

Kluwer Patent Blog

Austria: 4 Ob 17/15a, Supreme Court of Justice of Austria, 22 September 2015

Valerie Eder (Gassauer-Fleissner) · Wednesday, November 16th, 2016

An invention is considered to involve an inventive step pursuant to Sec 1 Para 1 of the Austrian Patent Act (which corresponds to Art 56 EPC) if it is obvious to the skilled person based on prior art. This is not already the case when the skilled person could arrive at the invention based on prior art, but only if he would have actually proposed it in expectation of some improvement or advantage due to sufficient reasons thereto. This examination can be carried out by applying the problem-solution approach used by the European Patent Office.

A [full summary](#) of this case has been published on [Kluwer IP Law](#).

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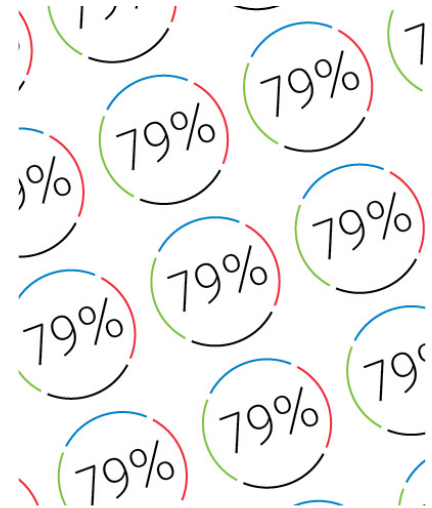
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