

21. September 2018

LIMITED PARTNER OF A GMBH & CO. KG HAS NO RIGHT OF ACTION AGAINST A THIRD-PARTY MANAGING DIRECTOR OF THE GMBH & CO. KG'S GENERAL PARTNER

ACCORDING TO CONSISTENT CASE-LAW OF THE FEDERAL COURT OF JUSTICE [*BUNDESGERICHTSHOF - BGH*], SHAREHOLDERS CAN ASSERT CERTAIN CLAIMS AGAINST A FELLOW PARTNER AS LITIGANTS IN THE WAY OF "ACTIO PRO SOCIO". UP TO NOW, IT HAD BEEN A MATTER OF DISPUTE WHETHER OR NOT THE LIMITED PARTNER OF A GMBH & CO KG IS ALSO GRANTED THE RIGHT TO ASSERT CLAIMS OF A LIMITED PARTNERSHIP AGAINST A THIRD-PARTY MANAGING DIRECTOR OF THE GMBH & CO KG'S GENERAL PARTNER. IN ITS DECISION II ZR 255/16 DATED 19.12.2017, THE BGH DENIED THIS RIGHT.

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