Germany

“Rotor Elements” (Rotorelemente)

Decision of the Federal Supreme Court (Bundesgerichtshof)
12 May 2015 – Case No. X ZR 43/13

European Patent Convention, Arts. 123(2), 69(1);
Patent Act, Secs. 38, 14;

© Max Planck Institute for Innovation and Competition, Munich 2016

Keywords Semantic content of the patent claim · Unlawful extension ·
Wording beyond doubt · Decisiveness · Exchange of terms

- (a) The examination of an unlawful extension must be preceded by the determination of the semantic content of the patent claim to be reviewed.
- (b) In the determination of the semantic content of a patent claim, a wording that of itself is beyond doubt is not decisive if the construction of the claim, taking into account the description and the other patent claims, shows that two terms used in the patent claim must be exchanged.

DW