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## Düsseldorf's Procedural Guidance

Markus Lenssen (Rospatt Osten Pross) · Friday, April 27th, 2012

About a month ago Rüdiger Pansch reported on the new “General Terms and Conditions” of the Regional Court of Munich in patent infringement matters (<http://kluwerpatentblog.com/2012/03/20/patent-chambers-of-munich-district-court-decree-general-terms-and-conditions/>).

Now, also the Regional Court of Düsseldorf has put more elaborated advice for the parties in writing. In general, this new procedural order more or less goes along the well-established lines used by the court already in the past. Also the Düsseldorf court takes the opportunity to drop a few lines about the preferred maximum length of briefs. Especially, the court tries to admonish the parties to hit the nail on the head instead of giving lengthy statements on irrelevant aspects of the case.

The focus of this procedural order seems to be on the court as well as on the parties. It is not so much the aspect of the workload of the court alone, but also the idea of fair and reasonable proceedings that is shimmering behind the words. The court states that an effective handling of the case can only be organised if the files do not overflow. This is not meant to discourage the parties to present their arguments. But in order to enhance feasibility of the proceedings for all involved persons, anything that is not going beyond what has been said before already should be avoided as such iterative explanations will only cause additional but superfluous and time consuming reading for all. What has been established since long in the Düsseldorf courts has been put in writing here: The Düsseldorf courts are very careful when studying the file and a repetition of arguments does not amplify them. Therefore, the court asks the parties to get the heart of the argument (and to leave out what is not necessary to do so). In addition, it is clearly stated that repetition of already presented arguments is not only needless, but also unwanted.

As far as any possible request for a stay of the proceedings because of alleged nullity of the patent in suit is concerned (a matter not dealt with in the infringement court due to the bifurcated patent system in Germany), this general idea of a concentrated presentation of arguments is pursued. Although the court does not like references to attached briefs of related nullity proceedings alone, the court asks the parties to reduce their presentation in their brief to the infringement court to the most important citations getting closest to the patent in suit. Only the two or three most prominent citations should be discussed.

Overall, this more elaborated guidance on the procedure is consistent with what has been practiced in Düsseldorf since long – a procedure that has proven itself as a very efficient way to handle

patent infringement cases and one of the secrets of success of the Düsseldorf courts.

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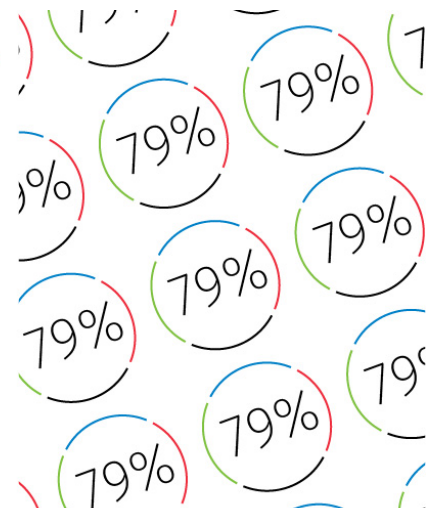
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