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Patent case: Cer-Zirkonium Mischoxid I, Germany

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A range of values limited only in one direction can be sufficiently disclosed if the invention is not limited to a certain range, but includes a generalizable teaching which goes beyond that and enables the person skilled in the art for the first time to search for further possibilities for improvement and to exceed the maximum value concretely indicated in the patent. This prerequisite is not met if the patent merely provides a new process for producing a known substance with improved properties.

The result of an experiment carried out after the priority date can only have indicative effect for the assessment of what substance the person skilled in the art would have obtained before the priority date by identical or obvious reworking of a procedure disclosed in the state of the art.

In accordance with the general principles of civil procedural law, such circumstances may only be regarded as proven in patent nullity proceedings if the court comes to the conclusion that the circumstantial evidence submitted is correct and allows for the conclusion that the main fact to be proven is true with the certainty required by Sec. 286 Civil Procedure Code.

Case date: 12 March 2019

Case number: X ZR 32/17

Court: Federal Court of Justice of Germany

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

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