

# Expanding overseas

## How to address legal issues when looking to do work in Europe

INTERVIEWED BY ROGER VOZAR

Companies looking to expand overseas may experience a different business culture and need to be aware of the legal issues they may face.

“It’s important to prepare beforehand and ensure you’re complying with all of the different EU and German laws that come into play,” says German native Katja Garvey, an associate at Kegler, Brown, Hill + Ritter.

*Smart Business* spoke with Garvey about legal issues to consider when doing business in Europe, and particularly in Germany.

### What are the main concerns when expanding a business in Europe?

First, a U.S. company needs to decide what type of business entity it is going to establish. German business structures are fairly similar to the U.S. and have certain requirements, such as minimum capital investment, that need to be taken into account. For example, Germany has an LLC equivalent called GmbH. The law is the same in each of Germany’s 16 states, which makes it easier for new businesses to establish themselves in multiple states without making substantial modifications to their business objectives. Other critical concerns are the protection of intellectual property rights, employment issues and tax considerations.

### How can intellectual property (IP), including trademarks, be protected in Europe?

It’s crucial to protect your company’s IP before you commence business. To protect their IP, companies are advised to register any trademarks or patents in the European countries that are or could be important markets. Registration in the U.S. does not protect your IP rights in any other jurisdiction. U.S. companies have the option to register their patents and trademarks with the Office of Harmonization in the

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Internal Market or the World Intellectual Property Organization, designating the EU as a preferred option if they desire to be protected in several countries, and not just in Germany.

### What adjustments need to be made regarding employee policies and procedures?

A company should first decide if it will hire local workers or bring employees from the U.S. German labor laws are more favorable toward employees than laws in most U.S. states, especially in regards to providing statutory protection for hiring and firing. To dismiss an employee, there are statutory requirements to provide notice periods, which vary depending on the duration of employment. For example, four months’ notice is required if an employee has been employed for 10 years.

The Mutterschutzgesetz (mother protection law) provides important labor protections for female workers in Germany. Female workers are entitled to paid maternity leave for the first year (and up to three years total before the child’s eighth birthday). The obligation of an employer is limited to paying for the six weeks leading up to the birth and eight weeks after.

### What else do businesses need to consider?

Tax implications should be an important

consideration. Companies should structure their transactions in accordance with the U.S.-Germany Tax Treaty, the provisions of which minimize double taxation.

Germany has certain tax incentives available in an effort to build industry in the eastern part of the country, which is still less developed than the west. There is an initiative to create a Silicon Valley-like industry in the Dresden area, called Silicon Saxony. It has succeeded in attracting high-tech industry and could be an appealing option for high-tech Ohio companies to consider as their location in Germany.

Germany might not be the best location for some labor-intensive, manufacturing businesses because wages tend to be high compared to emerging markets. However, for a U.S. company in a high-tech industry, requiring skilled workers, Germany would be an attractive destination. Most importantly, Germany has been the driving force behind the European economy and is a stable location for U.S. companies looking to do business in Europe.

The importance of the German market to U.S. companies cannot be overstated. According to [www.export.gov](http://www.export.gov), Germany is the largest European trading partner of the U.S. and the sixth largest market for U.S. exports. According to JobsOhio, Germany is second in terms of foreign direct investment in Ohio. ●