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Patent case: Tretkurbeleinheit, Germany

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The FCJ confirmed that a new means of challenge based on the technical content of a document filed for the first time in the course of appeal proceedings is only to be admitted under the provisions of Section 531 paragraph 2 numbers 1 to 3 of the German Code of Civil Procedure, irrespective of whether the document's effective date and content are undisputed. The same applies to a new means of defense.

Further, if a plaintiff pleads that a document has only been found in a search performed after a first instance ruling, the means of challenge based on such document is only to be admitted under Section 531 paragraph 2 number 3 of the German Code of Civil Procedure, if the plaintiff substantiates that the document could not have been found with an appropriate search profile in a search preceding the plaintiff's nullity action.

Case date: 27 August 2013

Case number: X ZR 19/12

Court: Federal Court of Justice of Germany

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

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