



Mannheim Local Division
UPC_CFI_521/2024
(CCR: UPC_CFI_105/2025)

Procedural Order
of the Court of First Instance of the Unified Patent Court
issued on 27 August 2025
concerning EP 1 697 604
concerning App_35089/2025
(request to disregard submissions)

CLAIMANT/APPLICANT:

Decathlon
4 boulevard de Mons - 59665 - Villeneuve
d'Ascq - FR

Represented by
Konstantin Schallmoser

DEFENDANTS:

1) **OWIM GmbH & Co. KG**
Stiftsbergstraße 1 - Neckarsulm - 74172 - DE

Represented by Niclas Gajeck

2) **Lidl Digital Deutschland GmbH & Co. KG**
Stiftsbergstraße 1 - 74172 - Neckarsulm - DE

Represented by Niclas Gajeck

3) **Lidl Belgium GmbH & Co. KG**
Stiftsbergstraße 1 - 74172 - Neckarsulm - DE

Represented by Niclas Gajeck

4) **Kaufland Marketplace GmbH**
Stiftsbergstraße 1 - 74172 - Neckarsulm - DE

Represented by Niclas Gajeck

5) **Lidl Italia S.r.l.**
Via Augusto Ruffo 36 - 37040 - Arcole (VR) - IT

Represented by Niclas Gajeck

PATENT AT ISSUE:

European patent EP 1 697 604

PANEL/DIVISION:

Panel of the Local Division in Mannheim

DECIDING JUDGES:

This order was issued by the legally qualified judge Böttcher acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: Patent infringement action – request to disregard submissions

BRIEF SUMMARY OF THE FACTS:

The Claimant requests to disregard submissions contained in Defendants' rejoinder to the application to amend the patent ("AA") and relating to the validity of the patent-in-suit as granted.

The rejoinder AA dated 11 August 2025 is entitled "Reply to the Statement of Rejoinder to the Counterclaim for Revocation and Reply to the Statement of Reply to the Application to Amend the Patent". On pages 3 to 14, it contains arguments regarding the alleged invalidity of claim 1 of the patent-in-suit as granted.

The Claimant does not claim that new arguments have been put forward, but points out that the Rules of Procedure restrict the content of the rejoinder AA to a response to the reply to the defence to the application to amend the patent.

The Defendants oppose the request. They argue that the impugned part of their rejoinder AA does not contain any new facts or evidence but merely provides a summary of Claimant's and Defendants' arguments, simply for the convenience of the court in preparation of the oral hearing.

The Claimant requests

that said part of the Defendant's writ (p. 3 to 13) will be excluded from the proceedings and that the Court confirms this exclusion;

in the alternative

that the Claimant shall have the opportunity to reply to this part within a time period of three weeks, according to the principles of fairness and equity.

The Defendants request that

I. Claimant's requests are dismissed.

- II. Defendants' written statement of 11 August 2025 is admitted in its entirety.

In the alternative, they request that

- I. Defendants' written statement of 11 August 2025 is admitted in its entirety.
- II. the Claimant is granted the opportunity to reply to the contents on pages 3-13 of Defendants' written statement of 11 August 2025 within a time period of three weeks.

REASONS FOR THE ORDER:

The order finds its base in R. 9.2 RoP and R. 36 RoP.

1. Pursuant to R. 9.2 RoP, the Court may disregard any step, fact, evidence or argument which a party has not taken or submitted in accordance with a time limit set by the Court or the Rules of Procedures. According to R. 36 RoP, any written submission in addition to the written pleadings provided for in the RoP requires permission by the court. It follows that the court may, at its discretion, disregard not only unsolicited written submissions in addition to the regular written pleadings provided for in the RoP, but also the content of regular written pleadings that goes beyond the admissible content provided for in the RoP.

According to R. 32.3 RoP, the content of the rejoinder AA shall be limited to matters raised in the reply AA.

Contrary to Defendants, this restriction applies not only to new arguments or facts but to any submission that goes beyond the matters raised in the reply AA. It is therefore irrelevant whether the part that goes beyond the content permitted under R. 32.3 RoP merely contains a summary of the parties' arguments on the validity/invalidity of the patent as granted. Otherwise, the claimant of a counterclaim for revocation who files the last written submission in the written procedure in the event of an AA would have an inappropriate advantage over the patent owner for whom no further regular written submission is provided for in the written procedure in which a summary of the parties' arguments could be included. Furthermore, it is up to the judge-rapporteur to ask the parties for a summary if the court wishes to obtain one (cf. R. 101.1 RoP in conjunction with R. 103.1 (d), R. 104 (e) RoP).

2. Applying these principles, the excess part of the Defendants' rejoinder AA is disregarded.

According Defendants' own statements, the excess part of their rejoinder AA only contains a mere summary of the parties' arguments regarding the validity/invalidity of the patent-in-suit as granted. Even if this were true, there is no need to allow such an alleged summary. Taking all circumstances of the individual case and the interests of the parties into account, this part of the rejoinder AA is therefore rejected. The court has an interest in not allowing unsolicited alleged summaries of the parties' arguments on the validity/invalidity of the patent-in-suit outside the regular pleading regime provided for in the RoP.

ORDER

1. The part of Defendants' rejoinder AA dated 11 August 2025 that relates to the validity/invalidity of the patent-in-suit as granted (for ease of reference, cf. p. 3 to 14 (up to and including para. 69)) is disregarded.
2. The parties are informed that the judge-rapporteur intends to close the written procedure on 1 September 2025 (R. 35 (a) RoP).

ORDER DETAILS

Order no. ORD_35195/2025 in ACTION NUMBER: ACT_51095/2024

UPC number: UPC_CFI_105/2025

Action type: Infringement Action

Related proceeding no. Application No.: 35089/2025

Application Type: Generic procedural Application

Issued in Mannheim on 27 August 2025

NAME AND SIGNATURE

Böttcher

Judge-rapporteur