Kluwer Patent Blog

Patent case: Anhörungsrüge, Germany

Thorsten Bausch (Hoffmann Eitle) · Tuesday, April 17th, 2018

In an extraordinary appeal pursuant to Sec. 321a of the German Civil Procedure Code, the FCJ confirmed that the courts are obliged to take note of and consider the actual and legal submissions of the parties to the proceedings. The constitutionally guaranteed right to be heard (Art. 103 para. 1 Basic Law) is intended to ensure that decisions made by the courts are free of substantive or procedural errors due to the submissions of the parties not being considered or taken into account in the decision-making process. However, this does not imply a right to an explicit ruling on each and every submission. Rather, it can be assumed in principle that the court has considered the party submissions received, even if it does not share the legal conclusions drawn from them by one party. However, if the court fails to address the essential substance of a party's factual submission on a question of particular importance for the proceedings, this indicates that the submission was not taken into account, unless it was insignificant or obviously unsubstantiated, according to the legal position of the court.

Case date: 12 April 2017 Case number: X ZR 66/14

Court: Federal Court of Justice of Germany

A full summary of this case has been published on Kluwer IP Law.

To make sure you do not miss out on regular updates from the Kluwer Patent Blog, please subscribe here.

Kluwer IP Law

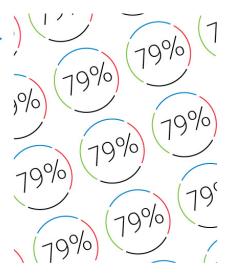
The **2022 Future Ready Lawyer survey** showed that 79% of lawyers think that the importance of legal technology will increase for next year. With Kluwer IP Law you can navigate the increasingly global practice of IP law with specialized, local and cross-border information and tools from every preferred location. Are you, as an IP professional, ready for the future?

Learn how Kluwer IP Law can support you.

79% of the lawyers think that the importance of legal technology will increase for next year.

Drive change with Kluwer IP Law.

The master resource for Intellectual Property rights and registration.



2022 SURVEY REPORT
The Wolters Kluwer Future Ready Lawyer



This entry was posted on Tuesday, April 17th, 2018 at 11:01 am and is filed under Case Law, Germany

You can follow any responses to this entry through the Comments (RSS) feed. Both comments and pings are currently closed.