
The Rising Threat of German Patent Litigation: Are You Ready?

By Michael J. Summersgill, Todd Zubler, Vanessa Wettner, Harry Hanson and Lisa Fritz

The threat of German patent litigation is rising. Germany is second only to the United States in the number of patent infringement actions brought by non-practicing entities (NPEs), and with the ready availability of injunctive relief in Germany and the recent advent of the Unified Patent Court (UPC) creating “competition” among European courts for cases, the danger of German patent lawsuits cannot be ignored. Indeed, in many instances, these German actions are one front in a multi-jurisdictional “patent war,” with parallel proceedings in other European countries, the United States, China, and elsewhere. The German proceedings in such a patent war can have an outsized role because of the greater threat of an injunction in Germany, and the litigation procedures that generally afford fewer protections for defendants. If a defendant is not careful in developing a comprehensive defensive strategy in Germany, it could soon face an order excluding its products from the German market that could effectively dictate the outcome of the war before most battles have even been fought.

In view of this rising threat, this article explains the aspects of the German patent system that may present particular challenges for defendants (and, conversely, advantages for plaintiffs), and provides suggestions on how to meet those challenges.

First, this article addresses the key features of the German patent system that have made Germany an attractive venue for patent plaintiffs

and a challenging one for defendants—including Germany’s bifurcated patent litigation system in which infringement and validity proceedings occur in different courts and on different schedules, and German courts’ willingness to issue injunctions pre-appeal (and even before the issue of validity is decided).

Second, this article describes the central role Germany plays with regard to NPE infringement actions in Europe, and how the advent of the UPC appears to be creating a dynamic in which German courts are competing with the UPC for cases, making them potentially more plaintiff-friendly.

There are multiple features of the German patent system that distinguish it from patent litigation in the United States.

Third, this article offers recommendations to address the challenges of litigating these cases in Germany. These recommendations include, among others: preparing to file opposition/nullity actions challenging the patent’s validity as soon as possible; presenting comprehensive proportionality and other arguments to avoid an injunction if infringement is found; developing a “plan B” to remain in the German market well in advance of any injunction taking effect; and having a system in place to ensure coordination across multiple jurisdictions.

KEY CHALLENGING ASPECTS OF GERMAN PATENT LITIGATION FOR DEFENDANTS

There are multiple features of the German patent system that distinguish it from patent litigation in the United States, and that can present particular challenges for defendants.¹

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The Relatively Easy Availability of Injunctive Relief

The overriding difference between German and U.S. patent litigation is the relative ease of obtaining injunctive relief in Germany.

Particularly following the U.S. Supreme Court’s 2006 decision in *eBay Inc. v. MercExchange, L.L.C.*, permanent injunctions are the rare exception in district court patent litigation in the United States.² Germany, however, has no precedent like *eBay*, and injunctions that prevent the sale of products found to be infringing are the rule. An injunction enters automatically if infringement is found by the first instance regional court—before an appeal, and even before the patent’s validity has been adjudicated—absent extraordinary circumstances. And to obtain an injunction, a patentee does not need to compete in the German market; unless specific and severe abusive behavior is shown, NPEs are generally entitled to injunctions to the same degree as practicing entities. This leads to the remarkable potential that an NPE could obtain an injunction blocking all of a defendant’s sales in Germany on an invalid patent before any appeal proceedings have taken place.

Violations of an injunction are punishable by a fine of up to EUR 250,000 per violation, or even criminal detention.

Violations of an injunction are punishable by a fine of up to EUR 250,000 per violation, or even criminal detention. Courts have significant discretion in setting the amount of the fine, which can be substantial.³ For instance, in late 2023, the Munich I Regional Court issued an exceptionally high fine of EUR 150,000 per day to Netflix, or alternatively 15 days of criminal detention for Netflix managers, for each of the 47 days on which Netflix had allegedly violated the injunction—totaling EUR 7.05 million.⁴

An injunction will typically go into effect only after the plaintiff provides a security bond. But once that occurs, it is exceedingly rare for German appellate courts to stop the injunction from being enforced while the appeal plays out—with some courts allowing an injunction to remain in place

unless it would threaten “the existence of the defendant.” If the injunction is later revoked on appeal, the plaintiff has to pay damages, which can act as a deterrent to enforcement.⁵ But this compensation often comes too late to be of much help to a defendant who has already suffered the effects of an injunction.

In 2021, the German legislature amended the German patent statutes to require courts to consider proportionality principles and deny injunctive relief if it would cause disproportionate hardship to the defendant or third parties.⁶ To date, however, the change has not had a substantial impact: German judges have consistently rejected proportionality arguments despite the new provision. Indeed, we are aware of no case in which the new provision has been applied successfully.

Bifurcation of Infringement and Validity Determinations

Patent litigation procedures in Germany are very different from those in the United States, and generally provide fewer protections for defendants.

Most significantly, patent infringement and patent validity proceedings are separated (or “bifurcated”) in Germany.⁷ Regional courts hear infringement cases, which can be appealed to higher regional courts and, ultimately, the Federal Court of Justice (if leave is granted). Unlike in the United States, patent invalidity is not admitted as a defense in German infringement actions. Rather, cases addressing a patent’s invalidity—called “nullity” actions—are filed with a different court: the Federal Patent Court.⁸ Nullity decisions may be appealed to the Federal Court of Justice. But, even at the Federal Court of Justice, infringement and invalidity proceedings are heard separately.

This bifurcated system can give substantial advantages to a plaintiff. First, bifurcation creates the potential for an “injunction gap”—a period of time when a patentee can enforce an injunction, or threaten to do so, before the validity question is decided. Because the plaintiff files the infringement action in Germany, infringement proceedings almost always begin before the nullity proceedings are initiated by the defendant. And infringement actions then usually proceed more quickly than nullity actions:

- In infringement proceedings, regional courts typically issue a “first-instance” decision, i.e., the

first judgment in the case that can be appealed to higher regional courts, within 8 to 20 months (median of 15 months); and

- In nullity proceedings, a first-instance decision typically comes down within 15 to 30 months.

As a result, a plaintiff can often obtain an infringement judgment and an injunction before the validity of the patent has been determined. This injunction gap can put enormous pressure on the defendant to settle to avoid the enforcement of the injunction, even if the defendant has a strong invalidity case.⁹

Second, bifurcation gives patentees greater opportunities to take inconsistent positions regarding the scope of their patents in the two proceedings. In the United States, a patentee is typically constrained in its ability to assert an overbroad interpretation of its patent because a defendant can explain to the district court or jury—which considers both infringement and invalidity at the same time—that such an interpretation would render the patent invalid. The patentee, in other words, can be made to face a “squeeze” between its infringement position and the validity of its patent: if the patent is interpreted broadly enough to cover the accused product, then it also covers the prior art and is invalid; if a patent is interpreted narrowly enough to avoid the prior art and preserve its validity, then it is not infringed.

In Germany, however, it is more difficult for defendants to apply such a squeeze because different courts consider infringement and invalidity in separate cases that typically proceed on different schedules. It is therefore entirely possible that the infringement court could find infringement based on a broad interpretation that would render the patent invalid, while the nullity court finds the patent valid based on a different, narrower interpretation that would make the patent not infringed. Such inconsistent interpretations theoretically should be resolved on appeal in the Federal Court of Justice, but only after years of proceedings and long after the plaintiff has been able to obtain and enforce an injunction.

Limited Discovery & No Trial-Based Proceedings

In German patent proceedings, there is no general pretrial discovery as in the United States. There

are only very limited and specific instruments for the parties to discover facts that are not publicly available. Although the lack of discovery may seem like an advantage for defendants, a defendant can be required to explain certain facts if the plaintiff is unable or cannot reasonably be expected to provide more detailed information. If the defendant fails to disclose the information without justification, the facts stated by the plaintiff can be deemed admitted.

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Defendants in German patent cases also do not have the trial-based protections that exist in the United States. In German proceedings, the judgment is usually rendered by a bench of three judges (or five at the Federal Patent Court and Federal Court of Justice level); no jury exists. The proceedings are front-loaded: the exchange of written briefs is a substantial part of the process, and the court’s decision typically is based on the written submissions, rather than evidence at trial. Expert testimony is not required to establish infringement; instead, the attorneys can make technical arguments.

A condensed hearing usually takes place after the exchange of several briefs. The hearing typically lasts less than a full day and often consists of only attorney argument. Witnesses rarely provide testimony, and there is no opportunity to cross-examine an opposing party’s fact or expert witnesses as in U.S. proceedings.

The court may appoint an independent expert to issue an opinion, but the court is not required to do so (and usually does not). Once the expert opinion is issued, the court and the parties have the opportunity to question the expert during a hearing, but there is no cross-examination as in U.S. proceedings. The decision whether to appoint an independent court expert lies within the sole discretion of the court.

GERMANY IS ATTRACTING PATENT PLAINTIFFS

Given the features of the German patent system described above, it should be no surprise that

Germany has become an increasingly attractive jurisdiction for patent plaintiffs, especially NPEs.

While NPE patent litigation was once predominantly a U.S. phenomenon, it has spread in Europe over the last few years. And Germany plays a central role for NPE litigation in Europe. Germany accounted for approximately 87% of the infringement cases brought by NPEs in Europe from 2018 until 2023, and is second only to the United States in terms of the number of cases filed by NPEs.¹⁰ Many of these NPEs are from the United States. Indeed, eight of the ten most active NPEs in the European Union—accounting for about 45% of the total infringement actions filed by NPEs in the European Union—are based in the United States.¹¹

Plaintiffs can choose from twelve regional courts in Germany to file infringement proceedings. The majority of patent lawsuits are filed at the regional courts in Düsseldorf, Munich, and Mannheim; courts that are generally considered to be patentee friendly and have, in recent years, become increasingly competitive with one another for cases.

NPEs have had significant success in Germany. Almost two-thirds (62%) of cases filed by NPEs in the 2012 to 2023 timeframe resulted in a finding of infringement (as compared with a plaintiff win rate in the United States of 27%).¹² And plaintiffs, including NPEs, have obtained injunctions against large operating companies in the digital communication and computer technology spaces, despite those injunctions' impact on third parties and on the German economy. As a few examples:

- Recently, InterDigital obtained an injunction against Lenovo before the Munich I Regional Court for alleged infringement of a patent relating to the 4G and 5G standards.¹³ Lenovo filed an appeal, but the injunction is provisionally enforceable in the meantime because InterDigital posted security of about EUR 4 million. The decision led to a Germany-wide ban on the sale of smartphones sold by Lenovo under the Motorola brand name, as well as Lenovo notebooks and tablets with a specific mobile Internet access.¹⁴
- InterDigital also sued Oppo and its subsidiary OnePlus for infringement of the same patent.¹⁵

In this case, too, the Munich I Regional Court awarded the plaintiff an injunction against the defendants' devices in the German market and ordered the accused products to be recalled.¹⁶

- In a lawsuit against Oppo filed by Nokia, the Munich I Regional Court ruled that Oppo infringed Nokia patents concerning mobile technology.¹⁷ Presumably pre-empting the enforcement of the judgement, Oppo suspended the sale and marketing of certain products through Oppo's official channels in Germany in 2022.¹⁸ The press states that Oppo and Nokia finally reached a patent agreement at the beginning of this year, enabling Oppo to offer its devices in Germany again.¹⁹
- In September 2024, the Munich I Regional Court granted an injunction in favor of Nokia against Amazon for allegedly infringing Nokia's patents directed to video technologies. The ruling is part of a multi-jurisdictional patent war between the two companies: in addition to lawsuits in Germany, Nokia has filed lawsuits in district court in Delaware and India, the UK and with the UPC.²⁰

The advent of the UPC has also created a dynamic where the German national courts are now in a competitive relationship with the UPC. Patentees can often choose between the national courts and the UPC when bringing an infringement suit. The UPC has jurisdiction for unitary²¹ and European patents, and during a seven-year transitional period from the start of the UPC (i.e., until June 1, 2030), infringement or nullity actions regarding a European patent can still be filed before national courts.²² Indeed, owners of European patents that were applied for/granted before the end of the transitional period can opt-out of the exclusive jurisdiction of the UPC for the future. This availability of multiple forums leads to a situation where German courts are competing with the UPC for cases, making them potentially more plaintiff-friendly. And most UPC infringement actions (up to 76%) are filed in Germany and heard by German judges, meaning that UPC litigation could take on many of the aspects of German patent litigation.²³

RECOMMENDATIONS TO MEET THE CHALLENGES OF GERMAN PATENT LITIGATION

As explained above, patent litigation in Germany presents a significant—and rising—threat. This section provides recommendations to meet those challenges.

Patent litigation in Germany presents a significant—and rising—threat.

Go on Offense Early

Where appropriate, a defendant should promptly file an offensive action of its own. For instance, in a competitor case, the defendant should consider whether a responsive infringement action can be filed; if the plaintiff is an NPE, the defendant can also consider a competition complaint to the European Commission or national competition authorities if the patent has validity issues or if the enforcement is based on other improper conduct. Defendants should also consider filing noninfringement declaratory judgment actions in other European jurisdictions to increase further the pressure on the plaintiff.

Be Prepared to File Opposition/Nullity Actions Challenging the Patent's Validity as Soon as Possible

Ideally, if a defendant is aware of a potential threat, it should have a nullity action ready to go ahead of time. If not, after learning of an infringement action, it should move to prepare/file a nullity action as quickly as possible. Doing so will narrow the potential “injunction gap,” and allow the defendant to argue that the infringement proceedings should be stayed in view of the pending nullity action. It also reduces the patentee’s ability to take inconsistent positions regarding patent scope for purposes of infringement and validity. Defendants should also consider filing actions challenging a European patent’s validity in other jurisdictions (e.g., France) that are considered less patentee friendly. If a court of another contracting state of the European Patent Convention (EPC) finds the respective national patent to be invalid, the German courts are required at least to consider that opinion.²⁴

Retain Experts, Generate Testing, and Bring to Bear Immediate and Significant Evidence Showing Non-Infringing and Technical Flaws in the Plaintiff's Arguments

Do not assume that the German court will appoint an independent expert to analyze the technical issues. Because the court can decide infringement based on the exchanged briefs alone, a robust set of evidence and expert testing is needed out of the gate. This evidence needs to be presented at a level a non-technical judge can understand, i.e. the evidence needs to be technically correct but also understandable to a non-technical judge. Particularly where there is such limited discovery, testing and simulations are often critical to support non-infringement arguments.

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Present Comprehensive Proportionality Arguments Early

Point to the 2021 change in German patent law to argue for a rigorous application of the proportionality standard. Develop a robust set of evidence regarding proportionality showing the harm to the defendant, to third parties, and to the German and European economies; do not rely solely on attorney argument. The presentation can be linked to the arguments that ultimately persuaded U.S. courts to adopt *eBay*: for example, (i) an injunction risks significant harm to the defendant/consumers who use the defendant’s products, without providing any corresponding benefit to an NPE who is not selling any products that need to be protected and who can be made whole with a monetary payment (this is particularly true where the patent covers only one feature of a multi-component product); (ii) the threat of a near-automatic injunction imposes an enormous burden on producers and consumers (removal from the market, cost to retool product, etc.); (iii) an injunction enables holders of dubious patents to extract disproportionately valuable settlements before a validity determination has been made; and (iv) an injunction undermines

innovation by encouraging opportunistic litigation that diverts resources from developing new and innovative products. Such arguments have not yet been successful in Germany. But, if presented early and with substantial supporting evidence, we expect that at some point—just as in the United States—these proportionality arguments should help defendants.²⁵

File an Application for Protection Against Enforcement During the First Instance Proceedings²⁶

If protection is granted, the defendant can prevent enforcement of the injunction pre-appeal by providing a security. In order for the application to succeed, however, defendants must put on a robust case showing that the pre-appeal enforcement would lead to an irreparable disadvantage for the defendant. Because the court will decide on the application at the same time as it decides on the injunction, such evidence is needed from the outset.

Use the Patentee's Own Positions to Argue for a High Bond

Plaintiffs often argue that defendants' use of the patented technology is extensive. Those arguments can often be turned around against plaintiffs. For instance, if the plaintiff argues that a defendant's product is broadly used in an industry to support its infringement case, a defendant can use that argument to show that an injunction blocking such broad use would harm the industry that relies on the product. A high security bond for the provisional enforcement can in effect then act as a stay (because the plaintiff risks losing the large bond if it enforces and then the patent is ultimately found invalid or not infringed). To be effective, the relevant arguments need to be presented to the court from the outset.

Be Prepared in the Event the Injunction Issues and Have a "Plan B"

Prepare strategies to mitigate the impact of a potential injunction well in advance. For this, defendants should analyze whether other products can replace the accused products and work on potential design-arounds that can be ready to go as soon as infringement is found. Even a temporary design-around can act as a bridge to a next generation of products that is significantly different from the

allegedly infringing products. Also, be ready to shift inventory from Germany as of the time an injunction may be issued.

When the Litigation Involves Cases Across Multiple Jurisdictions, Task One Firm With Ensuring Coordination

Because Germany is often one front in a multi-jurisdictional "patent war," defendants should have a system in place to ensure coordination across the multiple jurisdictions. Given the significant complexity of coordinating proceedings across multiple jurisdictions and the fact that multiple firms are often involved, it is often best to have one firm handle the coordination. This promotes efficiency, ensures consistency, and avoids "unforced errors," where a position taken in one jurisdiction may be used against the defendant in another.

There will be many other proposals and actions to be taken in a particular case. These proposals need to be considered based on the particular circumstances of each case.

Notes

1. For a comprehensive overview of the German patent system, the authors recommend *An International Guide to Patent Case Management for Judges* 188–247, available at <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-1079-en-an-international-guide-to-patent-case-management-for-judges.pdf>.
2. *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388 (2006). A recent analysis of patent cases filed in U.S. district courts from 2000–2023, i.e., pre- and post-eBay, confirmed that "[t]he eBay ruling reduced the annual percent of patent cases in which a motion for an injunction was sought and reduced the annual percentage of patent cases in which permanent injunctions are granted." Kristina M. L. Aciri, *Injunctive Relief in Patent Cases: the Impact of eBay* 24 (June 14, 2024) (Colorado College Working Paper 2024-01), available at <https://ssrn.com/abstract=4866108>; see id. ("[T]he relative decrease in requests for permanent injunctions was 87.4% for non-practicing entities and 65.0% for operating companies. . . . [T]he relative decreases in grants of permanent injunctions were 91.2% for NPEs and 66.7% for operating companies." (emphasis omitted)).
3. When determining the amount of the fine, the type, scope, and duration of the alleged infringement must be taken into account, and the degree of fault and the financial circumstances of the alleged infringer also play a role. Further, the defendant should not benefit from

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- the alleged infringement, thus the fine should at least amount to the profit gained from the alleged infringement. However, the profit is not an upper limit, the fine can be significantly higher.
4. See German Court Fines Netflix for Patent Infringement, European Innovation Council and SMEs Executive Agency (Jan. 12, 2024), available at https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/german-court-fines-netflix-patent-infringement-euipo-board-appeal-rules-over-pradas-triangle-pattern-2024-01-12_en. In 2024, however, the Federal Patent Court declared the patent null and void. See *Win for Netflix and Quinn Emanuel as patent court invalidates Broadcom patent* (July 31, 2024), available at <https://www.juve-patent.com/cases/win-for-netflix-and-quinn-emanuel-as-patent-court-invalidates-broadcom-patent/>.
 5. Section 717(2) first sentence German Code of Civil Procedure states that “[i]f a judgment declared provisionally enforceable is reversed or modified, the plaintiff shall be obligated to compensate the defendant for the damages he has suffered by the judgment being enforced, or by the payments he had to make, or any other actions he had to take in order to avert enforcement.”
 6. Section 139 (1) third and fourth sentences German Patent Act state that a claim for injunctive relief is precluded and that a plaintiff can recover only reasonable monetary compensation where injunctive relief “would lead to disproportionate hardship for the infringer or third parties that is not justified” by the plaintiff’s right to exclude. The law codified a decision from 2016 (FCJ, judgment dated May 10, 2016, ref. X ZR 114/13 – Wärmetauscher), in which the Federal Court of Justice—Germany’s highest civil court—stated that proportionality principles needed to be considered before granting injunctive relief. In that case, a car manufacturer argued that the infringement of a minor car component (a heat exchanger) should not impede the sale of the entire car.
 7. Currently a referral procedure, C-339/22, *BSH Hausgeräte v. Electrolux*, is pending before the Grand Chamber of the Court of Justice of the European Union (CJEU). The CJEU has to decide whether a national court of an EU Member State can determine infringement of foreign patents by an EU-domicile (including patents designated in other EU Member States and third states, such as the United States and the U.K.), even where the defendant has challenged the validity of those patents. The decision of the CJEU could possibly impact cross-border patent proceedings in Europe and create EU-wide bifurcation of validity and infringement proceedings.
 8. Within nine months of the patent’s issuance, an opposition with the German Patent and Trade Mark Office has to be filed instead of a nullity action.
 9. The infringement court has discretion to stay the infringement proceedings until the decision on the invalidity of the patent has been taken. Generally, infringement proceedings are stayed only if it is likely that the patent will be declared invalid. For this analysis, the Federal Patent Court provides an initial assessment of the patent’s validity within the first six months of the nullity proceedings—a so-called qualified opinion of the Federal Patent Court.
 10. See Clarivate, 2024 Non-Practicing Entity global litigation report (2024), p. 8.
 11. See Clarivate, 2024 Non-Practicing Entity global litigation report (2024), p. 11.
 12. See Clarivate, 2024 Non-Practicing Entity global litigation report (2024), p. 16-17.
 13. Munich I Regional Court, judgment dated May 2, 2024, ref. 7 O 12029/23.
 14. See *After success in Germany, InterDigital’s FRAND battle with Lenovo shifts to London* (May 10, 2024), available at <https://www.juve-patent.com/cases/after-success-in-germany-interdigital-lenovo-frand-battle-shifts-to-london/>; *Vertriebsverbot für Motorola-Handys und Lenovo-Computer mit Funkmodul in Deutschland* (May 10, 2024), available at <https://www.wiwo.de/technologie/digitale-welt/neuer-streit-um-patente-vertriebsverbot-fuer-motorola-handys-und-lenovo-computer-mit-funkmodul-in-deutschland/29783960.html>.
 15. Munich I Regional Court, judgment dated December 21, 2023, ref. 7 O 17302/21.
 16. See *InterDigital prevails against Oppo and OnePlus over SEPs in Munich* (Jan. 5, 2024), available at <https://www.juve-patent.com/cases/interdigital-prevails-against-oppo-and-oneplus-over-seps-in-munich/>.
 17. Munich I Regional Court, judgment dated August 5, 2022, ref. 21 O 8879/21.
 18. See *Oppo stops sales in Germany after Nokia’s success in Munich* (Aug. 8, 2022), available at <https://www.juve-patent.com/cases/oppo-stops-sales-in-germany-after-nokias-success-in-munich/>.
 19. See *Settlement season continues as Nokia and Oppo end global patent battle* (Jan. 24, 2024), available at <https://www.juve-patent.com/cases/settlement-season-continues-as-nokia-and-oppo-end-global-patent-battle/>.
 20. See *Nokia lands first blow against Amazon at Munich Regional Court* (Sep. 20, 2024), available at <https://www.juve-patent.com/cases/nokia-lands-first-blow-against-amazon-munich-regional-court/>; see *Nokia says German court rules in its favour in Amazon patent dispute* (Sept. 20, 2024), available at <https://whtc>.
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com/2024/09/20/nokia-says-german-court-rules-in-its-favour-in-amazon-patent-dispute/.

21. The unitary patent is a legal title that provides uniform protection across all participating EU member countries based on a single request to the European Patent Office.
22. The transitional period can be extended by up to a further seven years (see Article 83 (5) Agreement on a Unified Patent Court).
23. See Case load of the Court since operation in June 2023 – update end April 2023 (May 2, 2024), available at https://www.unified-patent-court.org/sites/default/files/upc_documents/Case%20load%20of%20the%20Court_end%20April%202024_30.04_TK_edit%202_05_DC_final.pdf.
24. See FCJ, decision dated April 15, 2010, ref. Xa ZB 10/09 – Walzenformgebungsmaschine.
25. The proportionality arguments can be coupled with a lobbying effort so that the German government is aware of the implications of a potential injunction.
26. Section 712 (1) ZPO states: “Insofar as the enforcement would entail a disadvantage for the debtor that it is impossible to compensate or remedy, the court is to allow him, upon a corresponding petition being filed, to avert enforcement by providing security or by lodgment, without taking account of any security that the creditor may have provided; section 709 second sentence shall apply mutatis mutandis to the cases set out in section 709 first sentence. Where the debtor is not able to do so, the judgment shall not be declared provisionally enforceable, or its enforcement is to be limited to the measures designated in section 720a subsections (1) and (2).”

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Number 1, pages 20–27, with permission from Wolters Kluwer, New York, NY,
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