

**UPC\_CFI\_387/2025**  
**Final Order of the Court of**  
**First Instance of the Unified Patent Court**  
**delivered on 14/08/2025**

HEADNOTES:

1. The UPC as a common Court has jurisdiction regardless of the defendant's domicile for all patent infringements committed in a UPC member state (Art. 71b (2) in conjunction with Art. 7 sub (2) Brussels I recast regulation (1215/2012/EU).
2. When a Defendant is not domiciled and not active in the Member State who's local division is applied to, but it is part of the same company group as other defendants, and when the attacked embodiments are the same, the claims are closely connected in the meaning of Art. 8 (1) Brussels I recast regulation (1215/2012/EU).
3. In order to establish international jurisdiction for the alleged infringement of the national part of a European patent outside of the UPCA-countries requires at least the plausible allegation of infringing acts by that party in the country in question (here Spain).
4. As it is not possible for non-EU based manufacturers to sell electronics in the EU without an Authorized Representative in the Union (regulations 2023/988/EU on general product safety and 2019/1020/EU on market surveillance and compliance of products), the legal framework puts the Authorized Representative in the role of being an indispensable party in the distribution of electronic products. Thus, an Authorized Representative can serve as an anchor defendant with respect to Art. 8 (1) Brussels I recast regulation (1215/2012/EU).
5. An Authorized Representative in the Union (regulations 2023/988/EU on general product safety and 2019/1020/EU on market surveillance and compliance of products) is an intermediary and can as such be subject to an injunction, Art. 63 (1) 2<sup>nd</sup> sentence UPCA.

KEYWORDS:

Preliminary injunction; Art. 62(2) UPCA; Rule 209(2) RoP; Authorized representative; Intermediary, Art. 63 (1) 2<sup>nd</sup> sentence UPCA; International jurisdiction; Art. 7 sub (2)

Brussels I recast regulation (1215/2012/EU); Art. 8 (1) Brussels I recast regulation (1215/2012/EU); Anchor Defendant.

CLAIMANT

**Dyson Technology Limited**

(Applicant) - Tetbury Hill - SN16 0RP - Malmesbury,  
Wiltshire - GB

Represented by Dr. Constanze  
Krenz

DEFENDANTS

- |    |  |                                       |
|----|--|---------------------------------------|
| 1) | <b>DREAME INTERNATIONAL (HONGKONG) LIMITED</b><br>(Defendant) - Room H28G, Blk EH, 10th Floor, Golden Bear Ind. Ctr., 66-82 Chai Wan Kok St., Tsu-en Wan - n.a. - Hong Kong - HK | Represented by Dr. Anna Friesen-Okoro |
| 2) | <b>Tegphone GmbH</b><br>(Defendant) - Nördlicher Park 16 - 61231 - Bad Nauheim - DE  | Represented by Christian Stoll        |
| 3) | <b>Eurep GmbH</b><br>(Defendant) - Schlüterstraße 3 - 85057 - Ingolstadt - DE  | Represented by Christian Stoll        |
| 4) | <b>Dreame Technology AB</b><br>(Defendant) - Sigrid Undsets Gata 20 - lgh 1101,168, 49 - Stockholm (Bromma) - SE   | Represented by Christian Stoll        |

PATENT AT ISSUE

*Proprietor/s*

***Patent no.***

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**EP3119235**

**Dyson Technology Limited**

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SUBJECT-MATTER OF THE PROCEEDINGS

Application for provisional measures

LANGUAGE OF THE PROCEEDINGS

English

## PANEL

Panel of the Local Division in Hamburg

## DECIDING JUDGES

This order has been issued by the presiding judge Sabine Klepsch, the legally qualified judge and judge-rapporteur Dr. Stefan Schilling and the legally qualified judge Stefan Johansson.

## ORAL HEARING

24.07.2025, 10:00 Uhr

## SUMMARY OF FACTS

- 1 The Applicant is claiming that the Defendants are infringing the European Patent of EP 3 119 235 (hereinafter also referred to as the “patent in suit” or “the patent”, exhibit A5), which relates to a hand held device, in particular a hair care appliance.
- 2 The Applicant, who is the owner of the patent in suit, belongs to the international Dyson Group. It markets a hair treatment device under the name “Dyson Airwrap”, which can be used, amongst others, to curl hair.
- 3 Defendant 1) is a company based in Hong Kong and belongs to the Dreame Group. The products of Defendant 1) include hair drying and styling appliances, wet and dry vacuum cleaners and robotic vacuum cleaners.
- 4 Defendant 1) is offering both the “Dreame Airstyle Pro” as well as the “Dreame Pocket Neo” (“Staggered Curling Attachments”, first group of attacked embodiments) via its official Dreame website. The “Dreame Airstyle Pro” is a multi-functional hairdryer with one main device with a motor and seven attachments with different functions which can be connected with the main device. The attachments are one quick hair dryer, two hot brushes, one styling brush or two curling barrels having the same diameter for curls. The Dreame “Pocket Neo” is a smaller travel hair dryer version with fewer attachments. The main device is foldable. In the event, the user wishes to curl its hair, it can attach the curling barrel. Furthermore, Defendant 1) has been offering the products “Dreame Airstyle” and the “Dreame Pocket” on the market (“Curling Attachments”, second group of attacked embodiments), and these products are – undisputedly – still available in e.g. France and Italy. “Dreame Airstyle” and the “Dreame Pocket” are older versions of “Dreame Airstyle Pro” and “Dreame Pocket Neo”.
- 5 Defendant 1) is the website operator of almost all the relevant country specific websites, including Spain, at which the “Dreame AirStyle Pro” and “Dreame Pocket” are also available for sale respectively.
- 6 Defendant 2) is a limited liable company based in Bad Nauheim and the “Official Distributor of Dreame”. Products can be purchased via the German website DREAME Store (<https://dreame.de/>) and in Defendant’s 2) retail store in Frankfurt Zeil.
- 7 Defendant 3) is a limited liable company based in Ingolstadt and is mentioned on the packaging of attacked embodiments. According to the German commercial register, Defendant 3) acted – or at least has acted until recently – as the so-called “Authorized

Representative” for manufacturers based in a non-EU-Member-State (on the Website of Defendant 1) named as “EU representative” (“EU-Vertreter”).

- 8 Defendant 4) is the Swedish affiliate to Defendant 1) and runs the country specific website [www.se.dreamtech.com](http://www.se.dreamtech.com) as well as a retail store in Stockholm.
- 9 The patent in suit was filed on 6 March 2015, claiming priority of the British patent application GB20140004983 of 20 March 2014. The application was published on September 24, 2015, the grant of the patent on 30 April 2025. An application for a unitary effect has been filed on 4 April 2025 (exhibit A4). The patent in suit is in force in all UPC member states and in the Kingdom of Spain.
- 10 The patent relates to an attachment for a hand held device, in particular a hair care appliance such as a hot styling brush (para. [0001]).
- 11 With its application for provisional measures dated 2 May 2025, the Applicant claims that the Defendants are infringing claims 1 and 11 of the patent.
- 12 Its claim 1 reads as follows:

*1. An attachment (30) for a hand held appliance comprising a body having a wall, a fluid inlet at one end of the wall and a fluid outlet through the wall,*

*wherein:*

*the fluid outlet comprises a slot (102, 202, 282) extending along the wall,*

*the slot (102, 202, 282) is formed by an overlap of a first end of the wall and a second end of the wall,*

*the attachment (30) is tubular,*

*the slot (102, 202, 282) extends longitudinally along the tubular attachment (30),*

*hair is wrapped around the attachment (30) in the direction of fluid flow,*

*the fluid emitted from the fluid outlet is attracted to an external surface (112) of the wall, and*

*fluid emitted from the fluid outlet flows around the external surface (112) of the wall.*

- 13 Its claim 11 reads as follows:

*11. A hand held appliance comprising a handle (20) having a fluid flow path from a fluid inlet (40) to a fluid outlet and a fan unit for drawing fluid into the fluid inlet and an attachment (30) as claimed in any preceding claim for attaching to the handle, wherein the fluid inlet of the attachment (30), when the attachment is attached to the handle, is in fluid communication with the fluid outlet of the handle.*

STATEMENT OF THE FORMS OF ORDER SOUGHT BY THE PARTIES:

- 14 The Applicant requests with its Application for provisional measures dated 2 May 2025:

I. Defendants 1), 2), 3) and 4) are ordered, by way of preliminary injunction, to refrain from making, offering, placing on the market, using, importing or storing for the aforementioned purposes within the territory of the Contracting Member States of the Agreement on a Unified Patent Court (UPCA) and the territory of the Kingdom of Spain

an attachment for a hand held appliance comprising a body having a wall, a fluid inlet at one end of the wall and a fluid outlet through the wall,

wherein:

the fluid outlet comprises a slot extending along the wall, the slot is formed by an overlap of a first end of the wall and a second end of the wall, the attachment is tubular, the slot extends longitudinally along the tubular attachment, hair is wrapped around the attachment in the direction of fluid flow, the fluid emitted from the fluid outlet is attracted to an external surface of the wall, and fluid emitted from the fluid outlet flows around the external surface of the wall. (Direct infringement of EP 3 119 235, Claim 1);

a hand held appliance comprising a handle having a fluid flow path from a fluid inlet to a fluid outlet and a fan unit for drawing fluid into the fluid inlet and an attachment as claimed in claim 1 for attaching to the handle, wherein the fluid inlet of the attachment, when the attachment is attached to the handle, is in fluid communication with the fluid outlet of the handle. (Direct infringement of EP 3 119 235, Claim 11).

II. For each individual case of non-compliance with the order under I., Defendants 1), 2), 3) and 4) must pay a recurring penalty payment of up to EUR 250,000 to the court (repeatedly if necessary). These penalties will be determined by the Local Division in Hamburg upon request by the Applicant (Art. 63(2) UPCA; R. 354).

III. Defendants 1), 2), 3) and 4) have to bear all costs of the proceedings.

IV. The orders are immediately effective and enforceable.

V. If Defendants do not respond within the time limit set by the court, we request that defendants are ordered by default decision (R 355 (1) (a), (3) RoP)

15 The Defendants request with their Objection to the application dated 10 June 2025:

I. The application for provisional measures is rejected.

II. The Applicant is ordered to bear the costs of the proceedings.

III. The Applicant is ordered to pay to Defendants jointly an interim reimbursement of costs of 56.000 EUR.

## POINTS AT DISPUTE

### The Applicant's position

- 16 The Applicant claims an infringement of claims 1 and 11 by the Defendants due to the fact that Defendant 1) sells the "Dreame AirStyle Pro" in Germany via the German website and the "Dreame Pocket" amongst others via its country specific websites in e.g. Spain and Italy. It refers to that Defendant 4) sells the "Dreame AirStyle" and the "Dreame Pocket" via the country specific website [www.se.dreamtech.com](http://www.se.dreamtech.com) and in its retail store in Stockholm. Furthermore, it refers to that Defendant 2) sells the "Airstyle Pro" and "Pocket Neo" via the website DREAME Store (<https://dreame.de/>). In addition, the products were also available at resellers in Germany.
- 17 The Applicant claims that Defendant 3) must also be considered an infringer of the patent since – without an EU representative – it would not be possible at all for Defendant 1) to legally sell its products within the EU market. Given that the EU representative is a mandatory requirement, it must be considered that it participates in the same way in the sales as Defendant 1) does. At the very least, Defendant 3) is an intermediary within the meaning of Art. 63 UPCA and under Spanish patent law.
- 18 The Applicant is of the opinion that international jurisdiction is given. Art. 71b (1), (2) first sentence in conjunction with Art. 8 (1) Brussels Recast (hereinafter: "BR") would be applicable to Defendant 1) as both Defendants 2) and 3) serve as "anchor defendants" for Defendant 1) with respect to the infringement in Spain. The requirements of Art. 8 (1) BR are met. The Applicant claims that the Defendants have not disputed but instead confirmed that Defendant 3) was the EU Representative of the infringing devices. According to the Applicant, this position is sufficient for Defendant 3) to be complicit in the offering and sale by Defendant 1).
- 19 The Applicant claims that as far as Defendants state that the "Dreame Pocket" has been removed from "most major European countries such as Germany, the UK, the Netherlands etc.", it remained undisputed that the "Dreame Pocket" has been and is still available in e.g. France and Italy.
- 20 Regarding claim construction the Applicant argues that any perceived statement or conclusion made by the applicant or the EPO during the prosecution history cannot apply a meaning to the claim feature that is not in line with the wording of the claim and the embodiments of the specification. Especially, it is not possible to apply a meaning to the patent claim in view of perceived statements during prosecution, based on which *no* embodiment of the patent specification would fall within the scope of the patent claim. If the Defendants' interpretation of the claim was true, none of the embodiments of the patent in suit would be covered by claim 1.
- 21 The Applicant is of the opinion that it is reasonable to grant provisional measures. It should be in particular noted that observations by third parties were submitted during the grant proceedings and that the patent is therefore even "tested" on validity.

- 22 Furthermore, the parties are competitors in the field of hair treatment devices, and the distribution of the infringing devices directly affects the Applicant's own sales opportunities. The patented invention is, in the view of the Applicant, also one of the main selling factors and the core technology, which it sees copied by Defendants and incorporated in the attacked embodiments. As the invention directly relates to the hair treatment itself, it provides a significant improvement over other products, in which curling the hair must be achieved by manually wrapping it around the attachment.
- 23 The Applicant is of the opinion that its interest in not being further impacted in its intellectual property rights must be considered being much higher than the interest of Defendants to secure market share. This would be even more true since the products were not on the market for a long time and it will therefore be even more difficult for the Applicant to calculate damages against the Defendants. Also, and especially in view of the fact that Defendant 1) as the manufacturer of the product is a Chinese based company and it is almost impossible to enforce a damages claim into China. It is particularly important to emphasize in this context that the contested product was - according to Applicant's knowledge - put on the market through the specified channels relatively shortly before the grant of the patent.

#### The Defendants' position

- 24 The Defendants are of the opinion that the Court has no jurisdiction with respect to the alleged infringement of the Spanish patent by Defendants. The Applicant failed to demonstrate a close connection between the claims against Defendant 1) and the claims against Defendants 2) and 3), as it has not provided any evidence that Defendants 2) and 3) participated in the distribution of the attacked products in Spain.
- 25 Defendant 2) is the distributor of Defendant 1) for Germany and operates the Dreame retail store in Germany. Defendant 2) also ships products to secondary distributors in Austria, the Netherlands, Belgium and Luxembourg. However, the Defendants assert that it is not involved in any offering and sales of the attacked products in countries other than five mentioned above or in Spain, nor does it ship any of the attacked products of the Dreame group to Spain. Defendant 2) appears also as importer on the boxes of the attacked products in the aforementioned countries, only.
- 26 They assert that Defendant 3) has been the European representative for Defendant 1 until 23 May 2025. The contractual relationship with Defendant 3) ended at this date and will not be continued. The Defendants claim that as EU representative for Defendant 1), Defendant 3) had the sole task to serve as a contact point for consumers and EU authorities. Defendant 3) did not do any testing of the attacked products.
- 27 Defendant 4) belongs – like Defendant 1) – to the Dreame group of companies and is solely responsible for the Swedish market in Europe and operates the Dreame retail store in Stockholm.
- 28 The Defendants argue that there is no basis for international jurisdiction for provisional measures over Defendant 1). Art. 71b (2) and Art. 35 Brussels I recast (hereinafter referred

to as “BR”) do not apply and the Applicant did not establish a real connection between the subject-matter of the measures sought and the territorial jurisdiction of the UPC. In contrast to Art. 71b (2) BR, Art. 35 BR extends international jurisdiction for provisional measures only for measures “available under the law of that Member State”. This means Art. 35 BR refers to the applicable national provisions on jurisdiction. However, as the UPCA and the RoP do not have any jurisdictional rules other than those of the Brussels I recast, its Art. 35 simply refers to the provisions in its Art. 4 - 26. Art. 32 and 33 UPCA are not applicable, as they do not concern international jurisdiction of the UPC in relation to non-UPC contracting member states. Instead, Art. 32 UPCA concerns the UPC’s exclusive jurisdiction over certain matters in relation to the courts of the UPC contracting member states. Art. 33 UPCA addresses the internal jurisdiction among the different divisions of the UPC Court of First Instance.

- 29 Moreover, they claim that the Applicant could not establish any potentially infringing act of Defendant 3), so that Defendant 3) lacks standing to be sued entirely. Regarding Defendant 2) it is only undisputed that Defendant 2) is active in distribution activities concerning the attacked embodiment in the UPC territory and only in those countries as mentioned in the Objection (Germany, Austria, the Netherlands, Belgium and Luxembourg). It is disputed that Defendant 2) actively or passively participated in distribution activities of Defendant 1) in Spain. They claim, that Defendant 1) currently does not offer the Dreame “Airstyle” and the Dreame “Pocket” in most major European countries such as Germany, the UK, the Netherlands, etc. In some of these countries, such as the UK, the Defendants never sold these products.
- 30 Regarding claim construction, the Defendants point out that the subject matter of the patent does not extend to embodiments described in the patent, if there are “sufficiently clear indications in the patent claim” that an embodiment is not covered by the claim. Contrary to the Applicant’s suggestions the statements of the patent examiner and of the applicant in the patent examination proceedings have to be taken into account as they indicate the view of the skilled person in the art at the filing date, which is relevant for the construction of the patent claims. This clearly contradicts the Applicant’s assertion that a patent proprietor may advocate one interpretation of a patent claim in the examination procedure in order to obtain a patent, whereas the same patent proprietor may advocate a contrary interpretation of the claim in infringement proceedings.
- 31 When weighing the interests of the parties, the Defendants are of the opinion that their interests have to prevail because the attacked products are not infringing the patent. Moreover, Defendants’ interests would be massively impaired if they were unable to temporarily offer the attacked products on the market due to a preliminary injunction, since the Defendants and the Applicant are also direct competitors on the market.
- 32 They assert that the competing product of the Applicant (Dyson Airwrap) costs approx. € 499 (currently with a € 50 price reduction online) which is more than twice the price of the attacked products. The Applicant conveniently disregards that the enormous price of its products cannot be afforded by most customers for a personal hair care product. Also, next to the products of the Applicant and Defendant 1), several of other companies offer



much more affordable hair stylers like the Shark FlexStyle from SharkNinja, the One-Step Volumizer from Revlon and the AireBrush Duo from T3.

- 33 The Defendants object to the Applicants allegations that the product was put deliberately on the market between the publication of the decision to grant the patent in dispute and the actual grant. The “Airstyle” and the “Pocket” of Defendant 1) are longer on the market and currently not sold anymore in most of the contracting member states. With regard to the “Airstyle Pro” and the “Pocket Neo”, the Defendant 1) simply put newer versions of its products in the market after the research and development of these products were finished for the product launch.
- 34 Regarding any additional arguments brought forward by the parties reference is made to the submissions of the parties and to the audio recording of the oral hearing.

#### GROUND FOR THE ORDER

- 35 The Application for provisional measures is admissible and partly founded. R. 211.2 Rules of Procedure (hereinafter RoP), in conjunction with Art. 62(4) Agreement on the Unified Patent Court (hereinafter UPCA), see also Art. 9 (3) Directive 2004/48/EC, provides that the Court may invite the applicant for provisional measures to provide reasonable evidence to satisfy the Court to a sufficient degree of certainty that the applicant is entitled to institute proceedings under Art. 47 UPCA, that the patent in suit is valid and that it is infringed, or that such an infringement is imminent. These criteria are fulfilled for the second group of attacked embodiments, the products “Dreame Airstyle” and the Dreame “Pocket” (“Curling Attachments”), but not for the first group of attacked embodiments, the products “Dreame Airstyle Pro” or “Dreame Pocket Neo” (“Staggered Curling Attachments”; see in the following under section D.). Defendants 1) and 3) are also subject to the UPC’s international jurisdiction with respect to alleged infringing acts as far as it relates to the Spanish national part of the patent-in-suit (see in the following under section B.).

#### **A. Applicant’s entitlement to bring actions**

- 36 As the Applicant is the registered proprietor of the patent at issue and as there have not been raised any concerns to the contrary, the Applicant is entitled to bring actions to the court, Art. 47 (2) UPCA and R. 8.5 and 211.2 RoP.

#### **B. International jurisdiction**

- 37 The UPC has international jurisdiction over the dispute. With respect to Defendants 1) and 3) the UPC has also jurisdiction to decide upon the infringement as far as it relates to acts infringing the Spanish national part of the patent-in-suit.

#### I. UPCA COUNTRIES

- 38 Art. 31 UPCA stipulates that the international jurisdiction of the UPC shall be established in accordance with Regulation (EU) No 1215/2012 (“BR”, as defined before) or, where applicable, on the basis of the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Lugano Convention). Art. 71

a-d BR incorporated the UPC as a new common court into the existing Brussels recast Regulation System (LD Düsseldorf, 28 January 2025 – UPC\_CFI\_355/2023, ACT\_578607/2023 – FUJI Film). Thus, the UPC is a common court within the meaning of Art. 71a (1) BR, see Art. 71a (2) (a) BR. According to Art. 71b (1) BR, the UPC as a ‘common court’ of several EU Member States (Art. 71a) has jurisdiction in patent matters (within the meaning of the UPCA), if a court of an EU Member State that is a party to the UPCA would be competent (if the UPC did not exist) under the rules of jurisdiction of the Brussels-Ia-Regulation (Bopp/Kircher EurPatentprozess-HdB/Bopp/Krumm, 3rd ed. 2025, Section 8, para. 11). This means that, in relation to claims against defendants domiciled in a Member State, all the bases for jurisdiction contained in Brussels I recast Regulation also apply to the UPC.

#### 1. Art. 4 (1) Brussels I recast

- 39 Pursuant to Art. 4 (1) BR, persons domiciled in a Member State, whatever their nationality, shall be sued in the courts of that Member State. Following Art. 63 (1) BR a company or other legal person or association of natural or legal persons is domiciled at the place where it has its statutory seat; central administration; or principal place of business. This jurisdiction in the forum of the courts of the Member State in which the defendant is domiciled or has its seat under Art. 4 (1) BR is a universal jurisdiction (LD Düsseldorf, 28 January 2025 – UPC\_CFI\_355/2023, ACT\_578607/2023 – FUJI Film). This gives a claimant - including before the UPC as the court of residence - the option of including patents in third countries in its infringement action, long arm jurisdiction (Tilman, GRUR 2025, 521, 523).
- 40 Applying these principles, the UPC has undoubtedly international jurisdiction with respect to Defendants 2) and 3) as they are domiciled in Germany, Art. 4 (1) BR. This extends to the territories of the Contracting Member States of the UPCA for which the European patent is in effect (regarding Spain see below).

#### 2. Art. 7 (2) Brussels I recast

- 41 Under Art. 7 sub (2) BR, the courts of a Contracting Member State would have jurisdiction in an infringement action within the meaning of Art. 32 (1) (a) UPCA against a person domiciled in an EU Member State where the harmful event occurred or may occur in that Contracting Member State.
  - a)
- 42 Art. 71b (2) BR supplements the basic rule under Art. 7 BR where a Defendant is not domiciled in an EU member state, by opening jurisdiction according to Art. 7 Brussels-Ia-Regulation regardless of the defendant’s domicile. This is confirmed by the case law of the UPC Court of Appeal, who ordered that Art. 7(2) in conjunction with Art. 71b (1) BR must be interpreted as meaning, that the UPC has international jurisdiction in respect of an infringement action where the European patent relied on by the claimant is in effect in at least one Contracting Member State, and where the alleged damage may occur in that particular Contracting Member State (Court of Appeal, Order of September 03, 2024,

CoA\_188/2024). The UPC thus has international jurisdiction for all patent infringements committed in a UPC member state, regardless of the Defendant's place of residence, (LD Hamburg, 17 March 2025 – UPC\_CFI\_169/2024, App\_66363/2024; Bopp/Kircher EurPatentprozess-HdB/Bopp/Krumm, 3rd ed. 2025, Section 8, para. 12; comp. Tilmann/Plassmann/Grabinski/W. Tilmann, 1st ed. 2024, UPCA, Art. 31 para. 22a). As the UPC as a common Court has jurisdiction *regardless of the defendant's domicile* for all patent infringements committed in a UPC member state (Art. 71b (2) in conjunction with Art. 7 sub (2) BR) international jurisdiction is given to that Contracting Member State in which the harmful event occurred or may occur, within the meaning of Art. 7 sub (2) BR. The only requirement is that the place of infringement or action is in a member state that is a party to the UPCA (see Geimer/Schütze Int. Private Law/E. Peiffer/M. Peiffer, 67th supplement June 2024, VO (EG) 1215/2012 Art. 71b para. 6).

b)

- 43 The international jurisdiction with respect to Defendant 1) follows Art. 7 sub (2) BR as this provision in conjunction with Art. 71b (2) BR opens international jurisdiction, regardless of the Defendant's place of residence, for all patent infringements (allegedly) committed in a UPC Member State, which is Germany. The jurisdiction granted by Art. 7 sub (2) BR is not limited to the Member State – here Germany – as according to Art. 34 UPCA Decisions of the Court shall cover, in the case of a European patent, the territory of those Contracting Member States for which the European patent is in effect. Whereas Art. 34 UPCA does not deal with the international jurisdiction of the court in the first place – which is dealt with in Art. 31 UPCA – Art. 34 UPCA covers the territorial scope of the Court's decision within the territory of the Contracting Member States. Thus, the international jurisdiction of the UPC inevitable leads to a decision covering all territories of UPCA countries in which the patent in suit is in effect. The Applicant has sufficiently stated in its Application that the patent in suit is in force in in all UPC member states (and in Spain) and that damage may occur in all of these UPCA countries, including Germany, where the Local Division is located.

### 3. Art. 8 (1) Brussels I recast

- 44 The international jurisdiction with respect to Defendant 4) follows Art. 8 (1) BR. According to this provision a person domiciled in a Member State may also be sued where he is one of a number of defendants, in the courts for the place where any one of them is domiciled, provided the claims are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings. These criteria are present. Defendant 4) belongs to the Dreame group of companies, is responsible for the Swedish market in Europe and operates the Dreame retail store in Stockholm. As Defendant 4) is part of the Dreame group and as the attacked embodiments are the same, the claims are closely connected in the meaning of said provision. Following Art. 34 UPCA, the effect of the UPC's orders are not limited to Sweden but are effective in UPCA countries in which the patent in suit is in effect.

## II. SPANISH NATIONAL PART OF THE PATENT-IN-SUIT

45 With respect to Defendants 1) and 3) the UPC has also jurisdiction to decide upon the infringement as far as it relates to acts infringing the Spanish national part of the patent-in-suit.

### 1. Case law of the Court of First Instance

46 It is already established case law of the Court of First Instance that the UPC has international jurisdiction also with respect of the infringement of national parts of an European Patent outside of the UPCA countries and even outside of the European Union (see LD Düsseldorf, 28 January 2025 – UPC\_CFI\_355/2023, ACT\_578607/2023 – FUJI Film; LD Mannheim, 18 July 2025 – UPC\_CFI\_365/2023, FUJI ./ Kodak, both regarding the UK national part of a patent-in-suit; LD The Hague, 23. Mai 2025 – UPC\_CFI\_191/2025 - ACT\_10280/2025, regarding Norway, Spain and Poland). This is in line with the ECJ's ruling in "BSH Hausgeräte", according to which the court of the Member State of the European Union in which the defendant is domiciled has jurisdiction under Article 4 (1) BR to rule on an action for infringement of a patent granted in another Member State and does even not lose that jurisdiction solely on the ground that the defendant contests the validity of that patent by way of a defense (ECJ, 25 February 2025, C-399/22, GRUR 2025, 568 para 41).

### 2. Spain

47 In the present case, the Applicant has sufficiently stated in its Application that the patent in suit is in force not only in all Contracting Member States of the UPCA, but also in Spain, and that damage may also occur in Spain as the attacked embodiments were available there, as well.

a)

48 However, with respect to Defendant 2) the UPC's international jurisdiction is limited to the territories of the Contracting Member States of the UPCA for which the European patent is in effect. While it is true, that the issue whether the patent has been infringed and whether that infringement may be attributed to individual Defendants falls within the scope of the examination of the substance of the action by the court having jurisdiction (Court of Appeal, Order of September 03, 2024, CoA\_188/2024). Still, in order to establish jurisdiction requires at least the plausible allegation of infringing acts by that party in the country in question, here Spain. However, the Applicant did not provide any reliable facts that Defendant 2) is or was involved in any marketing of the attacked embodiments in Spain. The same applies to Defendant 4).

b)

49 Defendant 3), on the other hand, is subject to the UPC's universal jurisdiction including the Spanish national part of the patent in suit as the Applicant provided plausible facts that Defendant 3) could at least be subject to an injunction for the infringement of the Spanish national part of the patent in suit according to Art. 71 (2) Spanish Patent Act as an intermediary (cf. Art. 63 (1) 2nd sentence UPCA). Undisputedly, Defendant 3) acted –

or at least has acted until recently – as the so-called “Authorized Representative” for manufacturers based in a non-EU-Member State, which refers back to the EU regulations 2023/988/EU on general product safety (GPSR) and 2019/1020/EU on market surveillance and compliance of products. These regulations require that non-EU-based manufacturers provide for an authorized representative in the European Union.

aa) Legal framework

50 According to Art 16 (1) EU-Reg 2023/988 on general product safety (GPSR) a product covered by this Regulation shall not be placed on the market unless there is an economic operator established in the Union who is responsible for the tasks set out in Article 4(3) of Regulation (EU) 2019/1020 in respect to that product.

51 The term “economic operator” is defined in Art. 3 (13) of the corresponding EU-Reg 2019/1020 on market surveillance and compliance of products meaning:

*the manufacturer, the authorised representative, the importer, the distributor, the fulfilment service provider or any other natural or legal person who is subject to obligations in relation to the manufacture of products, making them available on the market or putting them into service in accordance with the relevant Union harmonisation legislation;*

52 The term “authorised representative” is defined in Art. 3 (12) of this regulation:

*“authorised representative” means any natural or legal person established within the Union who has received a written mandate from a manufacturer to act on its behalf in relation to specified tasks with regard to the manufacturer's obligations under the relevant Union harmonisation legislation or under the requirements of this Regulation;*

53 The legal obligations of an authorized representative are defined in Art. 4 (3) EU-Reg 2019/1020 on market surveillance and compliance of products:

*3. Without prejudice to any obligations of economic operators under the applicable Union harmonisation legislation, the economic operator referred to in paragraph 1 shall perform the following tasks:*

*(a) if the Union harmonisation legislation applicable to the product provides for an EU declaration of conformity or declaration of performance and technical documentation, verifying that the EU declaration of conformity or declaration of performance and technical documentation have been drawn up, keeping the declaration of conformity or declaration of performance at the disposal of market surveillance authorities for the period required by that legislation and ensuring that the technical documentation can be made available to those authorities upon request;*

*(b) further to a reasoned request from a market surveillance authority, providing that authority with all information and documentation necessary to demonstrate the*

*conformity of the product in a language which can be easily understood by that authority;*

*(c) when having reason to believe that a product in question presents a risk, informing the market surveillance authorities thereof;*

*(d) cooperating with the market surveillance authorities, including following a reasoned request making sure that the immediate, necessary, corrective action is taken to remedy any case of non-compliance with the requirements set out in Union harmonisation legislation applicable to the product in question, or, if that is not possible, to mitigate the risks presented by that product, when required to do so by the market surveillance authorities or on its own initiative, where the economic operator referred to in paragraph 1 considers or has reason to believe that the product in question presents a risk.*

bb) Role of an authorized representative

- 54 This legal framework puts Defendant 3) in the role of being an essential party in the distribution in the EU for the electronic products in question, which require a CE certificate and declaration of conformity. Without an authorized representative in the EU, Defendant 1) is not legally able to sale the attacked embodiments in the EU. This is regardless of the fact, that in the present case the non-EU manufacturer (Defendant 1) issued the declaration of conformity, as it is the authorized representative's task to make sure that this declaration is issued by "verifying that the EU declaration of conformity or declaration of performance and technical documentation have been drawn up". Whether Defendant 3) actually fulfilled these legal obligations or whether Defendant 3)'s contractual obligations with respect to Defendant 1) are deviating or not (Exhibit HL 20, p. 4), is irrelevant for the legal assessment, as the legal obligations are not subject to the parties' disposition.
- 55 The Local Division does not follow the Defendants' argumentation that Defendant 3)'s obligations are mere after-sales activities without any influence on the actual patent infringement, similar to a call-centre. On the contrary, to have an EU declaration of conformity for electronics in place is a pre-requisite for placing them on the inner market, thus its verification is a pre-marketing obligation. This position might not be strong enough to be held liable for damages incurred by the alleged patent infringement, but it is the provision of an indispensable service to the actual infringer. Thus, an authorized representative can be subject to an injunction as an intermediary in the meaning of the Enforcement Directive 2004/48/EC. The Applicant successfully asserted in the oral hearing that these rules are incorporated in Spanish Patent Law in Art. 71 (2) of the Spanish Patent Act covering intermediaries. With respect to the UPCA countries, this concept is incorporated in Art. 63 (1) 2nd sentence UPCA.

cc) Result

- 56 As a result, Defendant 3) is subject to the universal jurisdiction of the UPC at its seat, including alleged infringing acts with respect to the Spanish national part of the patent in suit.

c) Anchor defendant

- 57 Defendant 1) is not subject to the UPC's universal jurisdiction according to Art. 4 (1) BR. Also, the scope of Art. 7 sub (2) BR in conjunction with Art. 71b (1) BR is limited to infringing acts in the Contracting Member States of the UPCA, which Spain is not. Thus, the international jurisdiction with respect of Defendant 1) regarding the Spanish national part of the patent in suit can only be obtained by means of Art. 8 BR. In the present case Defendant 3) serves as an anchor defendant for Defendant 1) as the remaining criteria of Art. 8 (1) BR are met.

aa)

- 58 As stated above the application of Art. 8 (1) BR requires a close connection with a defendant who is domiciled in the forum state and who is, thus, subject to the UPC's universal jurisdiction (Art. 4 BR). According to its wording, Art. 71b (2) BR allows for all rules in chapter II of the Brussel I recast regulation to be applied regardless of the domicile or seat of the defendant. Despite the fact, that Chapter II (Art. 4 –35 BR) shall apply to defendants domiciled in third states "as appropriate" (Art. 71b (2) BR), this wording does not limit the applicability of Art. 8 (1) BR to co-defendants seated within of the European Union (questioned by Müller-Stoy, GRUR Patent 2025, 331, 335). This is shown by the German and French versions of the Brussels I recast Regulation, which do not indicate any limitation in the sense of "where appropriate" as they use the terms "soweit einschlägig" bzw. "le cas échéant", which require only that the remaining criteria of Art. 8 (1) BR - apart from the domicile criterion - are met, without any additional requirements.
- 59 Thus, Art. 8 (1) BR is to be applied by the UPC to co-defendants not domiciled in the EU (or Lugano Convention states, Art. 73 (1) Brussels I bis). For the question at hand – the competence of the UPC to decide on alleged infringing acts in Spain – the close connecting has to be assessed based on infringing acts in Spain and not only in other EU-/UPCA-countries. According to the "Roche" decision of the ECJ such a connection cannot exist in the case of actions for infringement of the same European patent brought against a company established in another Contracting State on the basis of acts allegedly committed there by that company (ECJ, 13. 7. 2006 – C-539/03, GRUR 2007, 47 para. 33 – Roche Nederland BV and others v Primus and Goldenberg). That means that the infringement of various parts of a European patent by different infringers is not in itself sufficient to establish jurisdiction under Article 8 (1) BR even if the infringers belong to the same group and pursue a uniform business policy drawn up by the main defendant (Kalbfus, GRUR-Prax 2025, 307, 311).

bb)

- 60 As a consequence, the establishment of jurisdiction under Art. 8 (1) BR requires a party domiciled in the forum state (here: Germany) that acted allegedly in Spain, opening up for universal jurisdiction, which is here Defendant 3). As laid out above, Defendant 3) is an indispensable party in the distribution of the attacked embodiments in the European Union. Without an authorized representative, a manufacturer based outside of the EU is not able to distribute its electronic products. This brings the authorized representative into the position that by terminating its role, the distribution of the products are illegal. This might be limited only until the manufacturer installed a new authorized representative but still enables the authorized representative to stop any distribution by its own will. Due to the legal framework, there is a necessary, legally established close connection between Defendant 1) and Defendant 3) for the distribution of the attacked embodiments in the EU, including Spain, as the 'authorised representative' has the mandate from the manufacturer to act on its behalf in relation to specified tasks with regard to the manufacturer's obligations under the relevant Union harmonisation legislation.

cc)

- 61 This result is confirmed when looking at the corresponding provision in Article 33 (1) (b) UPCA concerning competence of the UPC divisions. This rule provides that in case of multiple defendants, the local division hosted by the CMS where one of the defendants has its residence, is competent to hear the case, provided that the defendants have a commercial relationship and where the action relates to the same alleged infringement, regardless of whether the other defendants are based inside or outside the CMS or inside or outside the EU.
- 62 The requirement of a "commercial relationship" implies a "certain quality and intensity" (LD Paris, 11 April 2024– UPC CFI 495/2023, GRUR-RS 2024, 9684 Rn. 21). To avoid multiple actions regarding the same infringement and the risk of irreconcilable decisions from such separate proceedings, and to comply with the main principle of efficiency within the UPC, the interpretation of "a commercial relationship" and therefore the link between the defendants should not be interpreted too narrowly. The fact of belonging to the same group (of legal entities) and having related commercial activities aimed at the same purpose – such as R&D, manufacturing, sale and distribution of the same products – is sufficient to be considered as "a commercial relationship" within the meaning of the Article 33(1) (b) (LD Paris, 11 April 2024, UPC CFI 495/2023, GRUR-RS 2024, 9684 Rn. 21; see also LD Munich, 29 September 2023, UPC\_CFI\_15/2023). Whether or not, joint research and development can already establish the required commercial relationship, in the present case the acting as authorized representative for the manufacturer for the distribution of the same attacked embodiments, is without doubt sufficient to fulfil these criteria.



dd)

- 63 The Hamburg Local Division is aware of the legal consequences of these legal findings, in particular, that the installation of an authorized representative in a certain Member State of the European Union likely subjugates a non-EU manufacturer under the jurisdiction of the UPC in that Member State, including with respect to the national parts of the patent in suit in non-UPCA or third countries. This burden on the other hand, does not seem to be unfair, as the rationale of having an authorized representative is to have the distribution channels under the effective control of the relevant authorities by having a representative that has to report to them. Furthermore, it is the manufacturer's choice, whom and where to assign this role to.
- 64 Additionally, it has to be noted, that in proceedings for provisional measures, like in the present case, Art. 35 BR opens for jurisdiction even if the courts of another Member State have jurisdiction as to the substance of the matter.

### III. COMPETENCE

- 65 Insofar as the UPC has international jurisdiction over the dispute, the Local Division Hamburg has competence according to Article 33 (1) (a) and (b) UPCA. Reference can be made to the explanations above.

## C. THE PATENT

### I. BACKGROUND

- 66 The patent in suit relates to an attachment for a hand held device, in particular a hair care appliance such as a hot styling brush (para. [0001]).
- 67 In a conventional hot styling brush, air is sucked into an inlet by a fan unit and directed towards the hair by an attachment or head. Depending on the style desired, the air may or may not be heated. The head or attachment often includes bristles onto which hair is wrapped and held for styling. The air is generally blown out of the head or attachment normal to the surface of the head.
- 68 The patent refers to EP 0 482 906 as an example of the related art that describes an electrically powered hand held hair curling appliance (para. [0002]).
- 69 The patent in suit does not expressly mention an object of the invention. However, in view of the background and the underlying prior art, also taking into account the claim wording, the patent in suit has the objective function of providing an attachment and an appliance that facilitates styling of hair.
- 70 In order to solve this problem, the patent discloses an attachment in claim 1 and a hand held appliance in claim 11.
- 71 Claim 1 can be broken down into the following features:

- 1.1 *An attachment (30) for a hand held appliance*
- 1.2 *comprising a body having a wall*
- 1.3 *a fluid inlet at one end of the wall*
- 1.4 *a fluid outlet through the wall*
- 1.5 *wherein the fluid outlet comprises a slot extending along the wall*
- 1.6 *the slot is formed by an overlap of a first end of the wall and a second end of the wall*
- 1.7 *the attachment is tubular*
- 1.8 *the slot extends longitudinally along the tubular attachment (30)*
- 1.9 *hair is wrapped around the attachment (30) in the direction of fluid flow*
- 1.10 *the fluid emitted from the fluid outlet is attracted to an external surface (112) of the wall, and*
- 1.11 *fluid emitted from the fluid outlet flows around the external surface (112) of the wall*

72 Claim 11 can be broken down into the following features:

- 11.1 *A hand held appliance comprising*
  - 11.2 *a handle (20) having a fluid flow path from a fluid inlet (40) to a fluid outlet and*
  - 11.3 *a fan unit for drawing fluid into the fluid inlet and*
  - 11.4 *an attachment (30) as claimed in any preceding claim for attaching to the handle,*
  - 11.5 *wherein the fluid inlet of the attachment (30), when the attachment is attached to*
- the handle, is in fluid communication with the fluid outlet of the handle*

## II. CLAIM CONSTRUCTION OF CLAIM 1

### 1. Principles of claim construction

73 According to Art. 69 EPC in conjunction with Art. 1 of the Protocol on its interpretation, the patent claim is not only the starting point, but the definitive basis for determining the protective scope of a European patent. The interpretation of a patent claim does not depend solely on its exact wording in the linguistic sense. Rather, the description and the drawings must always be taken into account as explanatory aids for the interpretation of the patent claim and not only be used to clarify any ambiguities in the patent claim. However, this does not mean that the patent claim serves only as a guideline and that its scope may extend to what, from a consideration of the description and drawings, the patent proprietor has contemplated. The patent claim is always to be interpreted from the point of view of a person skilled in the art (Court of Appeal, UPC\_CoA\_1/2024, Order

of 13 May 2024, App\_8/2024 – VusionGroup SA v Hanshow Technology Co. Ltd et al.; UPC\_CoA\_335/2023, Order of 26 February 2024, App\_576355/2023 - 10X Genomics and Harvard/Nanostring case; Order of 11 March 2024, GRUR-RS 2024, 2829, headnote 2. and para. 73 - 77 - Nachweisverfahren; LD Düsseldorf, UPC\_CFI\_452/2023, Order of 9 April 2024, p. 13, GRUR-RS 2024, 7207, para. 49). Additionally, the skilled person is taking the purpose of every patent claim into account, to provide the average person skilled in the art with a technical teaching which, when reworked, leads to the intended success of the invention.

## 2. Person skilled in the art

- 74 The person skilled in the art is a mechanical engineer having multiple years of experience in the development of hair care appliances and respective knowledge in fluid dynamics.

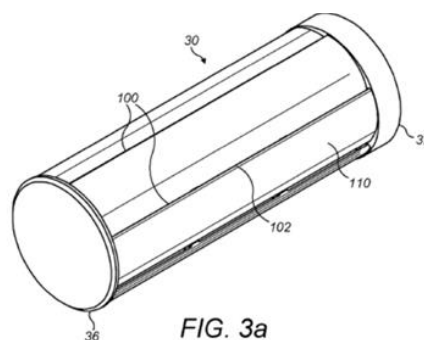
## 3. Features 1.1, 1.2 and 1.7

*1.1 An attachment (30) for a hand held appliance*

*1.2 comprising a body having a wall*

*1.7 the attachment is tubular*

- 75 Feature 1.1 describes the purpose of the claimed product, which is to be used as an attachment for a hand held appliance. According to feature 1.7, the attachment is tubular, i.e. it has a cylindrical or oval shape (see para. [0064]). According to feature 1.2, the attachment has a body having a wall, which refers to the outer surface of the attachment. The term “wall” therefore refers to the outer surface of the attachment, as shown in figure 3a of the patent:



- 76 It is rightfully undisputed amongst the parties that the wall according to feature 1.2 can comprise different "plates" (see below).

## 4. Feature 1.3

*1.3 a fluid inlet at one end of the wall*

- 77 According to feature 1.3, the body has an inlet at one end of the wall. This feature refers to the one (lower) end of the wall which is arranged to be connected to the hand held appliance to provide an inlet for the fluid flow generated by the hand held appliance (see paragraph [0028], and figure 3b).

## 5. Features 1.4, 1.5, 1.6 and 1.8

*1.4 a fluid outlet through the wall*

*1.5 wherein the fluid outlet comprises a slot extending along the wall*

*1.6 the slot is formed by an overlap of a first end of the wall and a second end of the wall*

*1.8 the slot extends longitudinally along the tubular attachment (30)*

### a) Feature 1.4

- 78 According to feature 1.4, the fluid outlet is arranged “*through the wall*”, which means that a fluid can leave the attachment through the tubular outer surface of the attachment.
- 79 This fluid outlet is further characterized in features 1.5 to 1.7, specifying that the fluid outlet must comprise a slot. Feature 1.5 requires that the fluid outlet comprises a slot extending along the wall. The wording “comprises” indicates that the fluid outlet is not limited to the described slot, but that the fluid outlet may also comprise additional openings. In fact, all embodiments shown in the specification have a plurality of slots (cf. e.g. fig. 3a, see above). The slot can comprise spacers, see para. [0008].
- 80 As specified in feature 1.6, at least one slot must be formed by an overlap of a first end of the wall and a second end of a wall. An exemplary embodiment of such overlap is shown in figure 5b:

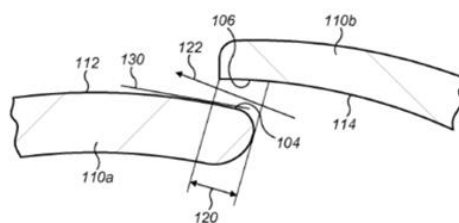


FIG. 5b

### b) Feature 1.5

*1.5 wherein the fluid outlet comprises a slot extending along the wall*

- 81 A “slot” can be defined as long, narrow opening. This general definition in dictionaries (see Exhibit HL 21) is also applicable in the patent where the term “slot” is consistently used to designate a long, narrow opening.
- 82 The term “comprise” clarifies that the outlet needs a slot but can also comprise openings other than a slot. The use of the indefinite article “a” leaves it open for it to comprise more than one slot, as feature 1.5 uses the indefinite article “a” (slot) instead of the numeral “one” (slot). When feature 1.6 refers to “the” slot, it refers to how such a slot mentioned in feature 1.5 needs to be defined. It does not contain any limitation with

respect to the number of slots. Indeed, all figures of the patent show an attachment with multiple slots.

c) Feature 1.6

*1.6 the slot is formed by an overlap of a first end of the wall and a second end of the wall*

aa) Slot

83 Feature 1.6 requires that the slot is formed by the two adjacent wall ends being arranged at a distance so that a slot is formed between them.

84 Para. [0004] clearly indicates a possible plurality of plates forming the wall(s), which can lead to a plurality of slots:

*[0004] Preferably, the wall is formed from at least two plates. It is preferred that a first one of the at least two plates comprises the first end of the wall. Preferably, a second one of the at least two plates comprises the second end of the wall. It is preferred that the first of the at least two plates defines a radially inner surface of the slot. Preferably, the second one of the at least two plates defines a radially outer surface of the slot.*

85 This is confirmed in para [0029] that discloses a plurality of parallel slots:

*[0029] The fluid outlet 100 is formed from a number of parallel slots 102 which extend along the length of the head 30 from the first end 32 to the second end 36. The slots 102 are formed from an overlap 120 (Figure 5b) formed between adjacent plates 110 which results in fluid being directed between a radially inner surface 104 formed from the outer surface 112 of a first plate 110a and a radially outer surface 106 formed from the inner surface 114 of a second plate 110b. [...]*

86 Para. [0029] refers to slots formed by an overlap formed “between adjacent plates”, which deviates from the claim language that does not refer to plates, but to “an overlap of a first end of the wall and a second end of the wall”. Still, para. [0004] discloses that the plates are a part of the wall and that *the wall is formed from at least two plates*. This shows the skilled person that there is no difference when the claim requires that the slot has to be formed by two ends of the wall, as this can be plates forming the wall. In that sense, the wall is to the understanding of the skilled person simply a term for the entire outer frame of the tubular appliance that could consist of several plates forming several overlaps.

87 Figure 5b, which is referred to in para. [0029], also shows a plurality of plates (six), providing that “the wall” has fourteen ends, while twelve of those ends forming six slots, i.e. a pair of ends forming a slot respectively (colouring by Applicant):

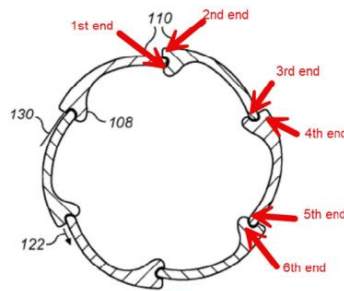


FIG. 5a

bb) Overlap

88 There are only two sections of the description dealing with the “overlap”, one is para [0006] the other para [0029], while only the latter provides some more details on the formation of the overlap [underlining added by the Court]:

*[0029] The fluid outlet 100 is formed from a number of parallel slots 102 which extend along the length of the head 30 from the first end 32 to the second end 36. The slots 102 are formed from an overlap 120 (Figure 5b) formed between adjacent plates 110 which results in fluid being directed between a radially inner surface 104 formed from the outer surface 112 of a first plate 110a and a radially outer surface 106 formed from the inner surface 114 of a second plate 110b. The fluid 122 flowing out of the slot 102 is tangential 130 to the outer surface 112 of the plate 110a and joins with the fluid flowing out of the other slots of the fluid outlet 100 forming a fluid flow around the circumference of the head 30. Thus, the fluid 122 is blown out along the external surface of the head and this encourages hair to wrap around the head 30 automatically.*

89 This sections contains two elements:

- an overlap 120 (Figure 5b) formed between adjacent plates 110,
- which results in fluid being directed between a radially inner surface 104 [...] and a radially outer surface 106.

90 Thus, the objects forming the overlap are *adjacent* plates. The description of the patent does not teach anything about how the overlap is positioned, especially whether there needs to be an overlap in the radial direction of the tubular attachment, or not, apart from being formed between adjacent plates.

91 When turning to the function of a slot being formed by an overlap, the skilled person understands that it is to direct the fluid. Para. [0029] of the patent explains that it is the overlap who is guiding the direction of the fluid flow and is facilitating the usage of the “Coanda” effect for the purposes of curling hair automatically.

92 The Coanda effect is mentioned in para. [0030]:

*[0030] The fluid 122 exiting the slots 102 is attracted to the curved surface of the head 30 by the Coanda effect. This in turn causes hair that is presented to the head 30 to automatically wrap around the surface and then styled into curls. [...]*

- 93 It is a well-known fluid dynamics phenomenon where a directed fast-moving fluid, tends to adhere to a nearby surface, even when the surface curves away from the fluid jet's initial path. This adherence occurs due to the jet entraining surrounding air and creating a lower pressure area near the surface causing the air to “stick” to the surface. Thus, due to the fluid flow around the external surface of the wall, hair is automatically wrapped around the attachment in the direction of the fluid flow. Due to this effect, both, drying hair and/or styling of hair into curls is facilitated, see. para. [0016].
- 94 Position 120 and air-flow 122 are illustrated in figure 5b of the patent, which para. [0029] explicitly refers to (here marked in red by the Defendants):

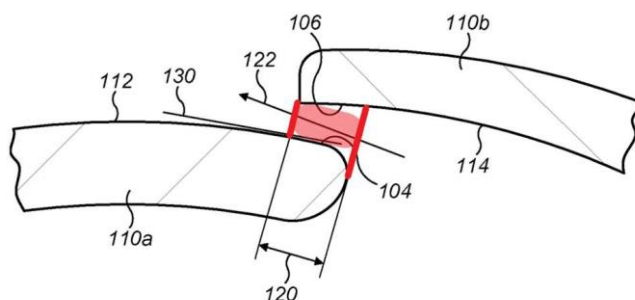
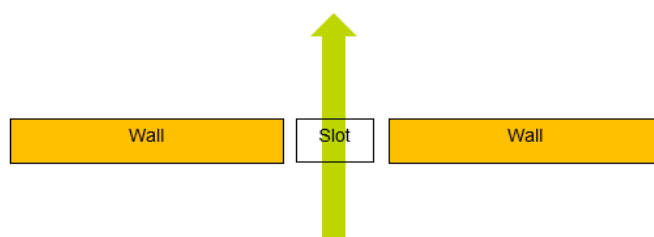


FIG. 5b

- 95 It has to be noted that para. [0029] uses figure 5b to describe the directing of the air flow by stating that fluid *being directed between a radially inner surface 104 formed from the outer surface 112 of a first plate 110a and a radially outer surface 106 formed from the inner surface 114 of a second plate 110b.*
- 96 The Defendants take from this description of the drawing in figure 5b that it would be clear, that the overlap needs to be an overlap in the radial direction of the tubular attachment, i.e. seen from the centre-point of the tube. Or at least, they argue, that the patent teaches a sandwich formation of the wall ends forming a passageway between the two walls, which directs the fluid. As the wall is tubular, the skilled person takes from it, that there has to be a (sandwich-style) overlap. Therefore, the picture construed by the Defendants in their Rejoinder (para 98) would in their view not be in line with the teaching of the patent:



- 97 The panel agrees that the term “overlap” defines a physical-spatial arrangement of how the “slot” is formed, namely by an “overlap” of two wall elements which form a passageway in the region of the overlap. However, the patent does not teach anything from which angle to assess whether the wall ends are *overlapping*. Therefore, the patent is not limited to a physical overlap in the radial direction seen from the centre of the tube.

The patent only requires a configuration that directs the airflow and which is not a planar slot, but a fluid directing “overlap” somewhat perpendicular to the flow of air without the one extending over the other in the radial direction.

- 98 The Applicant rightfully argues that even the margin indicated by number 120 (highlighted in red below, by Applicant) in figure 5b is not radial to the tubular attachment:

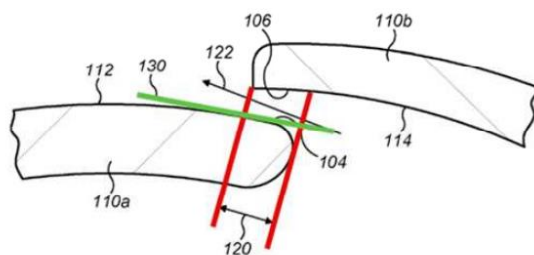


FIG. 5b

- 99 Contrary to the Applicant’s position, however, the overlap is not just providing for a difference in height seen from the cross-section, neither. From a functional perspective a flow path for the fluid outlet is formed by an overlap of the wall ends, namely between the radially inner wall (110a) and the radially outer wall (110b). The patent does not teach that the desired direction of the airflow or the use of the Coanda effect would be reliant on directing the airflow as close as possible to the tubular outer surface of the appliance. To the contrary, functionally, the fluid would still be *directed between a radially inner surface 104 formed from the outer surface 112 of a first plate 110a and a radially outer surface 106 formed from the inner surface 114 of a second plate 110b (para. [0029])*, even if the overlap is not in a radial position with respect to the centre of the tube, but “overlapping” seen from another angle, which is more off-set or seen from the direction of the airflow. That is because, neither the wording of the claim nor the description of the patent makes any reference whatsoever how to construct, estimate or measure the actual overlap

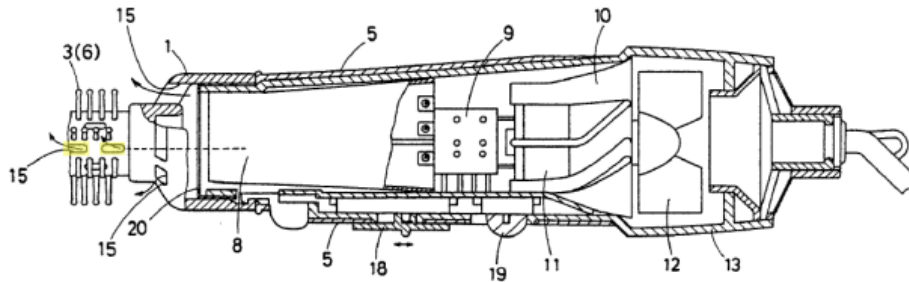
cc) End of the wall

- 100 Additionally, feature 1.6 requires that the slot is formed by the two (from whichever angle) overlapping wall ends being arranged at a distance so that a slot is formed between them, and not simply being an aperture in a through-going wall. A wall, however, can have a plurality of ends and according to para. [0004] a wall can consist of a plurality of plates. This does lead to the understanding, that every end of a plate can be seen as an end of the wall, thus the wall, which is the outer surface of the tubular appliance, can have a plurality of ends. The skilled person takes this from the fact that the attachment is tubular, which is circular and thus normally does not have an end. But the claim cannot be constructed in a way, that simple apertures in the wall, which are not formed by the two ends of the wall (or its plates), fulfil the feature of “a slot” formed by the end of a wall.

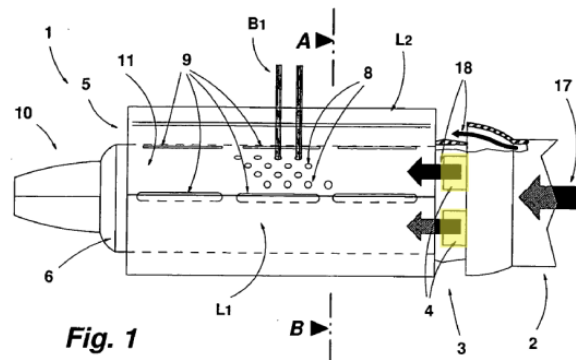


101 This is confirmed by the pieces of prior art the parties referred to and which were cited in the granting procedure. Neither of them showed any slot defined by an overlap, be it by the end of walls or the end plates forming a wall, but simple apertures in an otherwise solid attachment.

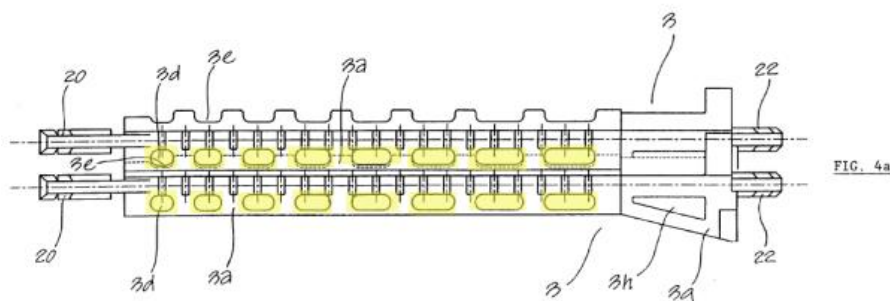
102 This can be seen with respect to JP 62-41606 (cited as “D1”, Exhibit HL 11) as illustrated by its Figure 5 (highlighting added by Defendants):



103 The same is the case with respect to US 2004/0129289 A1 (cited as “D2”, Exhibit HL 12) as illustrated by its Figure 1 (highlighting added by Defendants):



104 Also, the same applies to EP 0 482 906 A1 (cited as “D3”, Exhibit HL 13) with respect to the embodiment shown in figure 4a (highlighting added by Defendants):



105 The granting procedure is not by itself relevant for the interpretation of the claim, but according to the case law of the CoA, the patent claim must be interpreted from the perspective of the person skilled in the art. And the patentee’s assertions during the grant proceedings, and in particular the TBA’s endorsement thereof, can be seen as an indication of the view of the person skilled in the art at the filing date (CoA, decision of

20.12.2024 – UPC\_CoA\_402/2024, GRUR 2025, 396 Rn. 43 – Alexion/Samsung). The Defendants have rightfully laid out, that the EPO’s Examining Division was of the position that slots which are not formed by the two ends of the wall do not fulfil feature 1.6. The panel agrees that it has to be distinguished between a slot in the wall, which does not fulfil feature 1.6, and a slot formed by an overlap of two ends of the wall, as feature 1.6 explicitly requires.

d) Feature 1.8

106 According to feature 1.8, the slot extends longitudinally along the wall of the tubular attachment. The term “longitudinally” characterizes the direction in which the slot shall extend. The claim does not contain any limitation with respect to the length of the slot. While the embodiments show slots that extend along the entire length of the attachment, this is only an optional embodiment (“extends longitudinally”) of the slot.

5. Features 1.9-1.11

*11.9 hair is wrapped around the attachment (30) in the direction of fluid flow*

*1.10 the fluid emitted from the fluid outlet is attracted to an external surface (112) of the wall, and*

*1.11 fluid emitted from the fluid outlet flows around the external surface (112) of the wall*

107 Features 1.10 through 1.12 describe the implementation of the “Coanda effect” for hair styling. Due to the fluid flow around the external surface of the wall, hair is automatically wrapped around the attachment in the direction of the fluid flow, see also para. [0029, 0030]. Due to this effect, both, drying hair and/or styling of hair into curls is facilitated, cf. para. [0016].

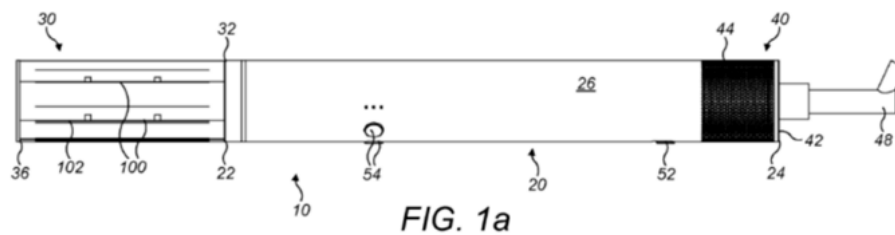
III. CLAIM CONSTRUCTION OF CLAIM 11

1. Features 11.1 and 11.2

*11.1 A hand held appliance comprising*

*11.2 a handle (20) having a fluid flow path from a fluid inlet (40) to a fluid outlet and*

108 Features 11.1 and 11.2 relate to a hand held appliance comprising a handle (20) containing a fluid flow path from a fluid inlet (40) to a fluid outlet. Figure 1a shows an example of an appliance according to the invention:.



## 2. Features 11.3

### 11.3 a fan unit for drawing fluid into the fluid inlet

109 The appliance comprises a fan unit for drawing air into the fluid inlet.

### 3. Feature 11.4

11.4 an attachment (30) as claimed in any preceding claim for attaching to the handle,

110 Feature 11.4 refers to an attachment according to any of the preceding claims, including claim 1, which makes it a dependant claim.

#### 4. Feature 11.5

11.5 wherein the fluid inlet of the attachment (30), when the attachment is attached to the handle,

*is in fluid communication with the fluid outlet of the handle*

111 When the attachment is attached to the handle, feature 11.5 requires a fluid flow  
between the fluid inlet and the fluid outlet.

#### D. INFRINGEMENT

112 Based on the understanding of the features of the patented claims stated above, the products “Dreame Airstyle” and “Dreame Pocket” (“Curling Attachments”) make literal use of the technical teaching of claim 1 and 11 of the patent in suit. The Panel also finds that it is more likely than not that that the patent in suit is infringed by the Defendant’s offer and distribution of these attacked embodiment in the market of the Contracting Member States of the UPCA, and – with regard to Defendants 1) and 3) – the territory of the Kingdom of Spain. However, the products “Dreame Airstyle Pro” and “Dreame Pocket Neo” (“Staggered Curling Attachments”) do not make literal use of the technical teaching of claim 1 and 11 of the patent.

## I. CLAIM 1

113 The Defendants rightly did not dispute that the features 1.1 – 1.5 and 1.7 – 1.11 of claim 1 are implemented, so that no further explanation is necessary in this respect. The

Defendants only object the fulfilment of feature 1.6, hence, only this is discussed in detail below.

1. Attacked embodiments:

114 The Applicant sees two groups of products as attacked embodiment that are patent infringing. The first group are the newer “Dreame Airstyle Pro” and “Dreame Pocket Neo” products, which the Applicant calls “Staggered Curling Attachments”:



Screenshot taken on April 30, 2025 Curling Attachment **Dreame AirStyle Pro** [Dreame Airstyle Pro](https://dreame.de/products/dreame-airstyle-pro)  
(<https://dreame.de/products/dreame-airstyle-pro>)



Screenshot taken on April 30, 2025 Curling Attachment **Dreame Pocket Neo** [Dreame Pocket Neo](https://dreame.de/products/dreame-pocket-neo)  
[Haartrockner](https://dreame.de/products/dreame-pocket-neo) (<https://dreame.de/products/dreame-pocket-neo>)

115 The other group are the “Dreame Airstyle” and “Dreame Pocket” products, which the Applicant calls “Curling Attachments”:



Screenshot taken on April 30, 2025, [Dreame Airstyle Multi-styler and hair dryer – Dreame Sweden](https://se.dreametech.com/products/airstyle)  
(<https://se.dreametech.com/products/airstyle>)



Screenshot taken von April 30, 2025, [Dreame Hair Pocket Hair Dryer – Dreame Sweden](https://se.dreametech.com/products/hair-pocket)  
(<https://se.dreametech.com/products/hair-pocket>)

## 2. “Staggered Curling Attachments”

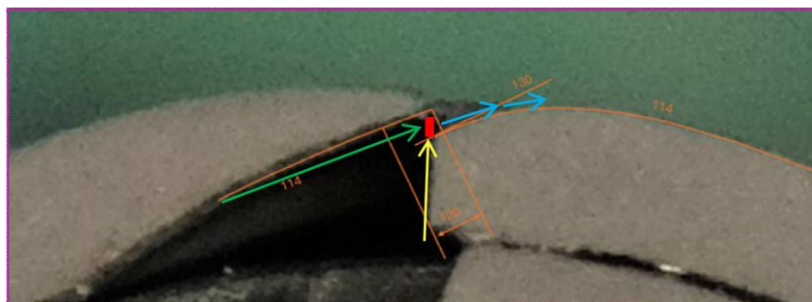
116 Dreame Airstyle Pro and Dreame Pocket Neo products do not make literal use of feature 1.6:

*the slot is formed by an overlap of a first end of the wall and a second end of the wall*

117 These attacked embodiments have multiple apertures in their outside walls (see Application, para. 61 ff):

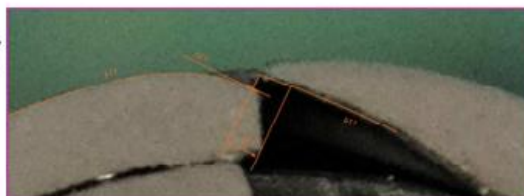
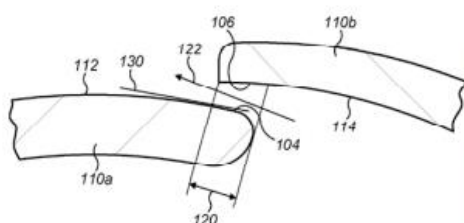


118 There are also overlaps, visible in an enlarged picture of a cross section of a plate from the Staggered Curling Attachment (Application para. 54-56 and Exhibits A 10 [para. 9] and Defendants exhibit HL 24):



119 As stated above, it is only relevant if there is an overlap in the direction of the slot and the fluid flow, while it is not necessary whether there is also an overlap in a radial direction of the tubular attachment.

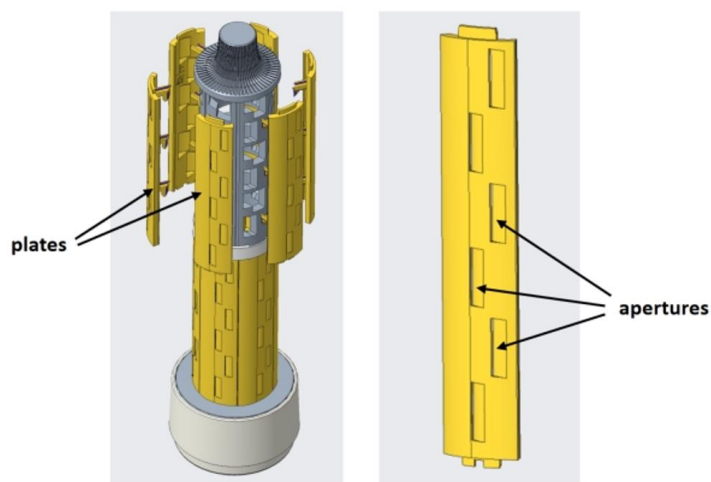
120 The Applicant provided further images in its Reply para. 55 ff. showing the orientation and overlay of the Staggered Curling Attachment that matches the overlap of Fig. 5b of the patent, when tilted:



121 However, the apertures (“slots”) in the “Staggered Curling Attachments” of the “AirStyle Pro” and “Pocket Neo” products are not formed by the ends of a wall. Feature 1.6 requires that the slot is formed by the two (from whichever angle) overlapping ends of a wall (or a plate) being arranged at a distance so that a slot is formed between them. As a wall can have a plurality of ends, and according to para. [0004] can consist of a plurality of plates, every end of a plate could be seen as an end of the wall, thus the wall (which is the outer surface of the tubular appliance) can have a plurality of ends.

122 It is undisputed that in the “Staggered Curling Attachments”, the wall is formed by two circles of six plates, which are attached to an internal support structure. Moreover, there is a spacer ring in the centre as one of the support structures for the upper and lower ring. The Defendants provided as evidence for the structure and physical properties of these products an affidavit / declaration in lieu of oath of Mr. Wenming Nie, R&D Director

of DREAME TECHNOLOGY (SHANGHAI) CO., LTD., (Exhibit HL 17), which the Applicant did not contest. It shows an arrangement of the two circles of six plates illustrated as follows:

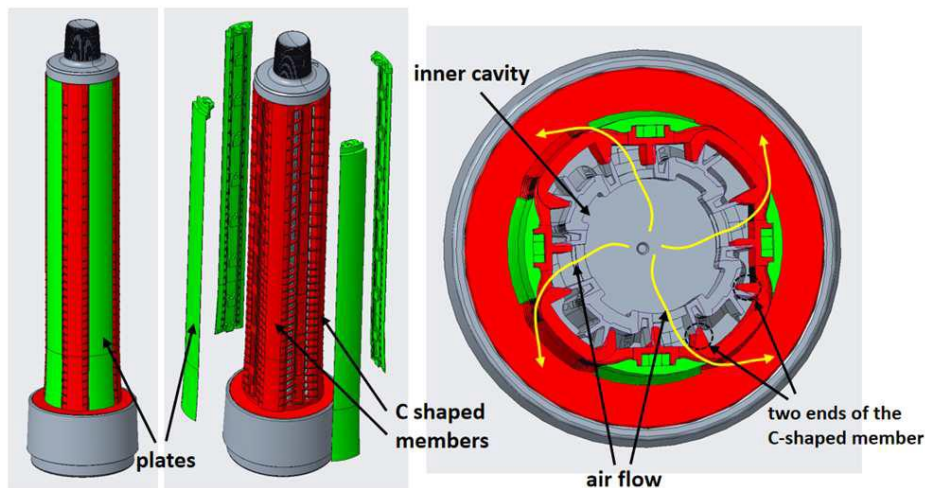


123 The Applicant provided as physical evidence (Exhibit A6) product samples of the Dreame AirStyle Pro and the Dreame Pocket. The Defendants provided as physical evidence a sample of a plate of the “Staggered Curling Attachment” (Exhibit HL 28). These illustrations and the physical evidence confirm that the plates have apertures, but that the plates when fixed to the curling attachment, have no gap and no fluid outlet between the plates. It is undisputed that the air flow can only pass through apertures which are located in the middle of the body of each of the plates. The apertures are arranged in the plates in two offset rows each row having three apertures. Hence, there is no fluid outlet between the end of a wall of any adjacent plate as required by feature 1.6 of the patent. Simple apertures in a through-going wall are not covered by the claim.

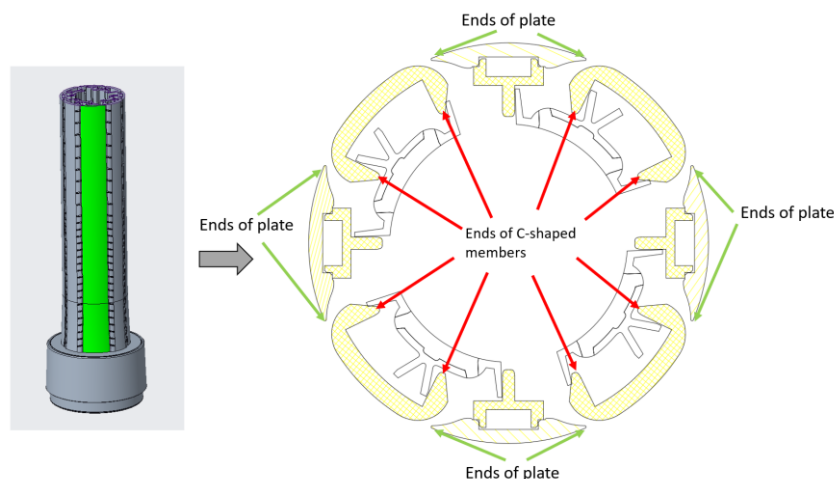
### 3. “Curling Attachment”

124 These attacked groups of products do, however, make literal use of feature 1.6. With regard to this feature the Defendants explained that the “Curling Attachments” of the “Airstyle” and “Pocket” are formed by four plates and four Integral injection moulded C-shaped members spaced apart, wherein the two ends of the C-shaped members extend inwardly such that about one-half of the C-shaped members are disposed in the inner cavity of the curling attachment and the other one-half are exposed on the outer surface, and an air outlet of the curling attachment is formed between the plates and the exposed portions of the C-shaped members (descriptions added by Defendants):





125 It is undisputed that the air flows between the end of a plate (coloured in green) and the curved edge of the C-shaped member (coloured in red). For better understanding the Defendants additionally provided a CAD drawing of a cross-sectional view of the curling attachments of the AirStyle and Pocket products (Exhibit HL 30, with descriptions added by Defendants):



126 Contrary to the Defendants' argumentation, the ends of the C-shaped members do in fact participate in the formation of the slot and the directing of the airflow. This is because the curved edges of the C-shaped members constitute their "ends" in the meaning of feature 1.6 of the patent:

The structure of the "Airstyle" and "Pocket" curling arrangements provide multiple slots formed by the first and second ends of the (green) plates (see sample exhibit HL 28) and the curved edges of the C-shaped members of the main body element. These curved edges qualify as the end of a plate as they are the outermost point in the longitudinal extension of these elements. These outermost points in the longitudinal extension mark the physical boundary of these elements in the longitudinal dimension, not the last part turned inward away from the outermost point. These curved points are adjacent to the end of the other plates (coloured in green).



127 This assessment is confirmed by another consideration: Assumed the C-shaped members were not hollow but solid, they would have an oval shape, leaving no doubt to the skilled person, that the outermost point in the longitudinal extension of an oval member would be its end in the meaning of the patent. As the thickness of a plate is neither defined nor limited in the patent even a solid oval member could without doubt be seen as a plate that constitutes the outer wall. Thus, it is not relevant, that the Defendants chose to shape this element in a hollow form, be it for the purpose of attaching it to the inner body of the tube or be it to fulfil other functions. Feature 1.6 is fulfilled.

## II. CLAIM 11

128 The same applies for an infringement of claim 11. The products “Dreame Airstyle” and “Dreame Pocket” (“Curling Attachments”) make literal use of the technical teaching of claim 11 of the patent in suit, that protects the complete hand held appliance with an attachment according to claim 1. In order to avoid repetition reference is made to the assessment above.

## III. LIABILITY OF THE DEFENDANTS

129 Defendant 1) is liable for the patent infringement in the UPCA countries and in Spain as it is the producer and website operator in European countries and thereby inter alia offering the products, Art. 62 UPCA and Art. 59 of Spanish Patent Act (Law 24/2015). Defendant 2) is liable as the Germany based “Official Distributor of Dreame” and seller. Its liability is limited to UPCA countries as the Court has no jurisdiction regarding the infringement of the Spanish national part of the patent in suit (see above under section B. II. 2. a)). The same applies to Defendant 4), who is the Swedish affiliate to Defendant 1) and runs the country specific website [www.se.dreamtech.com](http://www.se.dreamtech.com) as well as a retail store in Stockholm.

130 It is undisputed that Defendant 3) is the Authorized Representative for Defendant 1). As such it is not physically involved in the distribution of the attacked embodiments. Despite the fact that the Applicant demonstrated by means of a test purchase conducted via the German website (<https://dreame.de/>) that a sticker identifying Defendant 3) as the EU representative was affixed to the packaging of the respective product, this does not qualify Defendant 3) being an infringer in the meaning of Art. 62 and 63 (1) 1st sentence UPCA. It is undisputed that it is Defendant 2), who is the importer for the German market, on which the test purchase took place, not Defendant 3). Defendant 3) does not perform any acts mentioned in Art. 25 UPCA.

131 However, the Applicant can successfully claim that Defendant 3) is an intermediary. Based on its function as Authorized Representative for the non-EU-based manufacturer, Defendant 3) qualifies as an intermediary whose services are essential for the distribution of the attacked embodiments in the European Union, including Spain. As stated above, the legal framework puts Defendant 3) in the role of being an indispensable party in the distribution in the EU for the electronic products in question, which require a CE certificate and declaration of conformity. Without an authorized representative in the EU, Defendant 1) is not legally able to sale the attacked embodiments in the EU.

Reference is made to the assessment above regarding the international jurisdiction (see above under section B. II. 2. b) bb)). Thus, as an intermediary Defendant 3) can also be subject to an injunction, Art. 63 (1) 2nd sentence UPCA.

132 When it comes to the Spanish national part of the patent in suit, an injunction regarding Defendant 3) cannot be based on the UPCA as Spain is not a member of the UPC system. The argument presented by the Applicant, that the above-mentioned sticker on the packaging, identifying Defendant 3) as the EU representative, would be sufficient for holding Defendant 3) liable as an importer under Art. 59 of Spanish Patent Act (Law 24/2015) is not convincing. As Defendant 3) cannot be qualified as an importer, Art. 59 of Spanish Patent Act, which is the Spanish rule corresponding to Art. 25 UPCA, is not applicable. However, the Applicant can successfully claim that, at the very least, Defendant 3) is an intermediary within the meaning of Art. 63 UPCA and under Spanish patent law (see Applicant's Reply, para. 21) and therefore, can be subject to an injunction. As the Applicant rightfully argued in the oral hearing, the Spanish patent act is reliant on EU legislation, including the Enforcement Directive 2004/48/EC. According to Art. 9 (1) (a) 2004/48/EC an interlocutory injunction may also be issued, under the same conditions, against an intermediary whose services are being used by a third party to infringe an intellectual property right. The Applicant undisputedly explained that Art. 71 (2) of the Spanish Patent Act transformed this provision into Spanish national law allowing to grant an injunction against intermediaries whose services are used by a third party to infringe patent rights, even if the acts of such intermediaries do not in themselves constitute an infringement, as long as these measures are objective, proportionate and non-discriminatory. As these criteria are met, Defendant 3) is also subject to an injunction with regard to the Spanish national part of the patent in suit.

#### IV. URGENCY

133 The Applicant did not wait for an unreasonably long time. The Applicant filed the application almost immediately after the publication of grant of the patent in suit and had the attacked embodiment examined.

#### V. WEIGHING OF INTERESTS

134 To the extent the panel recognized an infringement of claim 1 and claim 11, the interests of the Applicant outweigh those of the Defendants. It is therefore justified to grant a preliminary injunction in the case at hand.

##### 1. Principles

135 Pursuant to Art. 62(2) UPCA and Rule 211.3 RoP, the Court weighs the interests of the parties against each other at its discretion, taking into account in particular the possible damage that could arise for one of the parties from the issuance of the Provisional measures or the dismissal of the request (see also UPC Appeal Court, Order of 25 September 2024, UPC\_CFI\_182/2024 – Ortovox Sportartikel v Mammut Sports Group; LD Munich, Order of 27 August 2024, UPC\_CFI\_74/2024 = ACT\_ 9216/2024 – Hand Held Products v. Scandit; LD Düsseldorf, Order of 31 October 2024, UPC\_CFI\_347/2024 = ACT\_37931/2024 – Valeo Electrification v. Magna PT; LD Hamburg, Order of 16 June

2025, UPC\_CFI\_ 281/2025 = ACT 14764/2025). However, the aspects mentioned are not an exclusive list of the circumstances to be taken into account when weighing up interests (see ‘in particular’ in Art. 62(2) UPCA and Rule 211.3 RoP). Rather, all relevant circumstances must be taken into account in the balancing of interests (LD Munich, Order of 27 August 2024, UPC\_CFI\_74/2024 = ACT\_9216/2024 – Hand Held Products v. Scandit). Above all, the balance of interests must take into account the probability of an erroneous decision and also the objective urgency in terms of the necessity of provisional measures with regard to equally possible proceedings on the merits. All aspects are to be weighed against each other in relation to each other.

136 The necessity of also taking these aspects into account in the context of the weighing of interests arises from the relationship between the proceedings on provisional measures under Rule 206 et seq. RoP and possible proceedings on the merits. In procedural terms, the proceedings on the merits are the rule, while the preliminary proceedings, with their summary examination and the possibility of a subsequent legal defence, are the exception (LD Düsseldorf, Order of 31 October 2024, UPC\_CFI\_347/2024 = ACT\_37931/2024 – Valeo Electrification/Magna P). This relationship follows directly from the provisional nature of the order of provisional measures.

137 The necessity of provisional measures may also follow from the fact that there is direct competition between the attacked embodiment and the product of the patent holder (see UPC Court of Appeal, order of 24 February 2025, UPC\_CoA\_540/2024, APL\_52692/2024, Biolitec v Light Guide et al, para. 26).

## 2. Assessment in this case

138 In the present case there are special circumstances justifying an injunction. The Applicant is being deprived of market shares through the distribution of the attacked embodiments, and this situation is being perpetuated. The parties are competitors in the field of hair treatment devices, and the distribution of the infringing devices is very likely to directly affect the Applicant's own sales opportunities, even though there are other competitors on the market. The panel agrees with the Applicant that the patented invention belongs to the main selling factors as the invention directly relates to the hair treatment itself, which provides a significant improvement over other products, in which curling the hair must be achieved by manually wrapping it around the attachment. Moreover, the attacked embodiments are offered for half the price, which is a strong indicator for the risk of loss of market shares and price erosion.

139 Additionally, the product display and offerings by the Defendants of the “Dreame Airstyle” and “Dreame Pocket” products are very much resembling to the actual competing “Airwrap” product of the Applicant. The assertion made by the Defendants that these attacked embodiments are currently not offered in most *major* European countries such as Germany, the UK, the Netherlands, etc., is not relevant, as it leaves undisputed that they are still offered in other European markets. Furthermore, the Defendants have not issued a cease-and-desist declaration regarding these products. On

the other hand, the Defendants are not completely restricted in their business activities, as it can still market the “Staggered Curling Attachments”.

140 For the same reasons these measures are proportionate with regard to Defendant 3) concerning the Spanish national part of the patent in suit, Art. 71 (2) Spanish Patent Law.

## VI. CONCLUSIONS

### 1. Preliminary injunction in part

141 As a result, the Court finds that it is more likely than not that the patent-in-suit is infringed by the Defendants by their offer and distribution of the attacked “Dreame Airstyle” and “Dreame Pocket” products. Furthermore, it is more likely than not that the patent-in-suit is valid. The Defendants have not submitted any substantiated attack on the validity of the patent. Additionally, also third party objections were considered in the granting process.

142 Since the granting of provisional measures is also necessary in terms of time and substance, and since the weighing of interests is also in favour of the Applicant, the Court, exercises its discretion (R. 209.2 RoP) to grant the requested provisional measures, Art. 62 (1), 25 (a) UPCA. Only a preliminary injunction takes into account the Applicant’s interest in the effective enforcement of the patent-in-suit. As a rule, injunctions will cover the territory of those CMS for which the patent has effect, unless certain circumstances justify an exception (Art. 34 UPCA, UPC Court of Appeal, 30.04.2025 - UPC\_CoA\_768/2024, APL\_64374/2024 – Insulet ./ EOFlow). Here, the injunction is to be granted for the Spanish national part of the patent in suit, as well, with respect to Defendants 1) and 3), but not Defendants 2) and 4) for the reasons laid out above. With regard to the “Dreame Airstyle Pro” and “Dreame Pocket Neo” products the application is dismissed due to the lack of likelihood of a patent infringement.

### 2. Penalty payments

143 The threat of penalty payments in the event of non-compliance is based on R. 354.3 RoP. The setting of an overall limit gives the Panel the necessary flexibility to also take into account the Defendant’s behaviour in the event of an infringement and, on that basis, to determine an appropriate penalty payment in accordance with R. 354.4 RoP.

### 3. Security

144 Where appropriate, the enforcement of a decision may, pursuant to Art. 82(2) UPCA, be subject to the provision of security or an equivalent assurance to ensure compensation for any damage suffered, in particular in the case of injunctions. For provisional measures, this is reflected in R. 211.5 RoP, first sentence, which states that the Court may order the applicant to provide adequate security for appropriate compensation for any injury likely to be caused to the defendant, which the applicant may be liable to bear in the event that the Court revokes the order for provisional measures. Furthermore, according to R. 352.1 RoP, decisions and orders may be subject to the rendering of a security (whether by deposit or bank guarantee or otherwise) by a party to the other party for legal costs and other expenses and compensation for any damage incurred or

likely to be incurred by the other party if the decisions and orders are enforced and subsequently revoked.

145 However, the panel does not see the necessity to order an enforcement security. There are no signs that the Applicant, who is a well-known manufacturer, would not be able to reimburse any damages in case the provisional measures are lifted. The Defendants did not request a security, either.

146 According to the case law of the Local Division Hamburg, a decision on the obligation to bear legal costs is justified (Order of 21 February 2025, ORD\_68880/2024, UPC\_CFI\_701/2024; Order of 26 June 2024, ORD\_38032/2024, UPC\_CFI\_124/2024). The Court is of the opinion, like the Court of Appeal (Order of 3 March 2025, UPC\_CoA\_523/2024 – Sumi Agro v. Syngen-ta; Order of 6 August 2024, UPC\_CoA\_335/2024, 10x Genomics et al v. NanoString), that a cost decision should be issued in inter partes proceedings for provisional measures, since it concludes the action.

147 As the Applicant succeeds with one out of two groups of attacked embodiments and is awarded an injunction for two out of four Defendants with respect to the Spanish national part, as well, it appears adequate to order that each party has to bear their own costs.

#### 4. Value

148 The value of the case is set to € 1 million, as indicated by the panel in the oral hearing.

#### ORDER

I.

Defendants 1), 2), 3) and 4) are ordered, by way of preliminary injunction,

a. Defendants 1), 2) and 4) to refrain from making, offering, placing on the market, using, importing or storing for the aforementioned purposes within the territory of the Contracting Member States of the Agreement on a Unified Patent Court (UPCA),

b. Defendant 3) to refrain from providing service for making, offering, placing on the market, using, importing or storing of for the aforementioned purposes within the territory of the Contracting Member States of the Agreement on a Unified Patent Court (UPCA),

c. Defendant 1) and 3) also with respect to the territory of the Kingdom of Spain,

an attachment for a hand held appliance comprising a body having a wall, a fluid inlet at one end of the wall and a fluid outlet through the wall,

wherein:

the fluid outlet comprises a slot extending along the wall, the slot is formed by an overlap of a first end of the wall and a second end of the wall, the attachment is tubular, the slot extends longitudinally along the tubular attachment, hair is wrapped around the

attachment in the direction of fluid flow, the fluid emitted from the fluid outlet is attracted to an external surface of the wall, and fluid emitted from the fluid outlet flows around the external surface of the wall. (Direct infringement of EP 3 119 235, Claim 1);

a hand held appliance comprising a handle having a fluid flow path from a fluid inlet to a fluid outlet and a fan unit for drawing fluid into the fluid inlet and an attachment as claimed in claim 1 for attaching to the handle, wherein the fluid inlet of the attachment, when the attachment is attached to the handle, is in fluid communication with the fluid outlet of the handle. (Direct infringement of EP 3 119 235, Claim 11).

II.

For the remaining parts the application for provisional measures is dismissed.

III.

For each individual case of non-compliance with the order under I., Defendants 1), 2), 3) and 4) must pay a recurring penalty payment of up to EUR 250,000 to the court (repeatedly if necessary). These penalties will be determined by the Local Division in Hamburg upon request by the Applicant (Art. 63(2) UPCA; R. 354).

IV.

Each party has to bear its own costs of the proceedings, except for the court fees, which shall be borne by the Applicant for 50% and by the Defendants for 50%.

V. The orders are immediately effective and enforceable.

#### INFORMATION ON THE APPEAL

Both parties may appeal against this order within 15 days of its notification, Art. 73 (2) lit. a), Art. 62 UPCA, R. 220.1(c), 224.2(b) RoP.

#### INFORMATION ON THE ENFORCEMENT

A certified copy of the enforceable decision or order is issued by the Deputy Registrar at the request of the enforcing party, R. 69 RoP.

#### DETAILS OF THE ORDER

Order no. ORD\_Not provided in ACTION NUMBER: ACT\_20368/2025

UPC number: UPC\_CFI\_387/2025

Action type: Application for provisional measures (RoP206)

SIGNATURES

Presiding judge Sabine Klepsch

Judge rapporteur Dr. Stefan Schilling

Legally qualified judge Stefan Johansson

For the sub-registry