

# Recent Case Law in German Patent Law



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## FOREWORD

This year's case law review again provides a motley assortment of substantive legal and procedural issues that have been addressed and answered by the patent courts in Germany.

Contributory infringement and defining the extent of protection conferred by the doctrine of equivalents are perennials, so it should come as no surprise that case law in those areas has made further progress this year as well.

With regard to validity, attention remains focused on 'disclosure' issues. The dispute between the two courts for validity proceedings, the Federal Court of Justice and the Federal Patent Court, has calmed down somewhat, and we are now seeing more and more judgments from the Federal Patent Court that include its own patent interpretation arguments. Questions of detail that require clarification are raised again and again, nevertheless. One focus of last year's review was on non-disclosed disclaimers.

More than ten years after the *Gummielastische Masse II* judgment, the Federal Court of Justice has finally ruled again on rights of exploitation in communities of co-inventors. One case in particular stands out when it comes to the new procedural law for revocation actions, namely one in which auxiliary requests submitted late by the patent proprietor were dismissed for the first time ever.

All in all, however, the year was dominated (also from our personal perspective) by a whole series of judgments in which the Mannheim/Karlsruhe and Düsseldorf infringement courts endeavoured to apply the Huawei vs. ZTE judgment handed down by the European Court of Justice. You can read our summary in Section 6 of this case law review. It should go without saying that we can only briefly throw a spotlight on the situation as it currently stands. The debate is ongoing and ever-changing, so further developments can only be awaited with enormous anticipation.

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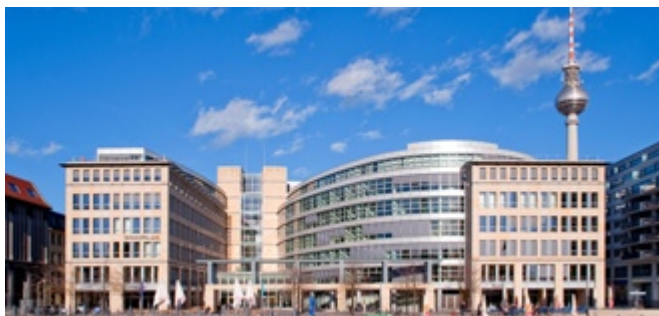
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