Germany

“Polymer Foam” (Polymerschaum)

European Patent Convention, Art. 69(1); Patent Act, Secs. 81 et seq., 14

**Decision of the Federal Supreme Court (Bundesgerichtshof)
17 July 2012 – Case No. X ZR 117/11**

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The examination of patentability as a rule requires a construction of the patent claim to determine its semantic content in its entirety and the contribution that the individual features make to the achievement of the invention. In this, the patent claim must not be attached a specific semantic content on the grounds that its subject matter would otherwise be inadmissibly extended as compared to the original documents.

Patent Act, Sec. 119(5)

If the in-person hearing in the patent nullity appeal proceedings shows that the case is not ready for a final decision, the decision whether it is appropriate to transfer the necessary further investigation of the facts to the patent court or to continue the appeal proceedings before the Federal Supreme Court for this purpose depends primarily on the manner in which the still outstanding factual questions can be clarified in the most efficient and rapid manner.

DW

Official headnotes.