

Press release dated March 26, 2025

BMW and BARDEHLE PAGENBERG defeat patent asserting entity Arigna in every respect

Bayerische Motoren Werke Aktiengesellschaft (“BMW”) fully prevailed in a series of German proceedings against patent assertion entity Arigna Technology Ltd. (“Arigna”) filed on the basis of German patent DE 10 2009 060 504 B4 (“Patent”).

The Patent relates to a circuit and method for adjusting an offset output current for an input current amplifier.

BMW (like other car manufacturers) was attacked by Arigna before the Regional Court of Munich I with an infringement complaint arising from the Patent (docket no. 44 O 402/22) and was asked to take a license.

In addition to defending itself in the infringement proceedings, BMW filed a nullity complaint against the Patent before the German Federal Patent Court and requested that the independent patent claims be revoked (docket no. 5 Ni 5/22). In the oral hearing dated March 27, 2023, the Patent was revoked due to lack of novelty to the extent that it was attacked. This decision is final. BMW asserted claims for reimbursement of costs, which were paid by Arigna.

In the infringement proceedings, Arigna subsequently resorted to dependent claims that had not yet been challenged. BMW challenged these claims in a second nullity complaint filed with the German Federal Patent Court (docket no. 5 Ni 15/23). After the German Federal Patent Court came to the preliminary conclusion in its qualified notification that these claims were also not inventive, Arigna declared to the German Patent and Trademark Office three days before the scheduled oral hearing that it was surrendering the Patent and all claims from the Patent and the application on which it was based. Both parties then declared the second nullity proceedings to be settled. Based on a corresponding indication by the Senate, it can be assumed that the costs of the second nullity proceedings will also be imposed on Arigna due to the surrender. However, a final decision on costs has not been rendered yet.

Arigna had since withdrawn the infringement complaint. Arigna must therefore also bear the costs of the infringement proceedings in accordance with a decision of the Regional

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Court dated October 24, 2024. In its order dated March 11, 2025, the Regional Court, following an appeal by BMW, increased the value in dispute as indicated by Arigna in the complaint and as initially set – which in turn determines the amount of the court fees and the reimbursable attorneys’ fees of the opposing party – from EUR 1 million to EUR 20 million, i.e. by a factor of 20. According to this order, which has since been appealed by Arigna so that it is not final and absolute yet, Arigna is obliged to reimburse BMW and the intervening party for the attorneys’ fees incurred by each of them on the basis of a value in dispute of EUR 20 million.

German courts rarely deviate from the value in dispute proposed by the plaintiff. They do so in exceptional cases, however, if there are special circumstances suggesting that the value in dispute proposed by the plaintiff is not justifiable. In the opinion of the Regional Court, this was the case here. The Regional Court referred to three particularities of the dispute:

Firstly, BMW had demonstrated that the value in dispute indicated by Arigna, which must reflect the plaintiff’s interest in enforcing its claims at the time of filing the infringement complaint, is clearly too low and thus contradicts the “Du sollst nicht lügen” (“Thou shalt not lie”) maxim required by German case law. In support of this, BMW could rely on a (written) request from Arigna made to BMW for an agreement encompassing the patent-in-suit in the context of settlement negotiations. Arigna even filed a request for a preliminary injunction against BMW in an attempt to use all means at its disposal to prevent this claim from being taken into account when determining the value in dispute. However, this request was already rejected by the Regional Court on December 22, 2022 (docket no. 44 O 12475/22), which also resulted in corresponding costs for Arigna.

Secondly, the value in dispute that was proposed by the Plaintiff in the complaint was already challenged by BMW in its statement of defense, i.e. at a time when the outcome of the proceedings was still open, and BMW continued to pursue a corresponding increase throughout the proceedings.

The third peculiarity in the Court’s view is the particularly striking discrepancy in this case between the two amounts stated by Arigna in the statement of complaint on the one hand and in the settlement negotiations on the other. In this context, the Regional Court emphasized that this significant deviation from the value in dispute stated in the statement of complaint cannot be justified by arguing that at the beginning of settlement negotiations, often – de facto – higher figures are initially stated than can realistically be expected at the conclusion of the settlement.



It can be assumed that the German Federal Patent Court will also increase the value in dispute for the second nullity proceedings accordingly, as the latter is generally set at 125% of the value in dispute of the infringement proceedings. BMW requested this accordingly in a brief dated March 19, 2025.

Once again, the highly attuned team of BMW and BARDEHLE PAGENBERG has thus completely fended off the attack of a patent assertion entity, proving yet again that determined resistance pays off and can be very costly for the patent monetizer.

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German Federal Patent Court

Heimen (Presiding Judge)

Bieringer

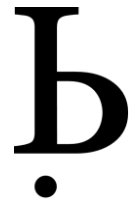
Schödel

Ball

Jürgensen

Regional Court of Munich I

Dr. Fricke (Presiding Judge)



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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