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"Moral pressure" or "self-interested balancing of costs and benefits"?

International and domestic forces shaping the first Swiss patent system (1873-1908)

Nicolas Chachereau

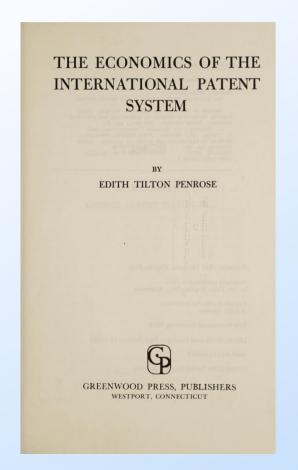
University of Basel & EPFL



Better off without patents

"[...] the general interest of Swiss industry is at odds with patents. [...] Switzerland, with unfavorable conditions for industry in some respects, has enjoyed as a compensation the freedom to employ the most advanced means [of production] in the whole world; its industry was born of this freedom, and it currently relies to a large extent on processes [...] patented abroad." (Gazette de Lausanne [local newspaper], 1958)

Outside pressure and moral suasion?



"[...] Switzerland had no choice. Spurred by economic pressure from outside industrial powers, notably Germany, subjected to an intensive internal campaign which was materially assisted by outside groups, encouraged by the "moral suasion" of the Bureau of the International Union whose headquarters was at Berne, the Swiss in 1888 adopted a patent law."

(Penrose 1951: 123-124)

Outside pressure and moral suasion?

THE ECONOMICS OF THE T **ERIC SCHIFF** Industrialization Without **National Patents** The Netherlands, 1869-1912: Switzerland, 1850-1907 PRINCETON LEGACY LIBRARY

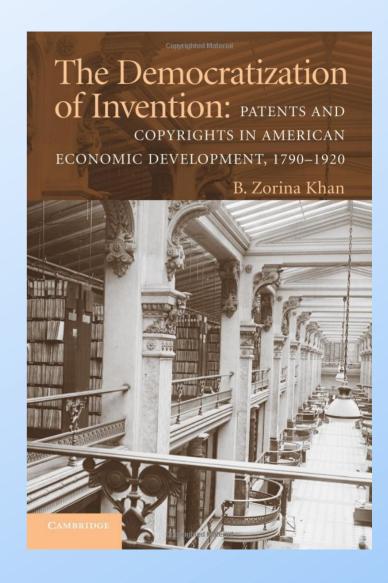
The spreading feeling that considerations of morality and international politics made "the adoption of a patent system inevitable" as the "decisive factor in getting the legislation ... under way" (Schiff 1971: 90)

Rational self-interest?

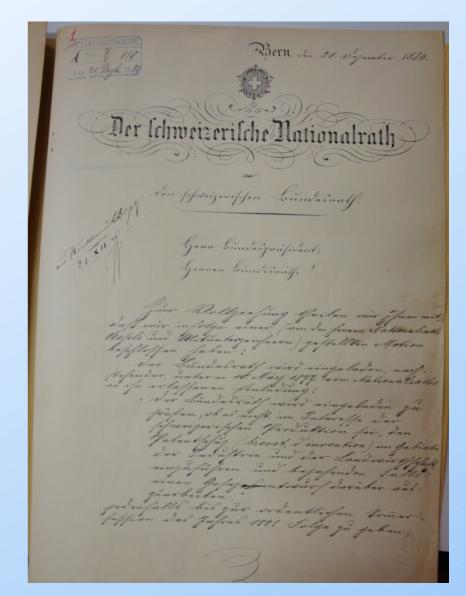
"not because of a sudden newfound sense of morality or international pressure, but because they discovered that American manufacturers were surpassing them as a result of patent innovations"

just as in other countries, the patent legislation resulted from "a self-interested balancing of costs and benefits"

(Khan 2005: 290, 291)

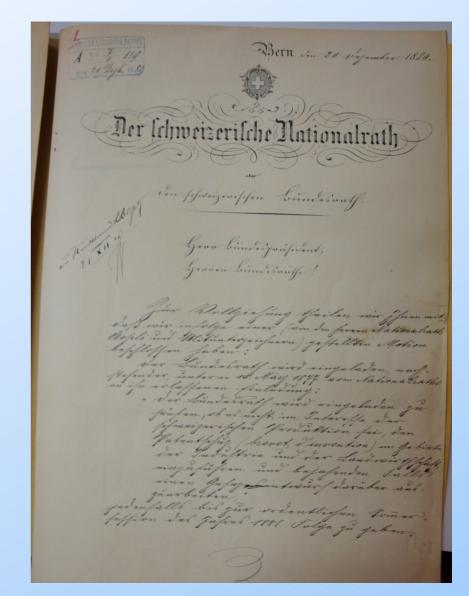


Sources



Sources

- Swiss Federal Archives
- German Federal Archives
- Business interest associations
- Booklets, newspapers and other printed materials



Swiss Historical Patents

Online: <u>historicalpatents.ch</u>

À propos Brevets Brevetés

Brevets

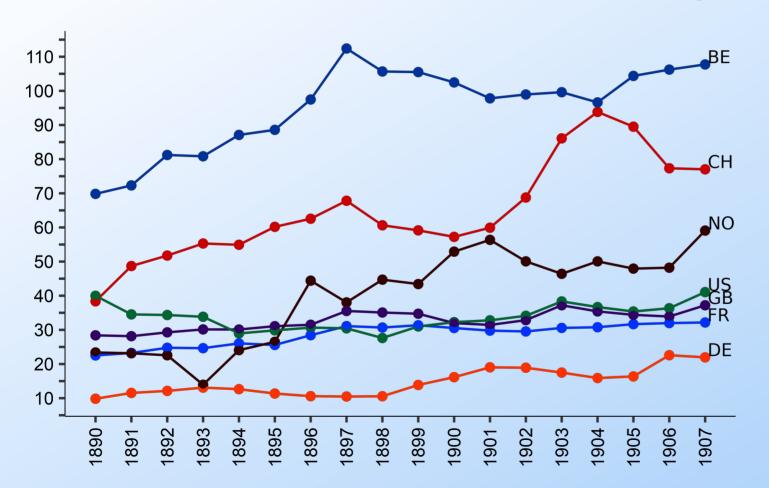
RECHERCHE

AJOUTER UN BREVET

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N° ▲	Cl.	Titre	Breveté(s)	Demandé	Enregistré	Publié	Radié	Durée
1	64	Perfectionnements apportés à la construction de mouvements de montres de toutes dimensions	PERRET, PAUL (CH)	15/11/1888		1/11/1888	9/3/1897	8
2	21	Stickmaschine mit vorwiegend automatischem Betrieb zur Erzeugung von Plattstichstickerei	F. SAURER & SOEHNE (CH)	15/11/1888		11/4/1889	27/11/1903	15
3	111	Schirmgestell mit Kugelgelenken	BURKART, A (CH)	15/11/1888		30/11/1888	5/3/1891	2
	_	Nover Corüstbalter	CDOSSMANIAL L C (CU)	45 /44 /4000		20 /44 /4000	0 /2 /4002	

The law of 1888 created an actual patent system



Number of patents granted for 100'000 inhabitants, 1890-1907

Clear case of foreign pressure for law of 1907

Patent law of 1888: no patentability for chemical products and processes

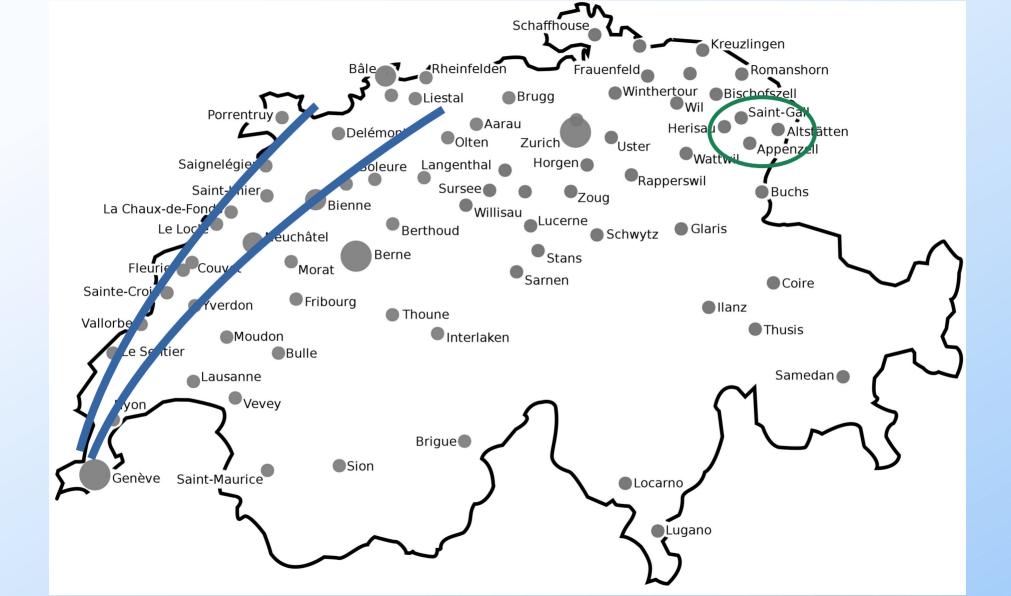
Clear case of foreign pressure for law of 1907

- Patent law of 1888: no patentability for chemical products and processes
- Negotiation of a trade treaty with Germany in 1904: the Swiss had to change their patent law by the end of 1907

Clear case of foreign pressure for law of 1907

- Patent law of 1888: no patentability for chemical products and processes
- Negotiation of a trade treaty with Germany in 1904: the Swiss had to change their patent law by the end of 1907
- Otherwise, Germany reserved the right to tax imports of Swiss "dyestuffs and similar products"

Domestic forces brought about the law of 1888



Domestic forces brought about the law of 1888

- Pro-patent alliance: watchmaking industry, embroidery industry, engineers & producers of machines, craftsmen and small industry
- Context: reorienting Swiss capitalism to respond to the Long Depression of the late 19th c.
- No evidence of "outside material assistance", nor of economic pressure from other countries

When "outside" and "inside" are not what they seem

"Our neutral country certainly is a better ground for such a bureau than one of the European states. The Convention will take shape more easily this way [...] The development of industrial property will most certainly take place in Switzerland if it is granted the headquarters of the Bureau."

Federal Councillor Numa Droz, 9 November 1880

A system shaped in an international context

 No patents on chemicals: catching-up with Germany

A system shaped in an international context

- No patents on chemicals: catching-up with Germany
- Ensuring access of export industries to patents in other countries: A comparatively liberal system for foreign patentees: no compulsory working of patents



Les débuts du système suisse des brevets d'invention (1873-1914), Neuchâtel, Éditions Alphil-Presses universitaires suisses, 2022.

www.alphil.com

Thank you!