



Press release dated August 14, 2024

## **BARDEHLE PAGENBERG and Xiaomi continue their success in litigation with KPN**

**German Federal Patent Court confirms its preliminary assessment and rules that KPN's EP 2 291 033 is invalid to the extent asserted against Xiaomi.**

On April 14, 2022, Koninklijke KPN N.V. (KPN) sued Xiaomi Technology Germany GmbH (Xiaomi) for alleged infringement of EP 2 291 033 (EP'033) at the Regional Court of Duesseldorf by, inter alia, certain Xiaomi smartphones (docket no. 4b O 26/22). KPN asserted EP'033 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 EP'033 before the German Federal Patent Court in Munich targeting the asserted terminal claim (docket no. 4 Ni 88/22 (EP)).

In September 2023, the Federal Patent Court already indicated in its “qualified opinion” pursuant to section 83 German Patent Act that it deems said terminal claim to be obvious over certain prior art, even though the claim as asserted against Xiaomi had survived earlier European opposition proceedings brought by a third party. [This led to a stay of the infringement proceedings.](#)

On August 6, 2024, the oral hearing in the nullity proceedings between Xiaomi and KPN took place, which had meanwhile been joined with parallel nullity proceedings brought by OROPE Germany GmbH (OROPE) against EP'033 (original docket no. 73/22). At the end of the oral hearing, the Federal Patent Court declared the attacked terminal claim null. KPN did not succeed in defending the claim, not even in form of any of the twelve auxiliary requests it had filed.

KPN may appeal the judgement. The written grounds have not yet been served. But it appears that the Federal Patent Court followed the arguments presented by BARDEHLE PAGENBERG and Xiaomi essentially in full.

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**German Federal Patent Court, 4th Nullity Senate:**

Presiding Judge Werner

**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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