acts for Christian Louboutin in all issues pertaining to trade mark, design law and product piracy. The firm also works on pharmaceuticals and Karina Hellbert is involved advising Lundbeck in a patent infringement case concerning escitalopram, which deals with the burden of proof concerning the validity of a supplementary protection certificate.”

Chambers Europe 2014

“Constantin Kletzer “is very convincing and clear when setting forth the facts of a case,” according to impressed sources, who also praise his “dynamic” approach. Kletzer’s in-depth knowledge of a wide range of IP matters is also commended.”

Chambers Europe 2013

in “Intellectual property”:

“This three-partner team maintains a solid practice focused on the media and entertainment, fashion and life sciences sectors. Clients include internationally renowned names such as Christian Louboutin. The firm also advises ROXCEL, Manpower and Antenne Österreich Group on a broad range of IP mandates. It provides a full service to its pharmaceutical clients, including advice on patent litigation and regulatory law. The group has also been busy handling contentious work involving trademarks, unfair competition and design rights issues. Peers admire department head Constantin Kletzer for his thorough preparation and detail-oriented approach to litigation. He specialises in unfair competition and patent-related disputes.”

Chambers Europe 2012

in “Intellectual property”:

“This mid-sized outfit has a strong IP tradition, with the three name partners all having started their careers in this practice area. The team continues to attract many clients from the pharmaceutical industry. It is also active in the luxury goods and creative sectors, with publishing houses looking to the team for advice on a variety of IP matters. The team secured a landmark victory for Architekturbüro Sepp Frank in a long-running IP dispute with Vienna International Airport. Product piracy, copyright and patent litigation are among its areas of expertise. A strong informal network of law firms enables it to act on multi-jurisdictional mandates.”

KEY INDIVIDUALS: Constantin Kletzer “is always a safe choice”, according to interviewees. Clients variously describe him as “internationally focused, flexible and responsible.”

World Trademark Review 1000, 2013

“Fiebinger Polak fields an acclaimed team of “first-class attorneys, in terms of both their advice and their results; they have excellent communication skills and do a top-notch job”. Its commitment to learning patrons’ businesses and building institutional relationships has paid off in the form of a large and loyal following of international and domestic brand owners. Complex infringement, strategic portfolio management and enforcement of anti-counterfeiting measures are among the strengths here. Constantin Kletzer is a partner “doing great things”.

IAM Licensing 250 – The World’s Leading Patent & Technology Licensing Lawyers, 2012

“Established in 1990 by a group of IP experts, this mid-size business law firm has since maintained its strength in IP matters. Fiebinger Polak Leon Attorneys-at-Law handles licensing work across a wide range of industries for domestic and international clients, with a particular strength in life sciences. It recently advised a US company on the acquisition and licensing of intellectual property in relation to augmented reality technology. Licensing matters account for a substantial percentage of Constantin Kletzer’s workload. He heads the IP department and is particularly active in the telecommunications, paper and life sciences industries.”

IAM Patent 1000: The World's Leading Patent Practitioners, 2013

“Dynamic, innovative and extremely successful” mid-sized general practice Fiebinger Polak Leon & Partner has growing reputation in the patent arena. It represents an illustrious clientele on both contentious and non-contentious assignments, including critical litigation and high-value licensing instructions. IP department head

Constantin Kletzer and life sciences chief Karina Hellbert form the core of a “responsive, knowledgeable and efficient” team. Clients appreciate their ability to “effectively communicate the relevant law, proactively retain specialized patent counsel and carefully explain the implications of the various possible courses of action”.

IAM Patent 1000: The World's Leading Patent Practitioners, 2012

“Fiebinger Polak receives complimentary notices from clients and peers in Germany, the United Kingdom, Belgium und elsewhere, underlining its ability to deploy on complex cross-border matters. Litigation for pharmaceutical innovators is the backbone of the practice; a recent win for Lundbeck demonstrates its sure touch in challenging infringement cases. The ensemble also impressed with work on the establishment of Qualcomm Inc’s first European research centre in a valuable deal involving complex licensing issues, completed within a tight timeframe.

Constantin Kletzer handles a broad workload, though like the firm itself, is best known for litigation. He is “always on the ball, highly responsive, diligent and collaborative”. He tempers his legal expertise with “great commercial awareness”. Karina Hellbert focuses on patent litigation, with an emphasis on the life sciences sector. She uses her scientific background to provide clients with exceptionally well-informed representation.”

SOME RECENT EXAMPLES OF OUR WORK

1. Acting for **local TV stations and five radio stations** (ANTENNE ÖSTERREICH-group) in administration of their trademark portfolio and litigating the right of to name itself ANTENNE ÖSTERREICH, obviously a combination of the descriptive term “Antenne” (antenna) and “Österreich” (German for Austria), which is vital for the client.
2. Trademark prosecution in Austria for **Germany’s largest mail order-group**.
3. Trademark prosecution, litigation and strategic advice for Manpower Inc., a major US temporary service provider in particular involving major trademark litigation and enforcement procedures in Austria against a local temporary service provider. We achieved to secure the MANPOWER trademark for Manpower Inc in Austria against dilution of a local service provider.
4. Handling of all brand integrity work for **Philip Morris International** in Austria.
5. Trademark prosecution, litigation and strategic advice in Austria for **ZARA**, and related companies.
6. Acting for **Christian Louboutin S.A.** in all issues regarding trademark and design law and product piracy.
7. Representing **Merck & Co., Inc.** as claimant in patent infringement proceedings against several generics based on a patent regarding a new pharmaceutical use of a substance. The innovative issue is that the patent in suit is directed to a new application and doses form.
8. Representing **E.I. Du Pont De Nemours & Company** as claimant in patent infringement proceedings against several generics based on a substance patent, which was applied for in times when substance protection was prohibited in Austria. The complaint and motion for preliminary injunction was entirely based on TRIPs provisions (in particular its Art 27 and Art 70.2). Preliminary Injunction has been granted by Commercial Court, though finally overruled by Supreme Court.
9. Defending **MerzPharma** against a court request by a generic company asking to rule that MerzPharma shall not be allowed to object to the distribution of generic products (so-called negative declaratory relief); the request by the generic companies was rejected in first and second instance already.
10. We represent **TCC (The Continuity Company)**, the world's largest provider of retail marketing and continuity programs in unfair competition assessment of their programs in Austria and all over CEE. The client provides programs for major retail chains all over the world (e.g. Tesco, bp, Spar, OMO, 7eleven).
11. Advising **Qualcomm Inc.**, a leading world-leading provider of wireless technology and services on the successful establishment of its first research center in Europe. We assisted Qualcomm in the multimillion USD acquisition of various IP in relation to augmented reality technology from an Austrian corporation. Handling the transaction in a very short period of time including all aspects of corporate law, intellectual property rights and governmental funding.
12. Acting as party representatives for an internationally operating Austrian architect in the dispute over IP rights against the Vienna Airport. They succeeded for the architect with a breaking decision with the Supreme Court published under “**SKYLINK**”.
13. Representing **Lundbeck Austria** on various matters such as:
 - a. Patent litigation concerning escitalopram where we were able to obtain an interim injunction preventing generic companies from penetrating the market;
 - b. Unfair trade issues;
 - c. Product piracy measures.
14. Representing the ski manufacturer **Kästle GmbH**, as claimant in patent infringement litigation against Fischer Ski, who is allegedly infringing Kästle’s patent for an innovative ski shovel/tip. Upon our representation the client has been granted a preliminary injunction against Fischer – appellate proceedings and main proceedings still pending.

15. Representing **Sans Rival Waterskis**, a manufacturer of waterskis and sporting apparel (having gained the European Waterski Championship Title in Slalom discipline) in all kind of licensing aspects. The waterskis of Sans Rival are innovative in the kind that they are made from carbon, which needs special molding know-how acquired by the client
16. Advising **NBTY Inc.**, a leading global vertically integrated manufacturer, marketer and distributor of a broad line of high-quality, value-priced nutritional supplements in the United States and throughout the world, in all trademark aspects in Austria.

CONTACT



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