



**Local Division Düsseldorf**  
**UPC\_CFI\_452/2023**

**Procedural order**  
**of the Court of First Instance of the Unified Patent Court Local Division**  
**Düsseldorf**  
**issued on 25 January 2024**  
**concerning EP 3 466 498 B1**

APPLICANT:

**Ortovox Sportartikel GmbH**, Rotwandweg 5, 82024 Taufkirchen, represented by the managing director ..., *ibid*,

represented by: Attorney Miriam Kiefer, Attorney Robert Knaps,  
Kanzlei Kather Augenstein, Bahnstraße 16, 40212 Düsseldorf,

electronic delivery address: ...

Contributing: Patent attorney Michael Siebel, law firm Hofstetter, Schurack &  
Partner, Patent- und Rechtsanwälte PartG mbB,

RESPONDENTS:

**1. Mammut Sports Group AG**, Birren 5, 5703 Seon, Switzerland represented by its legal representatives, *ibid*,

**2. Mammut Sports Group GmbH**, Mammut-Basecamp 1, 87787 Wolfertschwenden, Germany, represented by its legal representatives, *ibid*,

represented by: Attorney Oliver Jan Jüngst, Attorney Dr Moritz Schroeder,  
Dr Alexander Bothe, lawyer, Bird & Bird LLP, Carl-Theodor-Straße 6, 40213 Düsseldorf,

electronic delivery address: ...

Contributing: Patent attorney Dr Dr Fabian Leimgruber, Thomann Fischer law  
firm, Elisabethenstrasse 30, CH-4010 Basel,

STREITPATENT:

EUROPEAN PATENT NO. EP 3 466 498 B1

Decision-making body/chamber:

Judges of the Düsseldorf Local Court Co-Judges:

This order was issued by the presiding judge Thomas as rapporteur, the legally authorised qualified judge Dr Schober and the legally qualified judge Klepsch.

LANGUAGE OF PROCEEDINGS: German

SUBJECT: R. 212.3 VerfO i.V.m. R. 197.3 and .4 VerfO - Application for examination of an ex parte order

REASONS FOR THE ORDER:

The ordering of provisional measures can only be considered if the legal validity of the patent in dispute is sufficiently secured, Art. 62 (4) UPCA in conjunction with R. 211.2 RP. R. 211.2 RP. It is therefore incumbent on the panel to obtain a sufficient picture of the legal validity on the basis of the parties' submissions and, in particular, to examine whether any objections raised against the validity of the patent in suit are likely to give rise to reasonable doubts as to the validity of the patent in suit (UPC\_CFI\_452/2023 (LD Düsseldorf), order of 11 December 2023).

Although the involvement of a technically qualified judge ex officio is only mentioned in the Rules of Procedure in R. 34 of the Rules of Procedure and thus in the provisions on the main proceedings, Art. 8(5) sentence 2 UPCA grants the panel in general, and thus also in summary proceedings, the right to involve such a judge on its own initiative after hearing the parties if it considers this appropriate (see also UPC\_CFI\_2/2023 (LD Munich); UPC\_CFI\_214/2023 (LD Helsinki)).

This is already the case in the present case because the defendants deal extensively with the legal status of the patent in dispute in support of their request for examination. If the local division decides in the main proceedings following the summary proceedings to also rule on a (potential) revocation counterclaim, it is mandatory to add a technically qualified judge to the bench (Art. 33(1)(a) UPCA). It therefore seems sensible and advisable to involve this judge in the summary proceedings as well.

ARRANGEMENT:

The President of the Court of First Instance is requested to assign an additional technically qualified judge to the panel in accordance with Art. 18(3) UPCA, who has appropriate qualifications and experience in the field of technology relating to the patent in suit (classification IPC: A63B).

DETAILS OF THE ARRANGEMENT:

ORD\_3347/2024 for main file reference ACT\_589655/2023

UPC number: UPC\_CFI\_452/2023

Type of proceedings: Application for interim measures - Application for review

Issued in Düsseldorf on 25 January 2024 NAMES

AND SIGNATURES

Presiding Judge Thomas

Legally qualified judge Dr Schober

Legally qualified judge Klepsch