

# **Lifelong obligation for manufacturers to supply spare parts?**

**Article by Philipp Reusch and Marie Neuman**

Although manufacturers have a big interest in manufacturing high-quality products, it is only natural that their products will eventually stop working, in whole or in part. A defective product can often be repaired by replacing individual components. Many buyers prefer to have their products repaired rather than incur the expense of buying a new product. But they cannot do so if the manufacturer chooses to discontinue production (of spare parts for) the product.

This raises the question as to how long manufacturers are required to supply consumers with necessary spare parts.

Only recently, in its Order of 18 February 2019, the Higher Regional Court of Frankfurt am Main made a statement as to the circumstances under which manufacturers or importers are required to do so (Higher Regional Court of Frankfurt am Main, Order of 18 February 2019 – Case No. 13 U 186/17).

## **Dealers**

Manufacturers are required in each case to continue supplying spare parts for two years for a period of two years after their product goes off the market so that their B2B customers will have access to the appropriate parts and are in a position to offer them to their customers who purchased their products under warranty. Manufacturers and dealers may reach contractual arrangements which go beyond this period.

## **Consumers**

In most cases, there is no purchase agreement between the buyer and the manufacturer on which such a claim can be based. But in practice, manufacturers sometimes advertise their products by guaranteeing that original spare parts will be available for a certain period of time. In general, such manufacturer guarantees may be used to derive contractual claims for the consumer against the manufacturer directly so that the manufacturer would be required to supply spare parts for the entirety of the advertised period.

In its Order, the Higher Regional Court stressed that no rule of law exists in either German law or EU consumer law on which consumers could base a claim to delivery of spare parts throughout the product's entire life cycle.

On the other hand, the Higher Regional Court found that such a duty may exist if there is a special trust-based relationship between the manufacturer and the customer (good faith, § 242 of the Civil Code). However, such a relationship can only be assumed if there are specific circumstances which support the view that the relationship is characterized by extraordinary trust. The Higher Regional Court of Frankfurt ruled that the case presented by the end customer who was the plaintiff in that case, who simply argued that the manufacturer has an interest in ensuring that original parts are installed in its vehicles, was ultimately not enough to establish such a general duty.

### Practical tip

In B2B relationships, it is advisable to reach a contractual arrangement defining a fixed period for the supply of spare parts so that all parties can be assured of planning certainty. If spare parts are available for many years, this will have a positive impact on customer satisfaction as well as keeping customers from buying third-party accessories.



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