

Flaschentraeger, Federal Court of Justice (Bundesgerichtshof), 24 July 2012

Kluwer Patent Blog
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Simon Klopschinski (Rospatt Osten Pross.)

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The amount of its profit the infringer will have to pay to the patentee as damages is calculated solely based on the profit earned by use of the intellectual property right. To determine this profit it must be assessed if, and to what extent this profit was due either to the invention's technical features embodied in the product, or other relevant factors for the customer's purchase decision, e.g. the product's design, the origin, the trademark, the price or other factors effecting the market opportunities thereof that are independent from the patent, taking into account all of the circumstances of the case.
Click [here](#) for the full text of this case.

A summary of this case will be posted on <http://www.KluwerIPCases.com>