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Patent Chambers of Munich District Court decree "General Terms and Conditions"

Rüdiger Pansch · Tuesday, March 20th, 2012 · Landmark European Patent Cases

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An interesting paper comes with the case management directions of the Munich District Court after the complaint is served upon defendants. It titles "The new AGB of the Patent Chambers" while AGB stands for "Allgemeine Geschäftsbedingungen" meaning General Terms and Conditions, i.e. fixed terms that one party of a contract presents to the other party before concluding the contract. Such contract terms are subject to a rigid validity control because the law recognises a need to protect the other party against surprising clauses.

With some curiosity we are observing whether at all and in what way the Court of Appeal and the Supreme Court will deal with such guidelines which, of course, are not subject to the validity control that applies for General Terms and Conditions. Nevertheless, case management directions must comply with the general principles of civil procedural law.

There are some interesting points mentioned in the guidelines which we found worth mentioning. Here are some examples:

- Each brief (including exhibits) must be comprehensible to the judge in one hour only and should, thus, exceed 20-30 pages only in exceptional cases. Otherwise, diagonal reading will be unavoidable, so that those passages should be identified which are to be read with priority.
- From filing the complaint until enforcement, all three judges have on average only 1.500 minutes time, which means 13 hours for the reporting judge, 8 hours for the presiding judge, and 4 hours for the third judge.
- The number of briefs and the respective deadlines will be agreed upon between the parties and the Court in the first oral hearing. Further briefs that have not been agreed upon will simply be ignored – except for new facts that, without negligence, could not be presented earlier.
- The parties are personally summoned to appear in the hearings. They may not just send their lawyers but should be present with skilled persons from the in-volved departments. Further, in the first oral hearing each party should be represented by a person that is endowed with the necessary competences to conclude a settlement.

Let us wait and see in what way these guidelines will exert influence on the parameters accuracy,

time, and cost efficiency and how this will contribute to the benefit of justice.

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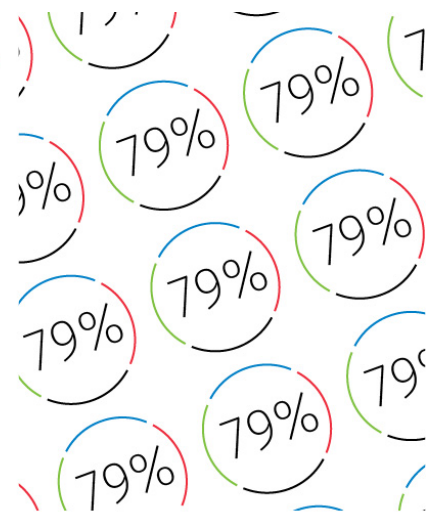
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