



Press release dated February 02, 2017

BARDEHLE PAGENBERG successful for adidas in nullity appeal proceedings against a patent which Nike had asserted against the “adizero primeknit”-shoes

On January 31, 2017, the German Federal Court of Justice (FCJ) rendered a decision revoking, in its entirety, the German part of the European patent EP 1 571 938 of Nike International Ltd. (Case X ZR 119/14). The FCJ confirmed the decision of the Federal Patent Court (FPC) of October 30, 2014 (Case 2 Ni 45/12 (EP)) and dismissed the appeal of Nike International Ltd. The patent relates to knitted sports shoes with an upper containing heat fusible yarns to stiffen certain areas of the upper.

The nullified patent was asserted by Nike International Ltd. against the “adizero primeknit“-shoe of adidas AG in preliminary injunction proceedings at the Regional Court of Nuremberg-Fürth (Case 3 O 6652/12) in 2012. In its decision of November 7, 2012, the Regional Court of Nuremberg-Fürth rejected the corresponding claims for injunctive relief, ruling entirely in favor of adidas AG.

In response to the request for a preliminary injunction of Nike International Ltd., adidas AG filed a nullity complaint on October 17, 2012 at the FPC. After about two years and following an oral hearing on June 26, 2014, the 2nd Senate of the FPC had decided on October 30, 2014, to fully revoke the German part of the European patent EP 1 571 938 mainly due to a lack of inventive step. Nike International Ltd. filed an appeal against the decision which was now dismissed by the supreme German court after an oral hearing.

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Federal Court of Justice, 10th Civil Chamber:

**Presiding Judge Prof. Dr. Meier-Beck, Judge Gröning, Judge Dr. Bacher,
Judge Schuster, Judge Dr. Kober-Dehm**

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' particular requirements and the specific circumstances of each case.

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