

von Rechtsanwalt **Max-Lion Keller**, LL.M. (IT-Recht)

## German law firm IT-Recht Kanzlei provides legal advice to European online traders seeking access to the German ecommerce market

Germany is by far the biggest ecommerce market in Europe. Turnover of the German ecommerce sector is expected to reach 30 billion euros this year. Access to the German market seems easy for European online traders since ecommerce law in the European Union has been subject to an ever increasing harmonization with a view to facilitating intra-European ecommerce.

While there has been harmonization of ecommerce law in the European Union, there are still big legal differences within the European Union. Harmonized European law and national law coexist. In particular, the reality of enforcing law and the legal costs involved are quite different in the respective European country. There are still considerable legal barriers to overcome for any European online trader who wishes to extend his business to other European states.

This is in particular true for Germany. Germany is proud of its complicated legal system. Consumer protection plays a big role and has considerably shaped German law in the last years. An ecommerce trader from another European country can be subject of legal action brought against him by his German client, normally a consumer. In that case, legal action is brought against him at a German court. The chance of being dragged to a German court might create a lot of legal hassle, the costs involved are unpredictable. But there is more. According to German law any competitor can file a caution or a warning against the ecommerce trader from another European country doing business in Germany. The German competitor might pretend for example that the product displayed on the German website of the European ecommerce trader be not in line with German consumer law, ecommerce law or infringe intellectual property rights, copyrights and trademarks. Breach of intellectual property rights can be enforced by a German court in case the infringement takes place in Germany. Such a caution or warning is liable to costs (500 to 10.000 euros according to the amount in dispute). These costs have to be paid to the competitor even in case the European ecommerce trader immediately complies with the caution brought against him. Thus, the caution filed by a competitor can become a dreaded and lethal weapon. To our knowledge, it is a unique legal feature in Europe and explains why cautions are not very common in other European countries. The European ecommerce trader faces a grim choice. Either he accepts the caution and the legal costs involved or he contradicts and will be brought to court with an unpredictable outcome. If he is defeated, he will be confronted with quite considerable legal costs.

Thus, the German ecommerce market might become a legal nightmare for an ecommerce trader of another European country. The German law firm IT-Recht Kanzlei, based in Munich, has a long track record in giving legal advice to German ecommerce traders. German ecommerce traders who are clients of It-Recht Kanzlei will be provided solutions tailored to their needs with a view to shielding them against legal risks in their ecommerce business. The legal firm IT-Recht Kanzlei wants its clients to

concentrate on their business to sell products rather than thinking of potential legal risks. The legal firm IT-Recht Kanzlei would be most happy to provide the same service to clients from other European countries who want to do ecommerce business in Germany. Do not hesitate to visit our website ..... or give us a call ....

Autor:

**RA Max-Lion Keller, LL.M. (IT-Recht)**

Rechtsanwalt