

# World Trademark Review Daily

**Supreme Court provides guidelines on marks that may offend religious groups**  
**Switzerland - meyerlustenberger**

**Examination/opposition**  
**National procedures**

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The Swiss Federal Supreme Court has [affirmed](#) a decision of the Federal Administrative Court in which the latter had refused to register the figurative sign MADONNA as a trademark in Switzerland (Case 4A\_302/2010, September 22 2010).

The applicant sought to extend protection of its international registration for the trademark MADONNA (and design) for various goods in Classes 3, 9, 14, 18, 20, 24, 25, 26 and 28 of the [Nice Classification](#):



The [Federal Institute of Intellectual Property](#) (IGE) refused to register the mark on the grounds that a large portion of the Swiss population would be offended by the use of the mark for the goods at issue. The Federal Administrative Court affirmed (for further details please see "[Trademark held to offend religious feelings](#)").

On appeal, the Supreme Court put down some guidelines for dealing with signs that may be considered offensive by a certain religious group:

- The type of goods and services for which protection is sought is irrelevant. It is the fact that the state should grant exclusive rights over use of a sign that may be deemed offensive, not the particular use of the sign for the specific goods.
- It is not required that a "substantial part" of the public be offended, because this would leave the religious views of minorities unprotected. All religions (ie, not only traditional religions) deserve protection.
- The views of the average adherent of the religion at issue should be considered - that is, not the views of adherents of that religion who are extremely easily offended (this qualification is to be welcome, otherwise almost any figurative sign depicting a living thing could be rejected on the grounds that it offends someone).

In light of the above, the Supreme Court held that the IGE and the Federal Administrative Court had correctly found that the registration of the sign MADONNA would be contrary to public morality (*sittenwidrig*).

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