



Press release dated August 24, 2017

BARDEHLE PAGENBERG successfully defends adidas in preliminary injunction proceedings regarding an attack by Puma against the first model produced in series in adidas' "Speedfactory", namely the Boost shoe model "Futurecraft M.F.G."

After the presiding judge of the 6th civil senate of the Higher Regional Court of Frankfurt had indicated in the oral hearing held on August 10, 2017, that it likely will reject Puma's appeal against the first instance decision, Puma withdrew its appeal.

The Boost shoe model belonging to the case, "Futurecraft M.F.G." by adidas is the first shoe model produced in series in the new "Speedfactory" of adidas. This innovative production hall allows for an almost fully automated fabrication of shoes, in the shoe sector it is considered a lighthouse project of Germany's „Industry 4.0“-initiative. The "Futurecraft M.F.G." therefore is a signature product, the shoe model has already been offered for sale for four digit numbers (EUR) on collector's fairs.

On October 19, 2016, Puma filed a request for a preliminary injunction against the marketing of this shoe model. The request was based on the allegation that the sole of the "Futurecraft M.F.G." infringed two of Puma's Registered Community Designs. Initially, the Regional Court of Frankfurt granted the preliminary injunction as requested, without scheduling an oral hearing. Thereby, it did not consider the lodged protective brief. Adidas immediately filed an objection against this decision, which eventually led to the preliminary injunction being lifted by judgement dated January 25, 2017 (docket no. 3-08 O 156/16). The appeal filed by Puma against this decision was unsuccessful. In the oral hearing before the Higher Regional Court of Frankfurt the 6th civil senate confirmed its doubts concerning Puma's alleged ownership regarding the designs-in-suit, as already expressed in parallel proceedings. According to the circumstances of the case it appears to be the case that the designs-in-suit were co-developed by BASF and that Puma acted in bad faith when filing these. BASF therefore would be co-owner, but, since BASF had transferred its respective rights to adidas in the meantime, the co-owner would now be adidas. Following these clear words of the presiding judge, Puma withdrew its appeal, but will have to bear the costs of the proceedings anyhow.

The present litigation is one of a range of legal disputes between Puma and adidas as well as between Puma and BASF, in which these Registered Community Designs or the Boost shoe sole design and the Boost technology were at issue. On the whole, Puma has taken legal steps against seven different Boost shoe models of adidas so far, yet remained unsuccessful in all of these cases.

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Higher Regional Court of Frankfurt am Main, 6th Civil Senate:

Presiding Judge Vorbusch

Judge Dr. La Corte

Judge Dr. Kochendörfer

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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