Germany

“Access Rights” (Zugriffsrechte)

Decision of the Federal Supreme Court (Bundesgerichtshof)

14 October 2014 – Case No. X ZR 35/11

European Patent Convention, Arts. 56, 69; Patent Act,
Secs. 4, 14

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Keywords Patent nullity · Patent claim · Patent specifications · Obviousness ·
Technical standard

1. A construction of a patent claim that would result in none of the examples of embodiment depicted in the patent specifications being included in the subject-matter of the patent is only possible if other possibilities for interpretation that result in at least some of the embodiments are completely out of the question or if sufficiently clear indications can be inferred from the patent claim that something is in fact being claimed that as such diverges a great deal from the description.
2. The mere fact that an approach is depicted only in an early version of a technical standard, but not pursued in a later version, does not mean that this approach cannot be considered as obvious.

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