

Selected Issues regarding Patent Infringement in Germany



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Content

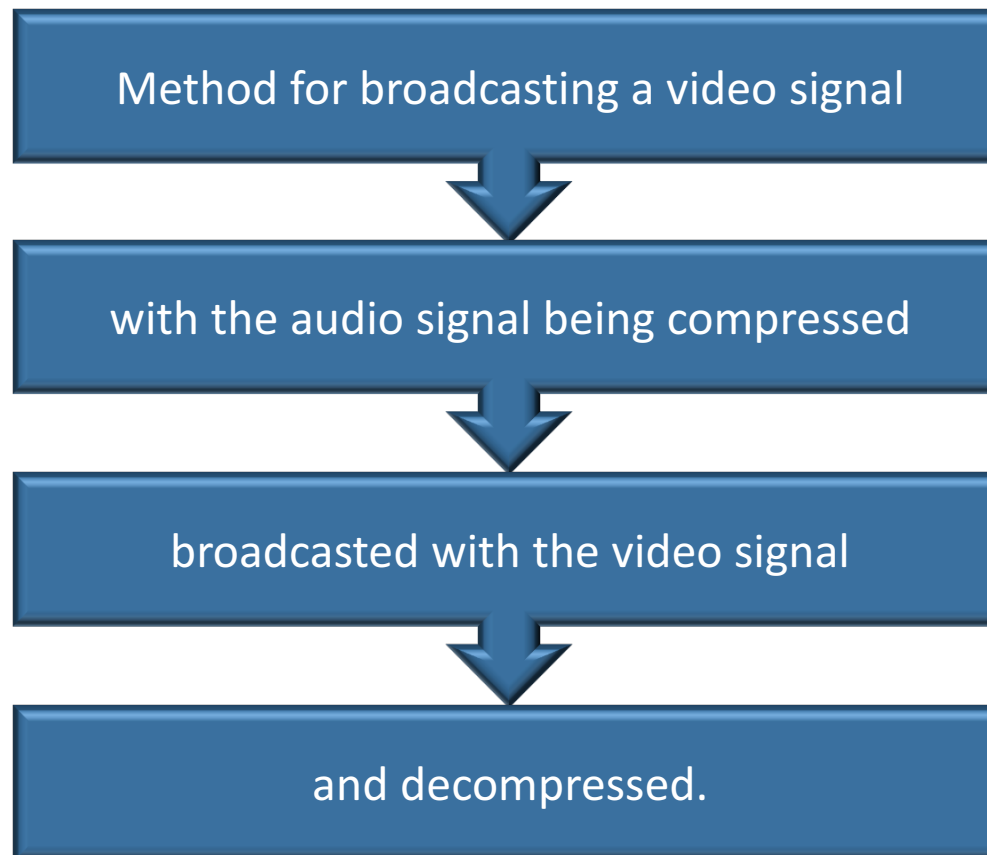
- Literal Infringement
- Infringement under the doctrine of equivalence
- Admissible repair vs. inadmissible re-manufacturing
- Indirect infringement
- Infringement of DE Patent by activities outside Germany

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Literal Infringement

Method Patents – Example 1 (1)



Literal Infringement

Method Patents – Example 1 (1)

Assume a patent which is directed to a method of broadcasting a video signal in which the accompanying audio signal is compressed according to the MPEG-2 standard, broadcasted and then decompressed according to the MPEG-2 standard.

The alleged infringer sells electronic devices which decompress the audio signal under the MPEG-2 standard.

Does the manufacturer of the electronic devices (indirectly) infringe the patent?

Literal Infringement

Method Patents – Example 1 (2)

Yes.

And it is a **direct infringement**.

Applying principles from criminal law, the Federal Court of Justice found that a patent can also be infringed by activities which make the infringer a co-perpetrator by

- **participating** in performing only some of the steps of a patented method
- **not** diligently enough **preventing** other parties from infringing the patent.

Decision "Audiosignalcodierung" X ZR 69/13, February 3, 2015

Literal Infringement

Method Patents – Example 2

Claim 1: Method for encoding video signals

Claim 2: Method for decoding video signals



Method Patents – Example 2

Assume a patent which is directed to a method of encoding video signals, and to a method of decoding the encoded video signals.

The alleged infringer sells a DVD on which video signals are stored which were encoded with the patented method.

Is sequence of video signal on the DVD the "immediate result" from the patented method (and thus protected by the method patent)?

Yes.

The Federal Court of Justice held that a data sequence can be offered, sold and used similar to a product and thus can be treated as a product.

Decision "MPEG-2-Videosignalcodierung", X ZR 33/10, August 21, 2013