



Press release of November 10, 2014

Successful petition for review before the Enlarged Board of Appeal of the EPO: With the grant of the European Patent EP 1 352 623 BARDEHLE PAGENBERG for the first time achieves a positive final decision for the petitioner after a petition for review

iVis Technologies (<http://www.ivistechnologies.com>) is one of the world's leading manufacturers of eye surgery devices and software. The main focus of iVis Technologies is the high-end sector of the corneal refractive and therapeutic market. iVis designs, engineers, produces and markets the iVis Suite™ platform which is a unique ensemble of wirelessly interconnected and fully automated hardware and software devices with a closed-loop web-based control to provide surgeons with the possibility of planning and performing custom trans-epithelial no-touch surgeries (cTen™) optimizing the patients' quality of vision and minimizing invasiveness as well as intra-operative risks.

For one of its early innovations in the context of customized corneal eye surgery, iVis Technologies filed a European patent application claiming a priority of July 12, 1999. In its decision of October 30, 2014, the Examining Division of the EPO has now finally granted the European patent 1 352 623 after a successful petition for review before the EPO's Enlarged Board of Appeal. The petition for review of the present case is the first successful petition for review of an appeal concerning grant proceedings and it is one of only four successful petitions for review out of more than one hundred petitions finally disposed of in total up to date. Whereas re-opening of the procedure in the three successful petitions of patentees in opposition cases finally resulted in the revocation of the patent, the present case is the first one entailing a positive final decision for the petitioner.

The patent application was originally refused for lack of clarity by the EPO's Technical Board of Appeal on April 14, 2011. A petition for review of that decision by the Enlarged Board of Appeal was filed by BARDEHLE PAGENBERG on the grounds that a fundamental violation of the applicant's right to be heard had occurred. Upon the petition for review, the Enlarged Board of Appeal set aside the decision of the Board of Appeal, re-opened the appeal proceedings and ordered the reimbursement of the fee for the petition for review in its decision R 15/11 of May 13, 2013.

In the re-opened appeal proceedings, BARDEHLE PAGENBERG was able to overcome the grounds that lead to the refusal of the application and obtained the decision of the Board of Appeal to remit the case to the Examining Division of the EPO with the order to grant the patent.

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