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## Press Release

### **Administrative Court Stuttgart: The German licensing offices have to register Carbon wheels**

As the Administrative Court in Stuttgart decided on 1 July 2009 (8 K 1815/08) the German licensing offices have to register Motorcycle wheels made of continuous filament carbon for the road traffic in Germany. Therewith the Stuttgart judges uphold the complaint of a motorcycle owner from Ludwigsburg against the Federal State of Baden-Wuerttemberg.

The plaintiff has applied for an operating license for his motorcycle (brand: MV Augusta) equipped with carbon plastic wheels produced by the British manufacturer DYMAG. The District Authority Ludwigsburg as well as the Regional Government of Stuttgart denied this application. They argued that there would not exist any accepted test criteria for continuous filament carbon wheels in Germany and therefore they could not register the wheels. The administrative judges, however, admitted that the owner of the motorcycle has to get the license. According to European Law, the denial of the operating license infringes the free movement of goods. As the use of the wheels is allowed in Great Britain and the Netherlands, there is no plausible reason why the wheels should not be registered in Germany. If the public authorities of an EU member state intend to prohibit the authorization of a product which is legal in other EU member states, they would have to prove that the product is dangerous. As concerns the DYMAG carbon wheels, which have been used without any problems during the past years, the Federal State of Baden-Wuerttemberg was not able to provide evidence. The Administrative Court judged the following:

*"The long lasting, unproblematic and accident-free use in Great Britain and the Netherlands in public road traffic and at international motorcycle racings make such a proof unlikely."*

From the point of view of the administrative judges, this decision is of fundamental judgment. The plaintiff's attorneys Andreas Haak and Dr. Oliver Klöck, partners of the international law firm Taylor Wessing, emphatically agree upon this appraisal. Dr. Oliver Klöck states:

*"This decision clarifies the prevalent misapprehension that new products should not be permitted before binding test criteria have been worked out for them. It rightfully points out the outstanding importance of the European free movement of goods and therefore it is to be appreciated without restrictions."*

So far, the decision is not legally binding.

For further informations to the trail please contact our german office.

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