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Germany: Wärmetauscher, Federal Court of Justice of Germany, X ZR 114/13, 10 May 2016

Jochen Buehling (Krieger Mes Graf & v. der Groeben) · Wednesday, January 25th, 2017

In this case the FCJ expanded on earlier case law regarding claim construction, in particular how a term used in the claim language should be interpreted in light of the specification and the entire set of claims. The Court held that the subject matter of the main claim can generally not be limited by a sub-claim, which usually only contains additional embodiments of the invention according to the main claim.

In another important aspect of the judgment, the Court held that under exceptional circumstances a transition period to dispose of infringing devices may be granted if the immediate enforcement of an injunction would cause unjustified hardship for the infringer and would have to be considered as acting in bad faith on the side of the patentee.

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

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