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Patent case: Anhörungsrüge, Germany

Thorsten Bausch (Hoffmann Eitle) · Tuesday, April 17th, 2018

In an extraordinary appeal pursuant to Sec. 321a of the German Civil Procedure Code, the FCJ confirmed that the courts are obliged to take note of and consider the actual and legal submissions of the parties to the proceedings. The constitutionally guaranteed right to be heard (Art. 103 para. 1 Basic Law) is intended to ensure that decisions made by the courts are free of substantive or procedural errors due to the submissions of the parties not being considered or taken into account in the decision-making process. However, this does not imply a right to an explicit ruling on each and every submission. Rather, it can be assumed in principle that the court has considered the party submissions received, even if it does not share the legal conclusions drawn from them by one party. However, if the court fails to address the essential substance of a party's factual submission on a question of particular importance for the proceedings, this indicates that the submission was not taken into account, unless it was insignificant or obviously unsubstantiated, according to the legal position of the court.

Case date: 12 April 2017

Case number: X ZR 66/14

Court: Federal Court of Justice of Germany

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

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