

NATER DALLAFIOR REPRESENTED PUMA IN A TRADEMARK LITIGATION

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Nater Dallafior's IP expert **Mathis Berger** has successfully represented PUMA SE in an important trademark litigation against FIFA (Fédération Internationale de Football Association). It is the first time that the Swiss Federal Supreme Court ruled on the protection of so-called "event marks".

With respect to the terms "Qatar 2022" and "World Cup 2022" the Supreme Court held that such event marks belonged to the public domain. The signs can be registered as trademarks only if they contain characteristic additions. The addition of a stylised football is not sufficient to make the marks distinctive. Furthermore, parties not related to an event cannot register an event mark. What is relevant is whether the registered trademark is misleading. In the case at hand, the Swiss Federal Supreme Court did not decide under which conditions the use of third-party event trademarks would be misleading.

In summary, the judgment says that trademarks such as "PUMA WORLD CUP QATAR 2022" and "PUMA WORLD CUP 2022" are unlawful and that third party companies may not create the misleading impression that they are official sponsors of the FIFA World Cup tournaments. The signs

“WORLD CUP 2022” or “Qatar 2022” were not considered to be inherently distinctive. However, the signs “WORLD CUP 2022” and “WORLD CUP QATAR 2022” were considered to have a secondary meaning referring to FIFA's Football World Cup and may therefore not be used by non-involved third parties in a manner pretending to be an official World Cup sponsor.

FIFA, which is the plaintiff and counterclaimant in the case, is an association under Swiss law with its headquarters in Zurich. As the world football association, it organises the men's football World Cup every four years.

PUMA, defendant and counterclaimant in the case, is a European limited liability company based in Herzogenaurach, Germany. It is a publicly listed German sporting goods supplier and manufacturer of footwear, textiles and accessories, especially in the football sector.