



Press release dated October 12, 2023

BARDEHLE PAGENBERG and Xiaomi successfully fight off attack for patent infringement by KPN

BARDEHLE PAGENBERG appeared for the first time for Xiaomi in German patent litigation and achieved a stay of the infringement proceedings filed by KPN until a first-instance decision in the parallel nullity proceedings.

On April 14, 2022, Koninklijke KPN N.V. (KPN) sued Xiaomi Technology Germany GmbH (Xiaomi) for an alleged infringement of EP 2 291 033 (Patent) at the Regional Court of Duesseldorf by, *inter alia*, certain Xiaomi smartphones (docket no. 4b O 26/22). KPN asserted the Patent to be essential for the LTE and NR cellular standards.

On October 31, 2022, Xiaomi responded with non-infringement, FRAND, and invalidity defenses and filed a nullity action against the German part of the Patent before the German Federal Patent Court in Munich asking the Regional Court of Duesseldorf to reject KPN's complaint or at least stay the infringement proceedings until a first-instance decision of the Federal Patent Court (docket no. 4 Ni 88/22 (EP)).

The Regional Court of Duesseldorf summoned the parties to a hearing scheduled for September 28, 2023. Three days before that hearing, on September 25, 2023, the so-called qualified opinion of the Federal Patent Court pursuant to section 83 German Patent Act was served on the parties with the *prima facie* finding that the Patent is invalid over certain prior art although the Patent had already survived earlier EPO opposition proceedings brought by a third party.

Upon request of Xiaomi and with the consent of KPN, the Regional Court of Duesseldorf lifted the hearing and issued an order for the infringement proceedings to be stayed until a final decision by the Federal Patent Court, independently of the question whether any of the other defenses would have been successful. The Federal Patent Court will hear the nullity case on April 23, 2024.

Parallel patent litigation of KPN against OPPO is pending.

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Representatives of Xiaomi:

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Representatives of KPN:

Axel Verhauwen, Krieger Mes Graf v. d. Groeben

Dr. Jens Vorberg, Bauer Vorberg Kayser

Regional Court of Duesseldorf (Chamber 4b):

Dr. Daniel Voß (Presiding Judge)

Maren Knappke

Dr. Schröder

BARDEHLE PAGENBERG combines the professional expertise of attorneys-at-law, patent attorneys, professional representatives before the European Patent Office, specialized trademark lawyers and qualified technical consultants. Our consulting services are tailored to our clients' individual needs and the specific circumstances of each case.

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