

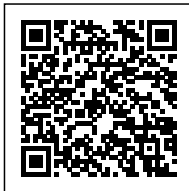
# SWISS OTTO'S SUCCEEDS IN FEDERAL COURT AGAINST GERMAN OTTO GROUP: THE ADVISOR

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Category: [IP](#)

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In its ruling of 26 October 2020 (4A\_152/2020), the Federal Supreme Court confirmed a decision of the Cantonal Court of Lucerne of 13 February 2020 won by the Swiss retail discounter OTTO'S against Otto Group, which is headquartered in Hamburg. Otto Group intended to enter the online retail market in Switzerland under its "OTTO" brand. OTTO'S successfully objected to such plans with an action for injunction, as Otto Group's market entry in Switzerland would create a risk of confusion. Although Otto Group relied on earlier registered trademark rights than OTTO'S, OTTO'S argued that it enjoyed stronger protection under unfair competition law due to its acquired market position and its well-known brand "OTTO'S" and was therefore entitled to prohibit market entry. Otto Group invoked in vain the Treaty between Switzerland and Germany of 1892 regarding the mutual protection of patents, designs and trademarks. According to such Treaty, the use of a trademark in Germany is sufficient to maintain trademark protection in Switzerland. The Federal Supreme Court followed OTTO'S argument in this point, according to which the State Treaty must be interpreted narrowly and does not simulate the actual use of a trademark in Switzerland.

## The advisors

**Walder Wyss** [represented OTTO'S in this legal dispute](#). The team included **Michael Isler (Partner, IP/IT - pictured)** and **Christine Leuch (Managing Associate, IP/IT)**.