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Germany: Sektionaltor II, Federal Court of Justice of Germany, X ZR 85/14, 16 May 2017

Jochen Buehling (Krieger Mes Graf & v. der Groeben) · Friday, November 17th, 2017

This case concerns the relationship between two co-owners of a patent and in particular the issue of whether and under what conditions one co-owner can claim compensation in respect of the use of the invention by the other co-owner. The FCJ held that an assessment of the potential claim of a co-owner for compensation for the use by the other co-owner depends on the reasons why the claimant has refrained from its own use of the invention. One of the reasons might be the uncertain situation as to who should be considered the legitimate owner of the patent. As long as there is uncertainty about the ownership, a (potential) co-owner may have a valid reason not to use the invention which would then allow him to request compensation for the use by the other co-owner.

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

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