

Protection of the Name "Solingen"

Guideline against Trademark Piracy

Introduction

What do you think of when you read or hear the name "Solingen"? Probably knives, cutlery or scissors. What you may not be aware of, however, is that Solingen is the name of a town in Germany and that this town is the centre of the German cutlery and scissor-making industry. Cutlery, and indeed, blades of all kinds have been manufactured in Solingen for eight centuries. While the original products were mainly swords and daggers, today's products range from cutlery and kitchen knives, scissors and razor blades through to industrial knives and cutters. Cutlery and scissors made in Solingen are of a particularly high quality. Thanks to high-grade materials, a ready supply of skilled, qualified workers and excellent craftsmanship, these products are renowned and appreciated the world over.

The name "Solingen" is, therefore, a description of the geographical origin of the product. Geographical origins are protected all over the world by the provisions laid down in fair-competition and trademark legislation. As a result, the use of such a name is only permitted in conjunction with a product originating from that region.

Despite this protective legislation, the name of "Solingen" is often misappropriated. This misuse usually takes the form of cheap-quality products manufactured elsewhere being offered for sale worldwide under the famous name of Solingen. Such fake products can be manufactured at a fraction of the cost that German manufacturers would be faced with. The consequences are manifold:

- the business activities of the legitimate manufacturers and dealers of the original goods are undermined
- since the quality of the fakes is usually extremely poor, the name of Solingen is wrongly associated with low-standard workmanship
- deception and confusion among customers.

The aim of this brochure is to provide all those interested in protecting the name "Solingen" with some important guidelines.

Protecting the name "Solingen" in Germany

As a name, "Solingen" can look back over a very long traditional history. The first documented fakes appeared as far back as the 19th century. Since that time, there have been constant efforts to protect the name. In Germany, the name has been protected by law since 1938. Today, protection for the name is provided by general trademark legislation and a specific law called the "Decree for the Protection of the Name Solingen" (Solingen Decree).

The Solingen Decree makes the use of the name Solingen on cutlery dependent on defined geographical and quality characteristics. In addition, the products to which it applies are also defined.

Cutlery marked with "Solingen" must, under this legislation, meet stringent conditions. They must,

- during all the key manufacturing stages have been processed and finished within the industrial boundaries of Solingen (which, for these purposes, includes not just Solingen but also the neighbouring town of Haan)
- and, in terms of their raw materials and manufacture, be suitable for the purpose for which products of that type are made. **This means that even cutlery which is manufactured within Solingen's town boundary is not entitled to bear the name Solingen if it does not conform to the required quality standards.**

According to the Solingen Decree, the implements to which the restrictions apply are, apart from scissors, cutlery, knives and blades, other table implements such as cake slices and nutcrackers, even if they in themselves have nothing directly to do with "cutting". Furthermore, razors, hair-trimmers, other personal hygiene instruments and knives used as weapons are all covered by the law (the full text of which is included below).

The Solingen Decree does not, however provide concrete guidelines as to the definition of the "key manufacturing stages" or the parameters defining the required quality standards. These questions have, in practice, been left up to the local manufacturers to decide. As a result, the Chamber of Commerce and Industry for the Wuppertal-Solingen-Remscheid area drew up a list in 1997 of the "Minimum requirements for use of the name Solingen" in conjunction with all the fields of industry affected and these are now recognised and applied by the corresponding manufacturers in Solingen's cutlery industry (text below).

Anyone selling cutlery which is not, in fact, from Solingen, must not create the impression among possible customers that it was made in Solingen. It is forbidden, in particular:

- to mark the goods with "Solingen",
- to apply stickers or labels bearing the name,
- to refer to Solingen on the packaging,
- to include certificates implying the goods were manufactured in Solingen,
- to refer to the name Solingen in brochures or catalogues,
- to refer to Solingen as the origin of the goods in advertising.

If a number of products are brought together in a set (e. g. a case of cutlery or a manicure wallet) but only some of them are from Solingen, the supplier must avoid creating the impression that the entire set was manufactured in Solingen. This false impression can easily be created if the reference to the name Solingen is not unequivocally assigned to that specific article.

The phrase "designed in Solingen" is also forbidden for products not manufactured in Solingen. The reason is that the consumer is likely to be distracted by the name "Solingen" to such an extent that she or he is unaware of the word "designed" or does not even register it.

International protection of the name

The Solingen Decree and German trademark legislation are only valid in Germany. Abroad, the use of the name "Solingen" is not specifically regulated but is covered as a geographical origin by generally applicable fair-competition legislation and trademark regulations.

In a number of international agreements, many countries have mutually undertaken to provide particularly effective protection of geographical names:

- the Paris Convention for the Protection of Industrial Property of March 20, 1883 which Germany joined in 1903;
- the Madrid Agreement for the Repression of False and Deceptive Indications of Source on Goods of April 14, 1891. Germany signed up to this agreement in 1925;
- and a number of other bilateral agreements.

The consequences of the misuse of geographical origin

Criminal law consequences

Any person marking products with an incorrect geographical origin ("Solingen", "Germany" etc.) or importing or selling such incorrectly marked products in Germany is liable to a fine and even a custodial sentence of several years. Similarly, anyone exploiting an incorrect origin designation with the aim of taking advantage of the name or of damaging it is also liable to criminal prosecution. If the Court decides that the use was unlawful, it may also rule that the offending marks be removed from the products or that the products be destroyed.

In such cases, the criminal offence of deception may also have been committed. The victim will in all probability have assumed she or he was purchasing a quality product from Solingen or Germany. As a result, she or he was prepared to pay a price which bears no relation to the quality of the product actually received.

Confiscation by Customs

If fake goods are imported, exported or transported through the country in transit, the Customs are entitled to confiscate them if there has clearly been a breach of the law. If a routine inspection provides

grounds for suspicion, the Customs Officers may retain the suspect goods for closer inspection. If the suspicion proves to be founded, Customs may pass a confiscation order and rule that the offending markings be removed; this might entail the grinding-off of an incorrect origin designation or the destruction of wrongly printed packaging. If the offender does not comply or if such measures are not practicable, Customs may retain the goods completely.

Written warnings by competitors or Chambers of Commerce

The State's prosecutors and public affairs offices are also empowered to take action under criminal and administrative law. Apart from these measures, competitors, fair-trading and consumer associations and Chambers of Commerce can all take civil action against incorrect use of the name Solingen irrespective of question as to whether individual guilt can be demonstrated or not. A seller of fake products can, for example, be legally required not to become involved in such misuse in the future. The victim can also insist that the illegal situation be remedied. This might involve replacement of packaging bearing the name Solingen illegally, the application of a label or the removal of the incorrect marking or even the destruction of the offending goods. The offender can also be required to pay damages if the improper action has led to someone suffering personal damage or injury.

There are similar regulations and laws in other countries. The infringement of regulations on indications of geographical origin is usually both a criminal offence and contrary to competition legislation. There are also legal regulations on confiscation and destruction of fake goods in nearly every country.

A guide to fakes

A layperson cannot, as a rule, see whether the knife she or he is holding and which bears the name "Solingen" has, indeed, been manufactured in Solingen. There are, however, a number of typical characteristics which can indicate grounds for suspecting the product is a fake. If they are present, the matter should be investigated. Where doubts arise, the contacts and experts listed below can be consulted.

Ask yourself these questions:

Is the source of the products trustworthy?

- Ensure your suppliers are reliable. If the seller is not known to you, ask the German Foreign Trade Commission in your country for advice.
- A trustworthy dealer will, as a rule, provide the opportunity to make inquiries about the manufacturer and the brand and will generally keep a stock of brochures or catalogues.
- Make your own enquiries about the manufacturers and brands used for Solingen cutlery. Fakes are often marketed under imaginary names which are not registered or listed.
- Remember: Fake products are often imported from the Far East but genuine products from Solingen can only come from Germany.

How are the goods marked?

Solingen brand-name manufacturers will generally mark their products with the brand name, company name and details of the material, which enables you to trace them back to the manufacturer. Grounds for caution:

- if no manufacturer's name is recognisable;
- if the knife blades bear coloured, sprayed-on marks; German manufacturers never use paint on the blades for hygiene reasons;
- if cutlery is unstamped or bears variety of different symbols within one series;
- if only the word "stainless" is used without more detailed information.

What is the packaging and advertising like?

Read the packaging, advertising and documentation attentively: sometimes there is a reference to the real origin apart from "Solingen" and usually in small type. Caution:

- if the word "Solingen" is used excessively: not only on the product itself and the packaging but also on labels, loose documents in the box, trays etc.
- if the cutlery or knife cases contain certificates pertaining to be quality and origin certificates.
- if incorrect German or English is used or typographical errors are evident in accompanying documentation and on "certificates".

What impression does the quality of the goods make?

Genuine Solingen cutlery is of a high quality standard due to the stringent requirements of German regulations. It pays to inspect the goods for obvious faults. You are entitled to be suspicious

- if the overall impression of the product and its packaging is generally one of poor quality;
- if cutting edges are not really sharp;
- if knives or other cutlery parts are bent or can easily be bent;
- if the cutlery has the following characteristics:
 - o the knife blades within one set have differing grinding patterns on the edges;
 - o items in the set have rough edges, pitting or holes in the surface of the material;
 - o the space between the prongs of the forks is not smoothly ground
 - o matching items within one set do not lie neatly together or they have differing shapes;
 - o cutlery marked as being 18/10 is magnetic;
- if you notice the following points on kitchen knives:
 - o moulded handles are a bad fit, i.e. there is a gap between the blade and the handle;
 - o with riveted handles, the two halves of the handle are not smoothly ground off or rivet ends are standing proud;
 - o the blades themselves have not been surface treated;
 - o if you pass your finger nail over the surface of the ground part of the blade, you feel a roughness like that of a nail file – your finger nail actually gets caught;
 - o if you drop the knife from a height of 1. 20 metres (handle pointing down) the knife is damaged by the impact (this does not apply to the tip of the blade);
 - o the blade is evidently thick and not forged; the grinding angle a few millimetres back from the cutting edge is noticeably obtuse.

Do you notice anything else?

- Be wary of generous discounts on high purchase prices.
- Have a close look at the typeface: The name "Solingen" is often used with different spelling in such a way that it is hardly noticeable. The name "Silingen" has, for example, been used.
- The phrase "designed in Solingen" is a fairly clear sign that the goods are definitely not manufactured in Solingen.

Furthermore, the respected name of "Solingen" is also exploited for other kitchen products. There are pots and pans on the market that create the impression that they have been manufactured in Solingen. However, for many years, there have been no manufacturers of pots and pans in Solingen. In such cases, there is no direct infringement of the Solingen Decree because this only protects cutlery and scissors. Despite this, it does constitute deception of the customer and amounts to an offence under trademark and fair-trading legislation and in criminal law.

Experts

Even if there are grounds for suspecting misuse of the name "Solingen", this is still a far cry from hard evidence of an offence. This evidence, however, can be found if an expert is consulted. Experienced experts can, using a number of characteristic features, such as the shape of the product or the material used, determine whether or not the item of cutlery or scissors was, in fact, manufactured in Solingen.

The names and addresses of such experts are available from the Chamber of Commerce and Industry for Wuppertal-Solingen-Remscheid.

Contact

If you have queries relating to protection of the name Solingen, please contact the Chamber of Commerce and Industry Wuppertal-Solingen-Remscheid or the Industrial Association for the Cutlery and Household Goods Industries. There is a specific organisation dealing with trademark piracy in Germany: the APM (Aktionskreis Deutsche Wirtschaft gegen Produkt- und Markenpiraterie). The Central Office for Proprietary Rights at the Federal Finance Ministry is responsible for all matters relating to the confiscation of fake products on import, export and in transit.

Names und Adresses

- **Industrie- und Handelskammer
Wuppertal-Solingen-Remscheid**
(Chamber of Industry and Commerce)
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- **Industrieverband Schneid-
und Haushaltswaren e. V.**
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Internet: www.markenpiraterie-apm.de
- **Oberfinanzdirektion Nürnberg
Zentralstelle Gewerblicher Rechtsschutz**
(Central Office for Proprietary Rights at the Federal Finance Ministry)

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Regulation for the Protection of the Solingen Name (Solingen Regulation)

On the basis of § 137 of the law on trademarks of 25 October 1994 (German law gazette I 1994, p. 3082) the Federal Ministry of Justice decrees in agreement with the Federal Ministry of Economics, of Food, Agriculture and Forestry and of Health:

§ 1 Principle

The name Solingen may only be used in business for such cutting equipment which

1. was processed and finished in all major stages of manufacturing in the Solingen industrial area and
2. is able to achieve its characteristic intended use according to raw material and processing.

§ 2 Region of Provenance

The Solingen industrial area includes the area of the urban commune Solingen and the area of the town Haan which is in the district of Mettmann.

§ 3 Definition of Cutting Equipment

Cutting equipment according to § 1 are in particular:

1. Scissors, knives and blades of all types,
2. Cutlery of all types and parts of such,
3. Small equipment for table use such as cake slicers, cake-tongs, sugar-tongs, grape scissors and serving cutlery,
4. Table utensils such as cigar cutters, letter openers, nutcrackers and cork screws as well as cutting kitchen tools such as tin openers and knife-grinders,
5. Open razor, razor-blades, razors,
6. Hair clippers and shaving machines,
7. Manicure and pedicure equipment such as nail-files, cuticle and nail forceps, nail clippers and tweezers,
8. Cutting and thrusting weapons of all kinds.

§ 4 Effective from

This regulation will come into effect on 1 January 1995.

The Federal Council of Germany has accepted the regulation.

Bonn, December 16th, 1994

The Federal Minister of Justice
Leutheusser-Schnarrenberger

Minimum Requirements for the "Solingen" Qualification

The following minimum values represent the criteria for the "Solingen" qualification of cutting equipment which correspond to the manufacturer's contemporary concepts of "Solingen" cutting equipment. These minimum requirements putting in concrete terms the major stages of manufacturing as well as guaranteeing the characteristic use, are an expression of the present fair practices, procedures and applications for the production of cutting equipment in the industrial area of Solingen according to § 137 section 2 clause 2 of the law on trademarks.

I. Major stages of manufacturing for cutting equipment according to § 1 clause 1 of the Regulation for the protection of the Solingen name

1. Manufacture

- warm forged
- cold forged
- mechanical processing
- heat treatment
- surface, mechanical
- surface, galvanic/chemical
- finishing touch

2. Assembly

- of synthetic handles
- of wooden handles
- of steel handles
- of cast handles
- of handles made from other materials
- of component halves and other component parts
- final assembly of instruments

II. Fulfilment of the Requirements according to § 1 clause 2 of the Regulation for the Protection of the Solingen Name

All types of materials which are suitable for the appropriate manufacturing and processing method to achieve the characteristic use of the product are admissible. When using material other than steel, a minimum quality according to the following requirements must be achieved.

1. Products of Stainless Steel

1.1. Knives

Fulfilment of requirements according to DIN EN ISO 8442-1

1.2. Scissors

Material: Steel according to prEN 10088-1 - X46Cr13
Minimum hardness 52 HRc

1.3. Cutlery

1.3.1. Silver-plated and non-rusting cutlery:

Fulfilment of requirements according to DIN EN ISO 8442-2

1.3.2. Gold-plated cutlery:

Fulfilment of requirements according to DIN EN ISO 8442-4

1.4. Open Razors and Razor-blades

Material: No specific details
Minimum hardness for open razors 58 HRc
Minimum hardness for razor-blades 55 HRc

1.5. Manicure and Pedicure Equipment with Cutting and Filing Function including Nail Clippers

Material according to prEN 10088 - X20Cr13
Minimum hardness 48 HRc
Minimum hardness for cuticle forceps 46 HRc

1.6. Nail-files

Material according to prEN 10088 - X39Cr13 for flexible nail-files

Minimum hardness 50 HRc
The file must be "spring-hard" in its total length.

1.7. Tweezers

Material: corrosion-resistant steel or non-ferrous metal,
no specific details
The characteristics of the material must be such that the required spring and tip
position depending on the use will remain unchanged.

2. Products Made of Unalloyed Quality Steels

2.1. Knives

Material according to EN 10083 - 1 C 45 –TN
Minimum hardness 50 HRc

2.2. Scissors

Material according to EN 10083 - 1 C 45 – TN
Minimum hardness 50 HRc

2.3. Cutlery

Cutlery made of unalloyed, unprotected steels are not admissible.

2.4. Open Razors and Razor-blades

Material: At least 1.1% C
Minimum hardness 60 HRc

2.5. Manicure and Pedicure Equipment with Cutting and Filing Function including Nail Clippers

Material according to EN 10083 - 1 C 35 – TN
Minimum hardness 45 HRc

Material according to EN 10083 - 1 C 45 – TN for nail clippers
as well as cuticle and nail forceps
Minimum hardness for nail clippers 50 HRc
Minimum hardness for cuticle and nail forceps 46 HRc

2.6. Nail-files

Material according to EN 10083 -1 C 60 for flexible nail-files
Minimum hardness 45 HRc
The file must be "spring-hard" in its total length.

Material according to EN 10083 -1 C 45 for non-flexible nail-files
Minimum hardness 45 HRc,
other base materials are admissible

2.7. Tweezers

Material: no specific details
The characteristics of the material must be such that the required spring and tip
position depending on the use will remain unchanged.

3. Other Requirements and Regulations

- 3.1. All details regarding hardness refer to the cutting or filing parts of the products. For knives the complete blade is meant hereby and not just the cutting edge. The materials must be hardened in consideration of the temperature control required for the respective steel. Examinations of the hardness and microstructures must be applied to the whole blade.
- 3.2. The ability that scissors, forceps and clippers cut along the total length of the blade must be ensured.
- 3.3. The roughness of the blades of table knives may not go beyond 3.0 μm according to R_{max} and for other knives and scissors not beyond 6 μm according to R_{max} .
- 3.4. When examining scissors as to their "Solingen" quality, the joint, halm and finger hole of the scissors are also to be examined.

- 3.5. Inasmuch as further DIN EN or ISO standards are applicable for individual product groups, these standards are to be applied.
- 3.6. For nail-files all surfaces outside the filing areas including the edges must be deburred and smooth. Filing areas can be: cut with at least two strokes, galvanically deposited granulation, e.g. sapphire, galvanically formed or etched structures or other surfaces with comparable filing action.
- 3.7. For tweezers the component halves must be firmly welded together and be perfectly deburred all around. The spring position must have an even aperture angle. The function of the tweezer points must be ensured.

**Members of international agreements
about the protection of geografic indications**

Members of Paris Convention	... Madrid Agreement
Albania	X	
Algeria	X	X
Antigua and Barbuda	X	
Argentina	X	
Armenia	X	
Australi	X	
Austria	X	
Azerbaijan	X	
Bahamas	X	
Bahrain	X	
Bangladesh	X	
Barbados	X	
Belarus	X	
Belgium	X	
Belize	X	
Benin	X	
Bhutan	X	
Bolivia	X	
Bosnia and Herzegovina	X	
Botswana	X	
Brazi	X	X
Bulgaria	X	X
Burkina Faso	X	
Burundi	X	
Cambodia	X	
Cameroon	X	
Canada	X	
Central African Republic	X	
Chad	X	
Chile	X	
China	X	
Colombia	X	
Congo	X	
Costa Rica	X	
Côte d'Ivoire	X	
Croatia	X	
Cuba	X	X
Cyprus	X	
Czech Republic	X	X
Democratic People's Republic of Korea	X	
Democratic Republic of the Congo	X	
Denmark	X	
Djibouti	X	
Dominica	X	
Dominican Republic	X	X
Ecuador	X	
Egypt	X	X
El Salvador	X	
Equatorial Guinea	X	
Estonia	X	
Finland	X	
France	X	X
Gabon	X	
Gambia	X	
Georgia	X	
Germany	X	X
Ghana	X	
Greece	X	
Grenada	X	
Guatemala	X	
Guinea	X	
Guinea-Bissau	X	
Guyana	X	
Haiti	X	

Members of Paris Convention	... Madrid Agreement
Holy See	X	
Honduras	X	
Hungary	X	X
Iceland	X	
India	X	
Indonesia	X	
Iran (Islamic Republic of)	X	
Iraq	X	
Ireland	X	X
Israel	X	X
Italy	X	X
Jamaica	X	
Japan	X	X
Jordan	X	
Kazakhstan	X	
Kenya	X	
Kyrgyzstan	X	
Lao People's Democratic Republic	X	
Latvia	X	
Lebanon	X	X
Lesotho	X	
Liberia	X	
Libyan Arab Jamahiriya	X	
Liechtenstein	X	X
Lithuania	X	
Luxembourg	X	
Madagascar	X	
Malawi	X	
Malaysia	X	
Mali	X	
Malta	X	
Mauritania	X	
Mauritius	X	
Mexico	X	
Monaco	X	X
Mongolia	X	
Morocco	X	X
Mozambique	X	
Nepal	X	
Netherlands	X	
New Zealand	X	X
Nicaragua	X	
Niger	X	
Nigeria	X	
Norway	X	
Oman	X	
Panama	X	
Papua New Guinea	X	
Paraguay	X	
Peru	X	
Philippines	X	
Poland	X	X
Portugal	X	X
Qatar	X	
Republic of Korea	X	
Republic of Moldova	X	X
Romania	X	
Russian Federation	X	
Rwanda	X	
Saint Kitts and Nevis	X	
Saint Lucia	X	
Saint Vincent and the Grenadines	X	
San Marino	X	X
Sao Tome and Principe	X	

Members of Paris Convention	... Madrid Agreement
Senegal	X	
Sierra Leone	X	
Singapore	X	
Slovakia	X	X
Slovenia	X	
South Africa	X	
Spain	X	X
Sri Lanka	X	X
Sudan	X	
Suriname	X	
Swaziland	X	
Sweden	X	X
Switzerland	X	X
Syrian Arab Republic	X	X
Tajikistan	X	
The former Yugoslav Republic of Macedonia	X	
Togo	X	
Tonga	X	

Members of Paris Convention	... Madrid Agreement
Trinidad and Tobago	X	
Tunisia	X	X
Turkey	X	X
Turkmenistan	X	
Uganda	X	
Ukraine	X	
United Arab Emirates	X	
United Kingdom	X	X
United Republic of Tanzania	X	
United States of America	X	
Uruguay	X	
Uzbekistan	X	
Venezuela	X	
Viet Nam	X	
Yugoslavia	X	X
Zambia	X	
Zimbabwe	X	