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# Kluwer Patent Blog

## Primate of the Patent Claim Articulated by Means of Articulated Coupling

Thomas Musmann (Rospatt Osten Pross) · Friday, December 3rd, 2010

Once again, the German Federal Supreme Court has underlined the primacy of the patent claim over the patent's description. The technical problem to be solved by the invention is to be established by virtue of the patent claim only. In consequence, a broad patent claim must not be limited by a specific technical problem expressed in the description but not achieved by the patent claim.

In its decision "Gelenkanordnung" (judgement of 4 February 2010, Xa ZR 36/08) the German Federal Supreme Court had to deal with a specific "articulated coupling" for the articulated connection of boxes of a multi-unit vehicle, e.g. railroad cars. According to the description of the patent, the technical problem to be solved was to enhance known articulated coupling arrangements with known dampening of regular impacts from cornering etc. by providing means to absorb also immense energy of an extreme collision of one waggon into another. However, there was only a destructive energy-dissipating member being integrated free from play in one of the articulated arms of the articulation arrangement as the characterising feature of the main patent claim. The main patent claim did not contain any features addressing the dampening function for regular impacts from normal locomotion. The Federal Supreme Court ruled that the technical problem to be solved by the main patent claim had to be restricted to the energy-dissipation of extreme energy. Therefore, dampening of normal impacts from locomotion had not to be performed by the features of the main patent claim. Not what is meant to be achieved according to the patent description, but only what is actually achieved by the invention leads to the technical problem underlying the invention.

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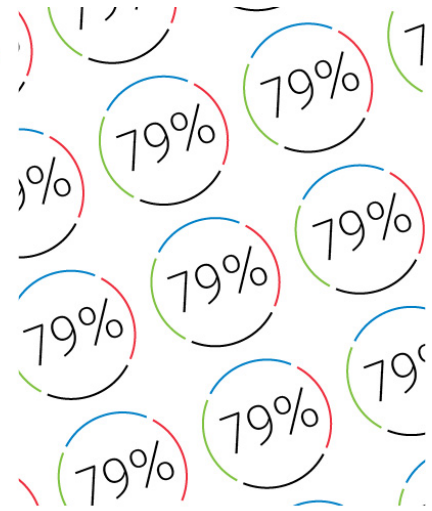
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