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# Kluwer Patent Blog

## "Offering" in the sense of the German patent statute is often underestimated

Thomas Musmann (Rospatt Osten Pross) · Friday, July 5th, 2013

by Bernward Zollner

The term “offering” must be understood in a broad sense. It is sufficient that the person who is offering draws the attention of the public to the offered object so that – clearly – advertisements or brochures can be qualified as an offer in the sense of the patent statute. In this context it is worthwhile remembering what is not necessary for an activity to be qualified as “offering”. It is not necessary that the offering is successful and that the marketing follows the offering. It is not necessary either that prices or details for a contractual agreement are submitted. It is not necessary that the offered object is already existing. However, the offer must be meant seriously and the offering person must be technically in a position to produce the product and to supply it. An “offering” can already be assumed if the offered object shall be made subject matter of a “demanding interest” of possible customers. On the other hand a simple press-release announcing an intent to later on commence production was considered to not qualify as offer.

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