

FRAND defenses and Anti-Anti-Suit-Injunctions in Germany

for
UT LAW
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6 November 2020
Düsseldorf/Munich

I. FRAND Defenses in Germany

Underlying concept:

IF

“market dominance”

AND

“FRAND declaration”

AND

“obligation to grant/accept a license” as a result of behavior test

THEN

action claiming injunctive relief, recall and destruction is abusive.

I. FRAND Defenses in Germany

“Behaviour test”:

(1) Orange book offer:

- Unconditional offer by implementer to take a license on FRAND terms

(2) Huawei ./ ZTE dance:

- a) Notice of patent infringement
- b) Indication of willingness
- c) Offer by patentee
- d) Counteroffer

Also available as part of the eCourse

[Global Trends in Patent Prosecution and Enforcement \(2020\)](#)

First appeared as part of the conference materials for the
25th Annual Advanced Patent Law Institute session

"Worldwide Patent Litigation Trends"