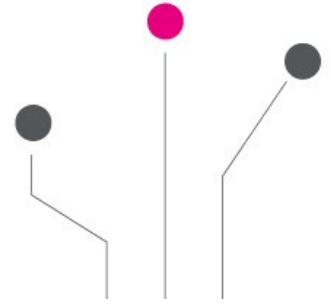


to the point technology & digitalisation



January 2020

Preface

Welcome in a new decade of technology and digitalisation! This is our third technology & digitalisation newsletter – the first in the new decade. Call it the third industrial revolution, digital transformation or the information age – new technologies and products presented day by day remind us that we are just at the beginning. Since law does not change that rapidly, these fundamental changes present a tremendous challenge for legislators and courts – an example being the lawmaking process and court decisions in the area of copyright law. Establishing the DSM Directive did not only take years but was accompanied by wide-ranging public discussions and even protests. Meanwhile the CJEU handed down important judgements on a monthly basis. Needless to say, these are exciting times for lawyers in the field of technology and digitalisation.

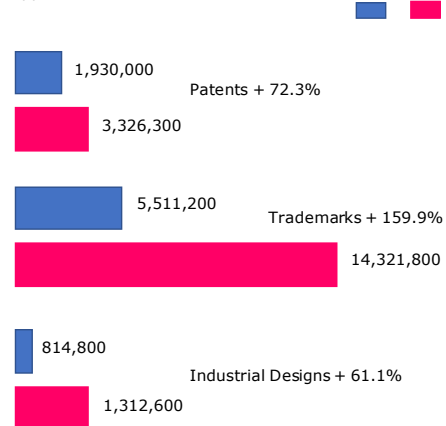
Schoenherr's "technology & digitalisation" group (tech.schoenherr.eu) is made up of specialised lawyers from all over CEE, striving to improve the way technology-related challenges can be tackled. With our newsletter we want to give a brief outline of current and important topics in this area. If you are interested follow us on [LinkedIn](#).



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IP Newscorner:

Applications for IP worldwide increased from 2008 - 2018



Source: https://www.wipo.int/export/sites/www/pressroom/en/documents/wipi_2019_glance.pdf

To the Point:

- Impacts of the CJEU's e-book decision on the trade with digital goods**
 While downloadable software may be resold without the consent of the rights holder under certain conditions this is not true for used e-books. In short, this is what the CJEU recently decided. Thus, there is a second-hand market for software but not for e-books. [Find out why this is the case and what the impact of the CJEU decision may have on the trade with other copyrighted digital goods like music, films or videogames in our Legal Insight.](#)
[Dominik Hofmarcher und Alexander Pabst](#)

- **New hope for the Austrian start-up scene**

The new Austrian government has promised to pay more attention to the start-up scene. A new corporate legal entity for start-ups, the establishment of a more flexible share transfer to investors and employees, and Blockchain technology are a few highlights that our new government wants to look at in detail. It remains to be seen when the first steps and their implementation can be expected in Austria.

[For more details on the government's start-up agenda, take a look at our new blog post.](#)
[Thomas Kulnigg und Maximilian Nutz](#)
- **PSD2: FMA publishes new details on scope of limited network ex-emption and notification obligation**

On 21 January 2020 the Austrian Financial Market Authority (FMA) published a circular clarifying the significantly narrowed scope of the "limited network" exemption under the Payment Service Directive 2 (PSD2). The exemption can bring service providers out of scope of the PSD2 licensing requirements.

Besides detailing the scope of application, the FMA also provides guidance on the notification obligation that is triggered when a total payment volume of EUR 1m in the past 12 months is exceeded and on the deadline for the first notification to the FMA (i.e. by 31 March 2020). The FMA also for the first time clarifies that only one notification needs to be made to the competent regulator in the Home Member State of a service provider and not to every regulator in each Member State where an entity wishes to rely on the exemption.

[You can find a more detailed overview and legal insight on our website.](#)
[Matthias Pressler](#)
- **The digital copyright directive**

The Directive on Copyright in the Digital Single Market (EU) 2019/790 came into force on 7 June 2019 with the ambition to update the existing EU copyright protection to reflect the new digital economy. It was heavily discussed since it particularly targets intermediaries like sharing platforms and new aggregators (buzzword "value gap").

[In order to find out why this Directive is likely relevant for you, check out our latest roadmap article.](#)
[Stanislav Bednář](#)
- **Panta rhei in the data protection world?**

At present it seems nothing about the GDPR is fixed or settled. This was recently illustrated by an update to the Austrian Data Protection Authority's (DPA) online information on dashcams. While dashcams are rumored to be illegal in Austria, the DPA's update may revive this discussion. The DPA acknowledges that dashcams could be admissible due to legitimate interests under certain conditions, but the technicalities of the particular device need to be assessed on a case-by-case basis. Those assessment criteria include strict purpose, filming and storage limitations. The DPA also doubts that most of today's commonly available products will meet those requirements because of their technical configurations. If a dashcam does not meet the assessment criteria, it will be deemed to interfere with other road users' fundamental right to data protection and privacy.

[Visit our blog to learn more!](#)
[Veronika Wolfbauer und Maximilian Trautinger](#)
- **Czech Electronic Communications Act amended: new advantages for customers, new comparison tool and reporting duty**

The Czech Electronic Communications Act has been amended by Act No. 311/2019 Coll. The amendment should speed-up a change from one operator to another, and decrease contractual fines for early termination of contracts. A one-stop-shop concept has been introduced, meaning that the new provider will be obligated to handle a transfer and communication with a previous provider, taking the burden from the customer. Another change is that the Czech Telecommunication Office will publish an independent comparison tool on its website, which should enable customers to compare publicly available electronic communication services information from a price and quality perspective. Providers of such services have to provide the Office with input for the comparison tool. The amendment becomes effective in April 2020, but the comparison tool should be available as of 1 January 2021.

[Eva Bajáková](#)

- **Tech Trends 2020**

The first year of the 2020s will be particularly exciting in AI, quantum technology and cryptocurrencies. CB Insights, a well-known tech market intelligence platform that tracks venture capital, start-up investments and acquisitions, recently published a story about the emerging tech trends for 2020. Amongst others, CB Insights foresees (i) a transformation of human work, in particular through AR/VR tech and the introduction of 5G, (ii) a new cryptocurrency issued by (state) banks, and (iii) a strong unicorn-to-unicorn M&A trend. The report also highlights the risks associated with the new tech trends. Besides the advantages of the Tech Trends 2020, it also highlights the risks associated with them. Check out CB Insight's report and find out more about the [Tech Trends 2020](#). [Maximilian Nutz](#)

- **Telemedicine on the rise in Austria?**

Austria's new conservative/green government dedicated seven pages of its programme to the health sector. One of the government's goals is to implement telemedicine treatment in the best possible way, but it does not specify what this process will look like. The government explains that it aims to promote digitalisation in diagnosis, treatment and medical research and thus strengthen Austria as a health hub. It remains to be seen what concrete steps will be taken to promote and encourage telemedicine and to give professionals some clarity on the topic.

[Visit our blog to learn more!](#)
[Sara Khalil](#)

- **General Terms and Conditions**

Consumer Protection is not only one of the strategic goals of the EU but has also a significant role in Austria. The legally correct implementation of general terms and conditions for a business is becoming more and more complex and affects every trader. The most important rule in that case is "as clear and simple as possible". Even the case law is particularly critical in the B2C sector, this also affects traders doing only business B2B. Consumer protection associations are taking strict measures against non-compliant traders using non-compliant general terms and conditions. The risk of costly legal proceedings and damage to a company's reputation is high. As the law on general terms and conditions as well as the relevant case law is strongly driven by individual cases and constantly evolving, it is not only important to draft compliant general terms and conditions but also to keep it up to date in accordance with case law.

[Serap Aydin](#)

For further information, please contact any of the individuals named above, your usual contacts at Schoenherr or any member of our [technology & digitalisation practice group](#).