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Federal Act on Patent Attorneys (Patent Attorney Act, PatAA)

of 20 March 2009 (Status as of 1 January 2013)

*The Federal Assembly of the Swiss Confederation,
on the basis of Article 95 of the Federal Constitution¹,
and having considered the Federal Council Dispatch of 7 December 2007²,
decrees:*

Section 1: Subject Matter and Scope of Application

Art. 1

¹ This Act governs:

- a. the requirements for the use of the professional titles “patent attorney”, “Patentanwältin” or “Patentanwalt”, “conseil en brevets” and “consulente in brevetti”;
- b. professional confidentiality applicable to patent attorneys;
- c. the protection of the professional titles “European patent attorney”, “europäische Patentanwältin” or “europäischer Patentanwalt”, “conseil en brevets européens” and “consulente in brevetti europei”.

² It is applicable to persons who provide advice or representation in patent matters in Switzerland using any of the professional titles mentioned in paragraph 1 letter a or c.

³ The representation of parties in proceedings before the Swiss Federal Institute of Intellectual Property (IPI) by natural and legal persons residing or having their principal place of business in the Principality of Liechtenstein is governed by Article 8 of the Patent Treaty of 22 December 1978³ between the Swiss Confederation and the Principality of Liechtenstein.

AS 2011 2259

¹ SR 101

² BBl 2008 407

³ SR 0.232.149.514

Section 2: Protection of Titles

Art. 2 Patent attorney

Any person who uses the title “patent attorney”, “Patentanwältin” or “Patentanwalt”, “conseil en brevets” or “consulente in brevetti” must:

- a. possess a recognised higher education qualification in natural sciences or engineering (Art. 4 and 5);
- b. have passed the Swiss Federal Patent Attorney Examination or a recognised foreign patent attorney examination (Art. 6 and 7);
- c. have completed practical training (Art. 9);
- d. possess at least an address for service in Switzerland; and
- e. be registered in the Patent Attorney Register (Art. 11 et seq.).

Art. 3 European patent attorney

Any person who uses the title “European patent attorney”, “europäische Patentanwältin” or “europäischer Patentanwalt”, “conseil en brevets européens” or “consulente in brevetti europei” must be registered in the list of professional representatives maintained by the European Patent Office.

Art. 4 Recognised Swiss higher education qualifications

¹ Natural sciences or engineering degrees (Bachelor’s, Master’s, *Diplom* or *Lizenziat*) issued by an accredited Swiss higher education institution are considered to be recognised Swiss higher education qualifications in terms of this Act.

² The Federal Council shall regulate the accreditation of Swiss higher education institutions.

Art. 5 Recognition of foreign higher education qualifications

¹ A foreign higher education qualification in natural sciences or engineering is recognised where its equivalence to a recognised Swiss higher education qualification:

- a. is provided for in a treaty pertaining to mutual recognition with the respective state or supranational organisation; or
- b. is proven in an individual case.

² The Federal Council shall designate the competent bodies for such recognition. It shall designate a single body where possible.

³ Where the competent bodies do not recognise a foreign higher education qualification, they shall decide how the requirement of Article 2 letter a may be fulfilled.

Art. 6 Swiss Federal Patent Attorney Examination

¹ The Swiss Federal Patent Attorney Examination serves as proof of the specialised knowledge required for professional qualification.

² The Federal Council shall regulate:

- a. the admission requirements for the examination;
- b. the content of the examination;
- c. the examination procedure.

³ It shall designate:

- a. the body competent for conducting the examination;
- b. the body competent for the supervision of the examination.

Art. 7 Recognition of foreign patent attorney examinations

¹ A foreign patent attorney examination is recognised where its equivalence to the Swiss Federal Patent Attorney Examination:

- a. is provided for in a treaty pertaining to mutual recognition with the respective state or supranational organisation; or
- b. is proven in an individual case.

² The Federal Council shall designate the competent body for such recognition.

³ Where the competent body does not recognise a foreign patent attorney examination, it shall decide how the requirements of Article 2 letter b may be fulfilled.

Art. 8 Delegation of tasks to organisations and persons of public or private law

¹ The Federal Council may entrust organisations and persons of public or private law with:

- a. conducting the Swiss Federal Patent Attorney Examination;
- b. deciding on the recognition of foreign patent attorney examinations;
- c. issuing rulings concerning the passing of the Swiss Federal Patent Examination or the recognition of a foreign patent attorney examination.

² The organisations and persons mentioned in paragraph 1 may levy fees for the rulings and services rendered by them. Their fee regulations are subject to approval by the Federal Council.

³ An objection may be filed with the State Secretariat for Education, Research and Innovation⁴ to rulings issued by the organisations and persons mentioned in paragraph 1.

⁴ Term in accordance with No I 31 of the Ordinance of 15 June 2012 (Reorganisation of the Departments), in force since 1 Jan. 2013 (AS 2012 3655).

Art. 9 Practical training

¹ Practical training as defined in Article 2 letter c must be completed under the supervision of a registered patent attorney (Art. 11 et seq.) or a person with an equivalent professional qualification.

² The duration of practical training must amount to three years on a full-time basis for persons with a higher education qualification (Master's, *Diplom* or *Lizenziat* degree) or a recognised equivalent qualification, and four years on a full-time basis for persons with a Bachelor's degree or a recognised equivalent qualification. At least one year of the practical training must be related to Switzerland.

³ The Federal Council shall regulate the particulars, including:

- a. the objectives and content of the practical training;
- b. the requirements to be fulfilled by a supervisor who is not registered in the Patent Attorney Register;
- c. the requirements with regard to how the practical training is related to Switzerland in terms of territory and content.

Section 3: Professional Confidentiality**Art. 10**

¹ Patent attorneys are obliged to maintain confidentiality concerning all secrets that are entrusted to them in their professional capacity or which come to their knowledge in the course of their professional activities, this obligation being unlimited in time.

² They must ensure that persons assisting them maintain professional confidentiality.

Section 4: Patent Attorney Register**Art. 11** Maintenance of the Register

The IPI shall maintain the Patent Attorney Register. It may maintain the Register in electronic form.

Art. 12 Registration in the Register

¹ On application and on payment of a fee, the IPI shall register persons who fulfil the requirements of Article 2 in the Patent Attorney Register. It shall issue a certificate of registration.

² The person making the application must prove by way of suitable documentation that he or she fulfils the requirements of Article 2.

³ The Federal Council may authorise the IPI to regulate electronic communication in accordance with the general provisions on the administration of federal justice.

⁴ The dossier and files may be maintained and stored in electronic form.

Art. 13 Supervision

¹ Where the professional conduct of a patent attorney gives rise to complaints, the Swiss Federal Department of Justice and Police (FDJP) may, after hearing the person concerned:

- a. admonish him or her;
- b. authorise the IPI to disqualify him or her temporarily or permanently from using the professional title.

² In assessing professional conduct within the meaning of paragraph 1, the patent attorney's entire business activities in Switzerland and abroad shall be taken into consideration.

³ The FDJP may order the publication of the admonition or the disqualification as well as the deletion of the registration from the Patent Attorney Register.

Art. 14 Register content

¹ When registering patent attorneys in the Patent Attorney Register, the IPI shall enter the following particulars:

- a. date of registration;
- b. surname, first name, date of birth and place of origin or citizenship;
- c. address for service or business address in Switzerland; and
- d. name of employer, if applicable.

² Patent attorneys must notify the IPI immediately of any changes to their registered particulars so that they may be registered in the Patent Attorney Register.

Art. 15 Public access to the Register

¹ Any person may view the Register and obtain information on its content.

² The IPI may make the content of the Register available to third parties by way of electronic retrieval.

Section 5: Criminal Provisions

Art. 16 Abuse of title

¹ A fine shall be imposed on any person who, in his or her business documents, advertising of any kind, or other documents intended for use in business in Switzerland:

- a. uses the title "patent attorney", "Patentanwältin" or "Patentanwalt", "conseil en brevets" or "consulente in brevetti" without being registered in the Patent Attorney Register;

- b. uses the title “European patent attorney”, “europäische Patentanwältin” or “europäischer Patentanwalt”, “conseil en brevets européens” or “consulente in brevetti europei” or a title that may be confused with any of these titles without being registered in the list of professional representatives maintained by the European Patent Office.

² The use of a professional title in accordance with Article 9 of the Liechtenstein Act of 9 December 1992⁵ on Patent Attorneys for the representation of parties in proceedings before the IPI by natural and legal persons residing or having their principal place of business in the Principality of Liechtenstein is reserved.

Art. 17 Criminal prosecution

The prosecution of criminal offences is the responsibility of the cantons.

Section 6: Final Provisions

Art. 18 Amendment of legislation

The amendment of current legislation is regulated in the Annex.

Art. 19 Transitional provisions

¹ A person shall be registered in the Patent Attorney Register on application and on payment of a fee provided that, on commencement of this Act, he or she has been working professionally as a patent attorney on a full-time basis in Switzerland:

- a. for more than six years, possesses a higher education qualification in natural sciences or engineering from a Swiss higher education institution or a foreign higher education qualification as defined in Article 5 paragraph 1, and has an address for service in Switzerland; or
- b. for more than three years, is registered in the list of professional representatives maintained by the European Patent Office and has an address for service in Switzerland.

² Application must be made within two years of commencement of this Act.

³ The applicant must prove, by means of suitable documentation, that he or she fulfils the requirements of paragraph 1 letter a or b.

⁴ The IPI shall issue a certificate of registration.

⁵ Liechtenstein Law Gazette 1993 No. 43

Art. 20 Referendum and commencement.

¹ This Act is subject to an optional referendum.

² The Federal Council shall determine the commencement date.

Commencement date: 1 July 2011⁶

⁶ Federal Council Decree of 11 May 2011

Annex
(Art. 18)

Amendment of Current Legislation

The following enactments are amended as follows:

...⁷

⁷ The amendments may be consulted under AS **2011** 2259.