



Düsseldorf Local Division
UPC_CFI_807/2024
UPC_CFI_334/2025

Order
of the Court of First Instance of the Unified Patent Court
issued on 14 October 2025
concerning EP 1 905 615

CLAIMANT:

Wonderland Nurserygoods Co., Ltd., represented by the president, 10F, No. 433 Rui Kwang Road, Neihu, 114 Taipei, Taiwan

represented by: Attorney-at-law Dr Jan Philipp Rektorschek, Attorney-at-law Julia Fischer and Attorney-at-law Tobias Baus and all professional representatives admitted to practice before the Unified Patent Court of PENTARC Rechtsanwälte PartGmbH, Schmellerstraße 4, 80337 Munich, Germany

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contributing: Patent Attorney Dr Tim Oppermann and all professional representatives admitted to practice before the Unified Patent Court of Pfenning, Meining & Partner mbB, Joachimsthaler Str. 12, 10719 Berlin, Germany

DEFENDANTS:

1. **Cybex GmbH**, Riedinger Strasse 18, 95448 Bayreuth, Germany
2. **Cybex Retail GmbH**, Riedinger Strasse 18, 95448 Bayreuth, Germany
3. **Columbus Trading-Partners GmbH & Co. KG**, Riedinger Strasse 18, 95448 Bayreuth, Germany

represented by: Attorney-at-law Dr Michael Nieder, Patent Attorney Tilman Pfrang, Attorney-at-law Niels Schuh, Meissner Bolte Patentanwälte Rechtsanwälte Partnerschaft mbB, Widenmayerstraße 47, 80538 Munich, Germany

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PATENT AT ISSUE:

European patent n° EP 1 905 615

PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This order was issued by Presiding Judge Thomas, legally qualified Judge Dr Schumacher acting as judge-rapporteur, legally qualified Judge Bessaud and technically qualified Judge Roselinger.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: R. 333 RoP – Review of case management orders

SUMMARY OF THE FACTS:

1. The Claimant filed an infringement action against the Defendants. The action was based on an infringement by equivalence of independent claim 1 and dependent claims 4, 6, 8, 9, 10 and 11 of the European patent with unitary effect EP 1 905 615 (hereinafter: patent in suit). The Claimant did not assert literal infringement. The infringement action is directed against the sale and distribution of several strollers having swivel locking devices (hereinafter: challenged embodiment).
2. Claim 1 of the patent in suit reads as follows, divided into features as set out by the Claimant in the Statement of claim:
 - 1.1 A swivel locking device for stroller wheel, comprising:
 - 1.2 a seat;
 - 1.3 a wheel bearing assembly coupled to the seat, capable of rotating with respect to the seat and comprising a wheel bearing and a base coupled to the wheel bearing;
 - 1.4 a locking pin disposed on the wheel bearing assembly so as to move between a first position where the locking pin is coupled to the seat and the wheel bearing assembly is unable to rotate around the seat and a second position where the locking pin is decoupled to the seat to allow the rotation between the seat and the wheel bearing assembly;
 - 1.5 a biasing member, which normally biases the locking pin to the first position; and
 - 1.6 an operating member coupled to the wheel bearing assembly so as to move between a locked position and an unlocked position,
 - 1.7 wherein the operating member is operatively coupled to the locking pin such that movement of the operating member toward the locked position causes the locking pin to move toward the first position, and
 - 1.8 the movement of the operating member toward the unlocked position causes the locking pin to move toward the second position;

- 1.9 characterized in that a cavity is formed on the base of the wheel bearing assembly for receiving the seat and
- 1.10 comprises a clasp mechanism therein for restricting the movement of the seat along an axis of the cavity.
3. In the Statement of claim, the Claimant alleged that the challenged embodiment uses features 1.4 and 1.6 of independent claim 1 by equivalent means, while all other features are implemented literally.
 4. In their Statement of defence, the Defendants contested, inter alia, infringement with regard to features 1.9 and 1.10.
 5. On 16 June 2025, the Claimant filed a Reply to the Statement of defence, in which it further discussed the presence of features 1.9 and 1.10. In addition, if the Court were to find that the challenged embodiment did not infringe features 1.9 and 1.10 literally, the Claimant argued that infringement by equivalence would also apply to these features.
 6. On the same day, the Claimant filed an application for leave to change claim. The Claimant sought leave to, inter alia, add an auxiliary request claiming infringement by equivalence also with regard to features 1.9 and 1.10. The Defendants objected to the application.
 7. By Procedural Order of 29 August 2025, the judge-rapporteur denied the Claimant's application for leave to change claim. The dismissal was essentially based on the fact that, according to the judge-rapporteur, R. 263 RoP does not apply to the extension of the equivalence argument in the case at hand.
 8. On 15 September 2025 (Monday), the Defendants requested a panel review of the judge-rapporteur's order of 29 August 2025 (hereinafter: order under review).
 9. The Defendants argue that they are concerned by the order under review, as they believe the reasoning is disadvantageous to them. They also reiterate their view that the claims based on literal infringement and those on equivalent infringement describe totally different products, or at least product parts. In particular, the Defendants argue that the judge-rapporteur was wrong to state that all components of the allegedly infringing embodiment now invoked under the auxiliary request have already been identified in the Statement of claim. On the contrary, the newly argued 'cavity' and 'clasp mechanism' – the very parts targeted by the auxiliary request – were not identified at all in the Statement of claim, nor in the figures shown. According to the Defendants, these components appear for the first time in the Reply to the Statement of defence.
 10. The Claimant considers the request for a panel review to be inadmissible. The Defendants are not disadvantaged by the order under review, as it rejected the Claimant's application. Furthermore, the Claimant argues that the order under review correctly states that all components involved are part of the challenged embodiment, as set out in the Statement of claim. According to the Claimant, it was entirely clear from the Statement of claim which structure (swivel locking device) of the attacked stroller is subject of the lawsuit. The fact that the components of the structure are assigned to the features of claim 1 differently for the sake of the extended equivalence argument does not change this; rather, it lies in the

nature of the doctrine of equivalence. The Claimant also refers to the photographs shown e.g. in par. 79 and 89 of the Statement of claim, and argues that they obviously display the identical parts and sections as the photographs shown in par. 248 of the Reply to the Statement of defence.

REQUESTS:

11. The Defendants request:

to confirm the denial of the Claimant's application for leave to change the claim, but based on the reasoning that in the case at hand the auxiliary request II.a. would need a leave according to R. 263 RoP, which, however, cannot be granted.

12. The Claimant requests:

to deny the Defendants' request for panel review as inadmissible,

in the alternative,

to confirm the judge-rapporteur's Procedural Order dated 29 August 2025.

GROUND FOR THE ORDER:

13. The Defendants' request for a panel review is admissible, but unsuccessful on the merits.

1. Admissibility

14. Pursuant to R. 333.1 RoP, case management decisions or orders made by the judge-rapporteur shall be reviewed by the panel, on a reasoned application by a party. R. 333.2 RoP states that the application shall be lodged within 15 days of service of the order and shall set out the grounds for review and the evidence, if any, in support of the grounds.

15. These requirements have been met.

16. The order under review is a case management order, which is subject to review by the panel. The Defendants have also justified their request and thus submitted a 'reasoned application'. The deadline specified in R. 333.2 RoP has been met.

17. Admissibility is not precluded by the fact that the Defendants are only requesting a change to the reasoning of the order under review, while the denial of the Claimant's application shall remain unchanged. An application under R. 333 RoP does not require a party to be adversely affected by the order under review. Unlike R. 220.1 RoP ("An appeal by a party adversely affected may be brought ..."), R. 333 RoP does not mention such a requirement. This is also consistent with the broad scope of an application under R. 333 RoP (see UPC_CoA_651/2024, Order of 14 January 2025, par. 13 – Total Semiconductor v. Texas Instruments).

2. Decision on the merits

18. The Defendants only object to the reasoning regarding the extension of the equivalence argument to features 1.9 and 1.10. Insofar as the order under review deals with other issues (see par. 20, 21), these do not require explanation.
19. With regard to the extension of the equivalence argument, the panel confirms the judge-rapporteur's order on the basis of the same considerations.
20. As not contested by the Defendants, the order under review is based on correct legal standard, in particular the Court of Appeal's order of 21 November 2024 (UPC_CoA_456/2024, par. 24 – OrthoApnea v. ***). In this order, the Court of Appeals stated that the equivalence argument does not necessarily change the nature or scope of the dispute. In the case at question, the Court of Appeal stated that the equivalence argument was in line with the infringement argument put forward by the respondent in the statement of claim. The equivalence argument was based on the same patent and directed against the same product. Like the argument of literal infringement, the equivalence argument, in the particular case, concerned the extent of protection conferred by the patent in issue under Art. 69 (1) EPC and the Protocol on the Interpretation of Art. 69 (1) EPC.
21. The judge-rapporteur rightfully concluded that these considerations can be applied to the case at hand. The fact that the Claimant seeks to claim infringement by equivalence not only for features 1.4 and 1.6 of independent claim 1, but also for features 1.9 and 1.10, does not alter the nature or scope of the dispute and therefore does not constitute an amendment of the case. Rather, the equivalence argument remains based on the same patent and is directed against the same products, namely the challenged strollers having swivel locking devices. For further explanation, reference is made to the order under review (par. 16 to 19). The Panel shares the view expressed therein.
22. The Defendants have not presented any arguments that would lead the Panel to reach a different conclusion regarding the applicability of R. 263 RoP.
23. The Panel does not agree with the Defendants' assertion that the claims based on literal infringement and those based on equivalent infringement describe "totally different products or at least product parts". The (extended) equivalence argument concerns the 'same product' within the meaning of the Court of Appeal's order, namely strollers with swivel locking devices. All affected components are part of the swivel locking device, as set out in the Statement of claim. As correctly stated in the order under review, the Claimant's new reasoning is essentially based on different feature allocations.
24. The fact that the components affected by the extension of the equivalence argument were not designated as such (e.g. 'cavity') in the Statement of claim does not mean that a different product is affected. As the Claimant correctly points out, this is inherent in the nature of the doctrine of equivalence.

ORDER:

The judge-rapporteur's order dated 29 August 2025 is upheld.

Issued in Düsseldorf on 14 October 2025

NAMES AND SIGNATURES

Presiding Judge Thomas	
Legally qualified judge Dr Schumacher	
Legally qualified judge Bessaud	
Technically qualified judge Roselinger	