



Press release dated December 16, 2025

Nintendo wins damages lawsuit with BARDEHLE PAGENBERG: BigBen to pay nearly EUR 7 million

After more than 15 years of legal proceedings since the first infringement lawsuit was filed, the Mannheim Regional Court has awarded Nintendo Co., Ltd. and Nintendo of Europe SE damages of over EUR 4 million plus interest since April 2018 and legal costs, in a ruling dated October 30, 2025 (2 O 17/24). According to this first-instance decision, BigBen Interactive GmbH (now Nacon) must pay a total of just under EUR 7 million for infringing European patent EP 1 854 518 relating to Nintendo's Wii Remote game controller.

The ruling is remarkable in several respects. Proceedings to determine the amount of damages are rare in German patent law; in most cases, the parties settle the question of the damages amount. Where plaintiffs do take court action, they typically do not have their damages calculated under a lost profits theory, as this requires the disclosure of their own business figures. This calculation method usually leads to higher damages compared to alternative theories, as shown in this case. The ruling strengthens the position of patent owners who opt for this method of calculation.

Particularly significant: the court assumed that Nintendo would have made 100% of the sales made by BigBen, without any deductions in view of third-party suppliers that were active in the market. BigBen had argued that buyers, had they not bought the BigBen products, would have opted for other third-party controllers that were available. However, the court found that these third-party products were also highly likely to infringe the patent-in-suit. Citing case law from the German Federal Court of Justice, it stated that hypothetical mitigating circumstances that would have amounted to third-party activities that also trigger damages could not be taken into account in favor of the infringer.

The court also clarified that, analogous to the damages calculation under an infringer's profits theory, overhead costs do not reduce the plaintiff's lost profits. Costs that would have been incurred even without the hypothetical additional business of the plaintiff are not deductible. In view of Nintendo's existing production and distribution capacities, the court found that the additional quantities would most likely not have caused any additional overhead costs.

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Delaying tactics prove costly

The ruling ends first-instance proceedings that dragged on for more than seven years, illustrating the time challenges involved in enforcing claims for damages for patent infringement in Germany. BigBen had delayed the proceedings several times, for example by rejecting the court-appointed expert.

These delaying tactics have now proved costly: the interest on the claim, amounting to 5 percentage points above the basic rate of interest, has significantly increased BigBen's payment obligation and accounts for a substantial part of the total claim of just under EUR 7 million.

Long-standing legal dispute over Nintendo's Wii technology

This success is the latest milestone in a dispute that began back in 2010. The patent-in-suit (EP 1 854 518) relates to a game controller with the ergonomic features characteristic of Nintendo's Wii Remote, in combination with sensor technology including a camera and an acceleration sensor.

The Mannheim Regional Court had already found in 2011 that BigBen infringed the patent ([press release BARDEHLE PAGENBERG of July 2011](#)). The Karlsruhe Higher Regional Court fully confirmed this decision in 2017. In the interim, the validity of the patent was challenged in opposition proceedings before the European Patent Office and later in nullity proceedings before the Federal Patent Court. In both validity proceedings, the respective second instance—the Board of Appeal of the EPO and the Federal Court of Justice—restored the full scope of protection of the patent ([press release BARDEHLE PAGENBERG of August 2021](#)).

In parallel, Nintendo achieved a victory before the Court of Justice of the European Union ([press release BARDEHLE PAGENBERG of October 2017](#)) regarding the infringement of registered Community designs for Nintendo's Wii Remote and defended its designs successfully up to the Federal Court of Justice ([press release BARDEHLE PAGENBERG of November 2018](#)).

BigBen has appealed the present ruling of the Mannheim Regional Court to the Higher Regional Court of Karlsruhe. The judgment is therefore not yet final, but it is provisionally enforceable against provision of security.



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Regional Court of Mannheim, 2nd Civil Chamber

Presiding Judge Elter

Judge Stihler

Judge Kunkel

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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