



Mannheim local division
UPC_CFI_611/2025

Order
of the Court of First Instance of the Unified Patent Court issued on 1
October 2025
concerning preliminary objection pursuant to R. 19 RoP

GUIDING PRINCIPLES:

1. For the purposes of establishing international jurisdiction under Article 4(1) and Article 63(1) of Regulation (EU) No 1215/2012 (Brussels Ia Regulation), it is sufficient to establish that the defendant is domiciled in the EU Member State of the court seised. In the case of a joint court of EU Member States, pursuant to Art. 71b (1) Brussels Ia Regulation, it is sufficient to demonstrate that the seat is located in one of the states in which the joint court is established, as was the case in the dispute.
2. The preliminary objection pursuant to Rule 19 of the RoP is an internal procedural remedy and cannot bring about a decision on the merits of the case. Therefore, no decision on the obligation to bear the associated costs is necessary.

KEYWORDS: preliminary objection; international and territorial jurisdiction of the UPC Agreement; non-UPC Agreement contracting states

Claimant:

Robert Bosch GmbH,
Robert-Bosch-Platz 1, 70839, Gerlingen, DE

Represented by
Johannes HESELBERGER,
Bardehle Pagenberg

DEFENDANT:

1) **Grizzly Tools GmbH & Co. KG,**
Stockstädter Str. 20, 63762, Großostheim, DE

Represented by
Ulrich BLUMENRÖDER, Grünecker

2) **Lidl Digital Deutschland GmbH & Co. KG,**
Bonfelder Str. 2, 74206, Bad Wimpfen, DE

Represented by
Karsten KÖNIGER, Harmsen Utescher

- | | | |
|----|---|---|
| 3) | Lidl Dienstleistung GmbH & Co. KG,
Bonfelder Straße 2, 74206, Bad Wimpfen, DE | Represented by
Karsten KÖNIGER, Harmsen Utescher |
| | | |
| 4) | Lidl Stiftung & Co. KG,
Stiftsbergstraße 1, 74172, Neckarsulm, DE | Represented by
Karsten KÖNIGER, Harmsen Utescher |

PATENT IN SUIT:

European Patent No. EP 3 030 383 PANEL/CHAMBER:

Judicial panel of the Mannheim local division

PARTICIPATING JUDGES:

This order was issued by legally qualified judge Zhilova as rapporteur.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT: Action for damages

Here – preliminary objections pursuant to

Rule 19 of the RoP BRIEF SUMMARY OF THE FACTS

1. The claimant is suing the defendants for infringement of European patent EP 3 030 383 B1 in the Federal Republic of Germany (DE), Spain (ES), France (FR), Great Britain (GB), Italy (IT) and Poland (PL).
2. Defendant 1 and Defendants 2 to 4 have filed separate preliminary objections challenging the jurisdiction of the court for claims relating to the non-UPC Agreement member states Poland, Spain and the United Kingdom or Great Britain.
3. The defendant argue that the claimant has not sufficiently substantiated jurisdiction. There is a lack of sufficient argumentation regarding the facts giving rise to the claims and the relevant national legal bases for the claims.
4. The first defendant further argues that the UPC lacks international and territorial jurisdiction over non-UPC Agreement member states such as Poland, Spain and the United Kingdom, as Article 34 of the UPC Agreement contains a territorial limitation. This limitation cannot be overcome by the Brussels I Regulation and the principles established by the Court of Justice of the European Union in the BSH Hausgeräte case. Rather, Article 71a of the Brussels Ia Regulation expressly refers to the barriers established by an agreement to establish a common court of EU Member States such as the UPC Agreement. This understanding is further reinforced by Article 71b(3) Brussels Ia

Regulation confirmed. The otherwise necessary requirement to bring separate actions for annulment in non-UPC Agreement member states also infringes on the defendant's right to a fair trial under Article 6 of the ECHR and jeopardises legal certainty due to the risk of conflicting decisions. Furthermore, the sovereignty of third countries would be undermined, as the UPC would apply national law there and issue decisions whose enforceability in those countries would be highly doubtful.

5. The claimant contests the preliminary objections with reference to Article 4(1) of the Brussels Ia Regulation and the principles established in the decision of the Court of Justice of the European Union in the BSH Hausgeräte case. Neither Article 34 of the UPC Agreement nor Article 71b of the Brussels Ia Regulation justify a different outcome. The statements on acts of infringement in the statement of claim are sufficient. In addition, the claimant submits arguments on alleged acts of infringement and national law in Poland, Spain and the United Kingdom.
6. For further details, please refer to the exchanged documents. APPLICATIONS BY

THE PARTIES

7. The first defendant requests
 - that the preliminary objection under Rule 19 of the RoP be upheld.
 - dismissing the action on the grounds of lack of jurisdiction insofar as it relates to the alleged infringement of the patent in suit in Poland, Spain and the United Kingdom.
 - that the preliminary objection be decided by way of an interim decision in accordance with Rule 20.1 of the RoP.
 - that the claimant be ordered to pay the costs of the opposition proceedings.
8. Defendants 2 to 4 request that the action be dismissed as inadmissible at this stage.
9. The claimant requests that
 - that the preliminary objection be dismissed.
 - to impose the costs of the appeal proceedings on the first defendant and the second to fourth defendants.

REASONS FOR THE ORDER

The admissible, in particular time-limit compliant preliminary objections pursuant to Rule 19 of the RoP are unfounded.

A. The international jurisdiction of the UPC

Jurisdiction based on the defendant's registered office

1. International jurisdiction for the defendants domiciled in Germany follows for claims of infringement of the Polish, Spanish and British parts of the patent in suit from Art. 31 UPC Agreement, Art. 71b(1), Art. 4 (1), Art. 63 (1) Regulation (EU) No 1215/2012 (Brussels Ia Regulation).

- a. According to Art. 31 UPC Agreement, Art. 71b(1) Brussels Ia Regulation, a common court of EU Member States, such as the UPC, has jurisdiction if the courts of an EU Member State that is party to the agreement establishing the common court would have jurisdiction under the Brussels Ia Regulation for the subject matter covered by the agreement, if the common court were disregarded.
 - b. In the event of a dispute, international jurisdiction therefore arises from Art. 31 UPC Agreement, Art. 71b(1), Art. 4 (1), Art. 63 (1) Brussels Ia Regulation.
2. Without the UPC Agreement, the German national courts would have jurisdiction in this case under Article 4(1) and Article 63(1) Brussels Ia Regulation because the respective defendants are based in Germany. The international connection required for the application of Art. 4 (1) Brussels Ia Regulation arises from the location of the asserted patent right in Poland, Spain and the United Kingdom, respectively (see ECJ, judgment of 8 September 2022, C-399/21, para. 27 et seq. – IRnova; judgment of 1 March 2005, C-281/02, para. 26 – Owusu).
3. According to Article 71b(1) of the Brussels Ia Regulation, the UPC has international jurisdiction if the courts of an UPC Agreement member state would otherwise have jurisdiction.

Jurisdiction based on the place of the offence

4. The jurisdiction under Article 4(1) of the Brussels Ia Regulation also applies to actions for infringement of a patent right in another EU Member State or a third country, even if the defendant invokes the lack of legal validity of the patent right (see ECJ, judgment of 25 February 2025, C-339/22, para. 52, 61 – BSH Hausgeräte).
5. In this respect, neither Article 24(4) of the Brussels Ia Regulation nor general principles of international law preclude this, as long as the requested decision has no effect on the existence or content of the foreign patent right and does not lead to a change in the national register. If the legal dispute concerns the validity of patent law in a third country, Articles 73(1), 73(3), 33 and 34 of the Brussels Ia Regulation must also be given priority in this respect (see ECJ, loc. cit., para. 74, paras. 62 to 65). In the present case, this does not result in any restriction.
6. Contrary to the opinion of defendants 2 to 4, Article 4(1) of the Brussels Ia Regulation and the principles established by the Court of Justice of the European Union in its decision in BSH Hausgeräte apply without restriction to the jurisdiction of the UPC (see Local Division Paris, order of 21 March 2025, UPC_CFI_702/2024; Local division Milan, order of 8 April 2025, UPC_CFI_792/2024; Local division Munich, order of 14 April 2025, UPC_CFI_566/2024, 39/2025; Local division Milan, order of 15 April 2025, UPC_CFI_792/2024; Local Division Paris, decision of 23 May 2025, UPC_CFI_163/2024; Local Division Mannheim, decisions of 18 July 2025, UPC_CFI_359/2023, 365/2023; Local Division Hamburg, order of 14 August 2025, 387/2025; already prior to the decision in BSH Hausgeräte: Local Division Düsseldorf, decision of 28 January 2025, UPC_CFI_355/2023).
7. Contrary to the opinion of defendants 2 to 4, the provision of Article 71b(3) of the Brussels Ia Regulation, which is in any case not applicable here due to the defendants' registered office in Germany, does not restrict the jurisdiction established by Article 4(1) of the Brussels Ia Regulation. Rather, in light of the Shevill doctrine (ECJ, judgment of 7 March 1995, C-

68/93, ECR 1995 I-415 (416 f.)), the jurisdiction of the court at the place of the tort under Article 71b (2), Art. 7 No. 2 Brussels Ia Regulation (Stein/Koller, 23rd ed., EuGVVO Art. 71b marginal no. 10; Bopp/Kircher, EurPatentprozess-HdB/Kircher, § 13 marginal no. 19 ff.).

B. The territorial jurisdiction of the UPC

8. Article 34 of the UPC Agreement refers to the scope of the decisions (UPC_CFI_159/2024, LD Mannheim, decision of 11 March 2025; UPC_GFI_163/2024, LD Paris, decision of 23 May 2025). The provision does not concern – based on its title and content – the international jurisdiction of the UPC, which is regulated in Article 31 UPC Agreement, but primarily the territorial scope of the effects of decisions of the UPC. The territorial scope of a decision of the UPC therefore does not concern issues that fall within the scope of Rule 19 RoP.
9. Contrary to the opinion of defendants 2 to 4, Article 34 UPC Agreement also does not imply any restriction of the international or territorial jurisdiction of the UPC Agreement to national parts of a European patent that are validated in non-UPC Agreement contracting states.
10. This is therefore a provision within the meaning of Article 71d, second sentence, of the Brussels Ia Regulation, which refers to the Agreement establishing a Common Court of Justice insofar as it concerns the recognition and enforcement of decisions of the Common Court of Justice in an EU Member State that is a party to the Agreement. Accordingly, the decisions of the UPC are automatically recognised in the UPC Agreement member states in accordance with Article 34 UPC Agreement and are enforceable there in accordance with Article 82 UPC Agreement. They are therefore not subject to recognition and enforcement in accordance with Chapter III of the Brussels Ia Regulation, in particular not to refusal of recognition and enforcement in accordance with Subsection 3.
11. Apart from that, there is no evidence that the UPC Agreement member states transferred jurisdiction for their national parts of a European patent to the UPC, subject to the transitional period under Article 83 UPC Agreement, but wanted to retain jurisdiction for national parts of non-UPC Agreement member states for their national courts. (see local division Düsseldorf, decision of 28 January 2025, UPC_CFI_355/2023, p. 23; local division Mannheim, decisions of 18 July 2025, UPC_CFI_359/2024, para. 38, UPC_CFI_365, para. 34). Against this background, it can be left open whether Article 71b(1) of the Brussels Ia Regulation would even allow the Convention establishing a common court to provide for territorial restrictions for a specific area of law, in particular deviating from Article 4(1) of the Brussels Ia Regulation.
12. The international jurisdiction of the UPC Agreement, established in accordance with the principles of the ECJ decision in BSH Hausgeräte, does not violate the sovereignty of non-UPC Agreement contracting states.
13. Just as EU Member States cannot avoid the international jurisdiction of the courts of another EU Member State for actions for infringement of their patents, as established in accordance with the principles of the ECJ decision in BSH Hausgeräte, they cannot avoid other EU Member States transferring this jurisdiction to a common court in accordance with Articles 71a and 71b of the Brussels Ia Regulation. In both cases, they must recognise and enforce the judgments rendered in accordance with Chapter III of the Brussels Ia Regulation (see Article 71d(1)(a) of the Brussels Ia Regulation).

14. Any concerns as to whether a third country will recognise a decision of the UPC concerning the infringement of its national part and whether it is enforceable there are no different from those arising in the case of a corresponding decision by the national courts of an EU Member State. As in the case of a national court, such concerns do not justify any deviation from the principles of the ECJ decision in BSH Hausgeräte, nor do they exclude the jurisdiction of the UPC in favour of the jurisdiction of the national courts of its Member States.
15. Contrary to the opinion of defendants 2 to 4, it does not violate the right to a fair trial under Article 6 of the ECHR if defendants have to bring a separate action for annulment against the national part of a European patent validated in a non-UPC Agreement member state in order to defend themselves. Nor does it jeopardise legal certainty, as divergent decisions would be unavoidable.
16. As in the case of a patent infringement action before the national courts of an EU Member State, the defendant can reasonably be expected to assert the invalidity before the national courts of the other validation state (see ECJ, judgment of 25 February 2025, C-339/22, para. 52, 61 – BSH Hausgeräte). The risk of a conviction based on a patent that is later found to be invalid in invalidity proceedings before the competent authorities of the validation state can, if necessary, be countered by suspending the infringement proceedings (see ECJ, loc. cit., para. 51, 65). In this context, the risk of conflicting decisions is no different than before national courts.
17. Contrary to the defendant's view, the UPC's jurisdiction in the present case does not fail due to insufficient evidence of infringement in Poland, Spain or the United Kingdom.
18. For the purposes of establishing international jurisdiction under Article 4(1) of the Brussels Ia Regulation, it is sufficient to demonstrate that the defendant is domiciled within the meaning of that provision, possibly in conjunction with Article 63(1) of the Brussels Ia Regulation, in the EU Member State of the court seised. In the case of a joint court of EU Member States, Art. 71b (1) Brussels Ia Regulation accordingly suffices – as was the case in the dispute – to demonstrate that the seat is in one of the states of establishment of the joint court.
19. In contrast, the question of whether the statement of claim justifies the claims asserted in the court of jurisdiction pursuant to Article 4(1) of the Brussels Ia Regulation concerns only the merits of the claim. In the present case, it is therefore irrelevant whether acts of infringement in the non-UPC Agreement contracting states in question have not been sufficiently demonstrated, as the defendant argues. Furthermore, any formal defects in the statement of claim (see Rule 13 of the RoP) are not admissible grounds for objection under Rule 19.1 of the RoP.
20. Since the preliminary objections are unfounded, there is no need to consider in detail at this point whether it makes a difference that the infringement action and the preliminary objections of defendants 2 to 4 relate to Great Britain, while defendant 1 refers to the United Kingdom.

C. appeal

21. No appeal is permitted.

22. In view of the large number of orders and decisions issued by several local divisions to implement the ECJ ruling in the BSH Hausgeräte case, the Court of Appeal will in any case deal with the related issues. The decisions of the Court of Appeal that are to be expected by then can be taken into account in the decision on the merits of the present proceedings. Until then, the parties must argue that the patent in suit has been infringed in Poland, Spain and Great Britain or the United Kingdom, at the risk that this argument may ultimately prove superfluous. However, the additional effort involved is comparatively minor and does not justify separate proceedings before the Court of Appeal in addition to the appeal proceedings in which decisions on international jurisdiction for infringement actions relating to national parts of a European patent from non-UPC Agreement contracting states are pending anyway. This is all the more true since, as far as can be seen, the decisions handed down to date by the court of first instance, including the local division in Mannheim, have assumed unrestricted international jurisdiction in accordance with the BSH Hausgeräte decision.

D. Costs

23. The preliminary objection pursuant to Rule 19 of the RoP is an internal procedural remedy and cannot bring about a decision on the merits of the case. Therefore, no decision on the obligation to bear the associated costs is necessary.

24. Consequently, the costs incurred by the successful party in this step can be claimed and determined in the context of the proceedings for the decision on costs in connection with the concluded main proceedings.

ORDER:

1. The preliminary objections of the first defendant and the second to fourth defendants are dismissed.
2. The decision on the costs of the opposition proceedings is reserved for the decision on costs in the main proceedings.
3. No appeal is permitted.

Issued in Mannheim on 1 October 2025

NAME AND SIGNATURE

Tatyana Zhilova
Rapporteur

Signature
Tatyana Zhilova
numérique de
Tatyana Zhilova
Date: 1 October 2025
16:44:26 +02'00'