

Publications

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Could European Courts Soon Be Litigating and Enforcing U.S. Patents?

Key Takeaways

- **European courts test jurisdiction over U.S. patents for the first time.** Onesta IP, LLC, a patent assertion entity, has asserted two U.S. patents against BMW in a court in Munich, Germany following a decision by the Court of Justice for the European Union that expands the ability of European courts to hear disputes involving other countries' patents.
- **Foreign enforcement could reshape litigation strategy and leverage.** Differences in how European courts approach injunctions may create new incentives for patent owners to test enforcement outside the U.S.
- **U.S. courts may resist, but enforcement risk is far from resolved.** The outcome of the dispute is uncertain, but the dispute raises legal and policy issues with major implications for businesses that locate portions of their supply chain in Europe.

Could we be on the verge of a future where U.S. patents are regularly litigated in European courts? It seems to be a wild question, but it is precisely the issue before courts in Munich, Germany and the U.S. District Court for the Western District of Texas.

Following a decision by the Court of Justice for the European Union (CJEU) granting national courts in Europe the ability to hear cases involving other countries' patents, Onesta IP asserted a European patent *and two U.S. patents* against BMW in the Munich Regional Court I in Germany in October. In response, BMW filed a declaratory judgment suit for patent misuse and a motion for temporary restraining order (TRO) to prevent the German suit from proceeding in the U.S. District Court for the Western District of Texas last month. The court, with Judge Albright opining, promptly granted the TRO for an anti-suit injunction against Onesta's Munich lawsuit.¹ Judge Albright has since extended the TRO and scheduled a hearing for January 13, 2026.

German Court Case Tests Limits of Foreign Patent Enforcement

Onesta's assertion follows the CJEU decision in *BSH Hausgeräte GmbH v. Electrolux AB* granting courts in EU member states jurisdiction over infringement of patents issued by other countries — even if the particular patent is not validated in that EU member

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state.² For instance, a court in Sweden or Germany could decide on the infringement of a patent issued or validated by Turkey, Switzerland, the UK or Germany. Likewise, the Unified Patent Court could decide infringement of any of those patents. Onesta's attempt to extend the CJEU's decision to U.S. patents by asserting them in the Munich court appears to be the first case of its kind.

BMW's anti-suit injunction case in the Western District of Texas appears to be the first instance in which a U.S. court has been asked to rule on a European court's ability to decide infringement of a U.S. patent. Judge Albright's short TRO opinion is premised on the court's fear that Onesta itself would seek an *anti-anti-suit* injunction (AASI) that could deprive U.S. district courts from jurisdiction to intervene in Onesta's efforts to assert the U.S. patents in Germany.³

Enforcing U.S. Patents in Europe Raises Complex Legal Questions

Naturally, the implications of European enforcement of U.S. patents raises a whole host of complicated legal issues. U.S. and EU patents are subject to different validity standards, are examined differently, and are subject to different procedures for challenging the validity of patents in the issuing office. American patent attorneys might be at sea with European added-matter and sufficiency standards, while European patent attorneys might be flummoxed by the more expansive approach to obviousness. U.S. patent enforcement is accompanied by extensive fact and expert discovery and typically jury trials, whereas patent enforcement in European courts generally rely on narrower fact and expert discovery and leaves decision-making to judges. European courts regularly issue injunctions as a default remedy, whereas U.S. courts generally apply the four-factor *e-Bay* test before issuing an injunction.

While the European Patent Office, Unified Patent Court and CJEU have issued decisions that harmonize, to some extent, European patent law, differences exist between how national courts in Munich, Rome and Paris, for instance, approach patent enforcement. How each of those jurisdictions might approach American patents is a complete unknown.

European Enforcement of U.S. Patents Raises Policy Concerns, Shifts Litigation Leverage

Onesta's assertion in Germany highlight just some of the potential policy complications raised by enforcement of U.S. patents in Europe. The two U.S. patents — U.S. Patent Nos. 8,854,381 (the '381 patent) and 8,443,209 (the '209 patent) — concern computing and graphical displays used in BMW's cars. Onesta's assertion of U.S. patents in Germany, and BMW's response, is the latest move in a long-running patent dispute that has involved Onesta's assertion of patents against chip makers in the International Trade Commission, Western District of Texas, Eastern District of Texas and IPR challenges in the U.S. Patent Trial and Appeal Board.

Decisions in the ITC and PTAB have cast doubt on at least some of the '381 patent's claims. By asserting the U.S. patents in Germany, Onesta jumped over the chip makers and the U.S. decisions to directly threaten the supply chain of an end-user of the chips — BMW — with a potential injunction. Opening up a new front gives the patent owner another bite at the apple. And given the predilection of European national courts to grant injunctions in a patent case, a European suit on U.S. patents could significantly alter the balance of power and bring defendants to the settlement table.

Pushback Begins, but Cross-Border Disruption Risk Remains

While an automobile might be the ultimate example of a device covered by hundreds or thousands of patents, many other products have complicated supply chains that run

through Europe, including medical devices and biopharmaceuticals. Judge Albright's rapid issuance of a TRO suggests that American courts will closely monitor, and may put a stop to, European assertion of U.S. patents. But the risk of a significant disruption to where and how U.S. patents can be enforced bears watching.

For questions about this alert or cross-border patent enforcement, please contact the authors or your regular Polsinelli attorney.

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[1] The case is *Bayerische Motoren Werke Aktiengesellschaft v. Onesta IP, LLC*, C.A. No. 6:25-cv-00581-ADA (W.D. Tex.).

[2] Case C-339/22, [Link to Decision](#), [Juve Patent Article](#)

[3] See *BMW v. Onesta IP, LLC*, Dkt. 16 at 1-2, (W.D. Tex., 6:25-cv-00581, Dec. 16, 2025).