

Conference report on the Young INGRES kick-off event

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On 3 April 2025, the Museum für Gestaltung in Zurich hosted the inaugural “kick-off” event for Young INGRES, which was founded by Dr. SANDRA MARMY-BRÄNDLI (Schiffbau Rechtsanwälte), Dr. ANGELIKA MURER (Homburger AG), Dr. LORENA PITICCO (Isler & Pedrazzini AG), Dr. JANINE DAUM (Novartis), and Dr. TIMMY PIELMEIER (MLL Legal AG). The event commenced with an insightful guided tour of the museum led by the director CHRISTIAN BRÄNDLE, followed by an engaging series of presentations. Three distinguished speakers shared their expertise on cutting-edge topics in intellectual property law, including patent law in the pharmaceutical industry, copyright challenges in the context of AI, and the intricate legal landscape of trademarks and unfair competition for retail products. The evening attracted a dynamic crowd of more than 110 young professionals and IP enthusiasts from across Switzerland and abroad, offering a stimulating seminar, a thought-provoking panel discussion, and ample opportunities for networking over a lively apéro.

Opening speech: founding of Young INGRES

The conference opened with the founders sharing their personal reflections on "Why we love IP" highlighting the beauty, omnipresence, and dynamic nature of intellectual property — ranging from poetic insights to high-stakes legal challenges. The founders then introduced Young INGRES, a newly founded subgroup of Switzerland’s most active IP law association, INGRES. Created to connect emerging IP professionals and facilitate their integration into the broader IP community, Young INGRES will host a series of events across the country, bringing fresh perspectives and fostering exchange.

Patent law

IAN HISCOCK, Head of Global IP Transactions at Novartis, spoke on the critical role of IP in the pharmaceutical industry. He outlined the lengthy and costly drug development process, starting with early-stage target selection and screening thousands of compounds, with only 1 in 10,000 reaching the market after rigorous clinical trials often involving up to 5,000 patients. This process typically takes 10–15 years, with an average cost of \$1.5–2.5 billion per product.

Given the high failure rate and investment risk, patent protection is essential, granting 20 years of exclusivity that allows companies to recover costs and to generate profit before low-priced generics enter the market. HISCOCK highlighted the "patent cliff," a sharp revenue drop after patent expiration, and stressed the importance of early preparation for the defense and enforcement of patent rights to manage this risk.

HISCOCK then shared a hypothetical case study involving a fictional compound “ingrestatin”, for the treatment of chronic patent attorney fatigue (cPAF). He explained how regulatory data protection (RDP), which runs in parallel with patent protection, can be an important additional layer of protection for pharmaceutical products. In order to obtain a marketing authorisation, pharmaceutical companies need to submit extensive data relating to preclinical and clinical trials to demonstrate the quality, efficacy and safety of the medicine to be approved. RDP protects

innovative companies' investment in generating this extensive body of data through a limited period of exclusivity during which generic companies are not allowed to cross-refer to the original data. However, once RDP ends, generic companies can seek marketing approvals by proving bio-equivalence to the original product.

Given his mixed audience, HISCOCK underlined the critical role of in-house counsel in managing patent portfolios, litigation, and regulatory exclusivities, as well as the crucial role played by other IP rights, such as trademarks and copyrights, in supporting overall brand protection.

Ultimately, he concluded that strong IP rights are fundamental to fostering innovation and investment in the pharmaceuticals of the future.

Copyright law

Dr. FLORIAN SCHMIDT-GABAIN, attorney-at-law and partner at Schmidt-Gabain AG, addressed the legal issues surrounding the use of copyrighted works in training AI models. He stressed that under Swiss law (Art. 10 of the Swiss Copyright Act), authors retain exclusive usage rights. According to SCHMIDT-GABAIN, AI training therefore requires rightsholder's permission.

Referring to a 2025 Jusletter article by DAVID ROSENTHAL and LIVIO VERALDI, SCHMIDT-GABAIN criticized the argument that AI training doesn't count as "reproduction" unless perceptible by humans. He found this logic flawed, noting that AI, e.g. ChatGPT, can reproduce recognizable parts of copyrighted works. Using Magritte's artwork "La trahison des images", "Ceci n'est pas une pipe", he illustrated the emotional disconnect authors may feel when their work is used without consent.

He also challenged ROSENTHAL's and VERALDI's claim that AI "consumes" works like humans do, arguing that machines lack consciousness and emotions—capable of processing massive amounts of content in seconds without experiencing it.

Turning to the Swiss Copyright Act's scientific exemption (Art. 24d para. 1), SCHMIDT-GABAIN emphasized that it applies only when scientific research is the primary goal. He argued that companies like Google, Meta, and Microsoft typically prioritize commercial interests, making them ineligible for this exemption. He also rejected the claim that AI models inherently qualify as scientific "insights," warning against treating AI as an isolated end rather than a tool within broader contexts.

Finally, he observed a troubling trend in the AI discourse: companies repeating self-serving legal arguments until they appear credible. While AI is often framed as a public good, SCHMIDT-GABAIN contended that protecting copyright remains vital for fostering creativity and innovation. He concluded that the current debate reflects a larger struggle for legal clarity and ethical responsibility in the evolving AI landscape.

Trademark and unfair competition law

Lic. iur. ANDREAS CHRISTEN, legal counsel IP at Migros-Genossenschafts-Bund, discussed key legal aspects of protecting intellectual property in retail markets, with a focus on private label products and related legal disputes. He emphasized the importance of product development, branding, and packaging, especially for common supermarket goods. For private labels to succeed in competitive markets, they must be both functional and visually distinctive. Ideally, branding and packaging should make the product recognizable enough to reduce the need for advertising — Migros' "Farmer" granola bar was cited as a successful example.

CHRISTEN stressed that while strong packaging can drive consumer choice, it also raises risks of legal issues such as imitation and unfair competition.

Several real-world unfair competition cases illustrated these issues. In *Lindt vs. Aldi*, the Aargau Commercial Court issued an injunction in December 2024, finding Aldi's chocolate balls to be unnecessarily plagiaristic. A dispute over cereal bar packaging saw Coop repeatedly alter its "Crunchy Snack" branding due to packaging similarities and confusion with Migros' "Farmer Crunchy," based on design elements like color and layout.

Other examples presented involved similarities in detergent packaging between Migros (the iconic "Handy") and Coop ("Fox"), and exotic-animal-themed ice cream packaging between Migros (with their original classic design), Coop, and Lidl. CHRISTEN also discussed *Nespresso vs. Denner*, where Denner was temporarily banned from selling capsules due to trademark infringement, later allowed to resume without the "Was suscht?" slogan.

Lastly, in the *Freitag vs. Migros* case over a bag called "Donnerstag", Migros had to stop selling their Donnerstag bags in the 1990ies. On the occasion of Freitag's 30th anniversary and in a late response, Freitag humorously launched its own "Donnerstag" bag and temporarily mimicked a Migros store.

Panel discussion

Subsequently, a panel discussion was held between PIELMEIER, DAUM, CHRISTEN, HISCOCK, PITICCO, and MARMY-BRÄNDLI.

HISCOCK opened by stressing the critical role of well-drafted patent applications in the pharmaceutical industry, especially when these patents may need to be defended and enforced years after they have been drafted. Patent attorneys can learn many lessons from seeing how patents are litigated.

CHRISTEN then noted that in retail, manufacturers, and retailers selling similar successful product models is very common. Additionally, a broader market trend is the expansion of the retailer's own private label range.

When asked about the frequency with which he handles patent defense, HISCOCK explained that sometimes challenges can arise from other originators, particularly if both companies are developing products for the same target. Very often such cases settle (maybe for a license fee), allowing the two products to coexist in the market.

On AI in pharma, HISCOCK noted that AI helps in early research, like target selection, but cannot (at least, for now) replace human inventiveness in compound discovery. This aligns with current legal standards, which still require human input for protection under patent or copyright law.

The discussion then shifted to AI and copyright. MARMY-BRÄNDLI outlined how Swiss copyright law has evolved, though applying it to AI remains complex. Since software reproduces content, the line between use and infringement is blurry. CHRISTEN supported SCHMIDT-GABAIN's view that full-text reproduction by AI tools like ChatGPT likely constitutes infringement and may require legal updates.

PIELMEIER raised whether AI training should have exceptions for remuneration. Some audience members warned that overly strict rules could hinder innovation. Suggested solutions included royalty payments or forming a collective rights society to compensate creators.

CHRISTEN introduced the GEMA model, a collective licensing framework, noting that individual negotiations are impractical. He suggested giving artists the right to opt out of having their work used for AI training. MARMY-BRÄNDLI agreed that full individual consent is unrealistic, which is why exceptions exist in Swiss law. Balancing innovation with creator rights requires broad stakeholder input.

DR. LUCIE ANTOINE concluded by highlighting the difficulty of enforcing copyright across borders.

Closing speech

The seminar concluded on a high note, with a gesture of appreciation as gifts were presented to the speakers in recognition of their valuable contributions. Following the panel discussion, ANTOINE, co-lead of the current GRUR Junge Wissenschaft in Munich, gave a short speech to commemorate the founding of Young INGRES and to encourage continued fruitful collaboration with GRUR Junge Wissenschaft in Germany. Eventually, PIELMEIER emphasized the important milestone of the kick-off event, setting the tone for future initiatives and concluded the seminar hinting at a planned roadshow through Switzerland and announcing the next upcoming event, which will be hosted in fall 2025 by the renowned law firm Pestalozzi Attorneys at Law.