



## **BMW Group achieves success with BARDEHLE PAGENBERG against patent exploitation company**

**The BMW Group has successfully defended itself against a patent exploitation company (“London Optical Car Systems Ltd.”) with a nullity complaint that led to the complete revocation of the German patent DE 103 02 541 relating to a device in a car for optical monitoring of the surrounding traffic.**

The car manufacturer BMW Group was approached by the patent exploitation company “London Optical Car Systems Ltd.”, the owner of this patent, with a license offer based on the assertion that various optical traffic assistance systems in vehicles sold by BMW were covered by the scope of protection of the patent.

Although a use of the patent was not apparent when using a correct construction as a basis, BMW filed a nullity complaint with the German Federal Patent Court as a precautionary measure in view of the doubtful legal validity of the patent. BMW requested the complete revocation of the patent, inter alia on the grounds of lacking patentability compared to patent documents not considered in the examination procedure, as well as an obvious prior use by a car model from 2002.

The 1st Senate largely agreed with the arguments of the nullity complaint and revoked the patent DE 103 02 541 in its entirety, since both the subject matter of the patent-in-suit as granted and the subject matter of each of the auxiliary requests filed by the patent proprietor lacked an inventive step over the prior art documents. London Optical Car Systems Ltd. may now lodge an appeal against this decision with the German Federal Court of Justice.

The judgment shows once again that settling a conflict with a patent exploitation company by means of a settlement in the case of a patent with doubtful legal validity does not make sense from an economic point of view.

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1st Nullity Senate of the German Federal Patent Court

**Beate Schmidt, Presiding Judge** (President of the German Federal Patent Court)