



Local Division The Hague
UPC_CFI_478/2025

ORDER

of the Court of First Instance of the Unified Patent Court
issued on 24 October 2025
concerning R.275

CLAIMANT:

Avient Protective Materials B.V.

Urmonderbaan 22, Building 200, 6167 RD Geleen The Netherlands

represented by Tjibbe Douma ; assisted by Laurens Buijtelaar and Philippa van Hengel

DEFENDANTS:

Defendant I: Xingi Technology Co., Ltd

(九州星际科技有限公司)

13.1 (b) and 13.1 (d) RoP UPC

Registered office

No. 26 Xianghai Road, Yangkou Town, Rudong
Country, Nantong City, Jiangsu Province, 226407,
People's Republic of China (中华人民共和国江苏省
南通市如东县洋口镇向海大道26号 226407).

Postal address for service

No. 26 Xianghai Road, Yangkou Town, Rudong
Country, Nantong City, Jiangsu Province, 226407,
People's Republic of China (中华人民共和国江苏省
南通市如东县洋口镇向海大道26号 226407).

Defendant II: Jiangsu Xingi High Performance Fiber Products Co., Ltd

(江苏九州星际高性能纤维制品有限公司)

13.1 (b) and 13.1 (d) RoP UPC

Registered office

No. 128 JialingJiang Road, Rudong Economic
Zone, Jiangsu, 226400, People's Republic of China
(中华人民共和国江苏省如东经济开发区嘉陵江路
128号 226400).

Postal address for service

No. 128 JialingJiang Road, Rudong Economic
Zone, Jiangsu, 226400, People's Republic of China
(中华人民共和国江苏省如东经济开发区嘉陵江路
128号 226400).

PATENT AT ISSUE:

European patent n° **2 791 402 B1** (the “patent”)

DECIDING JUDGES [R. 351.1(c) RoP]:

This order is issued by the judge-rapporteur.

SUMMARY OF FACTS AND

1. This case is an action on the merits concerning infringement of the patent that pertains to *Ultra-high Molecular Weight Polyethylene Multifilament Yarn*. The only two defendants (collectively referred to as “Xinji” or “Defendants”) are group companies and are both domiciled in China.
2. Applicant (“Claimant”) initiated the action as claimant with the submission of a statement of claim (“SoC”) on 13 June 2025, together with a translation of the SoC into Chinese (mandarin). Claimant provided Chinese translations of further documents, after a request thereto from the registry, on 20 June 2025.
3. On 2 July 2025 the registry commenced service on the Defendants in China pursuant to the Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, concluded in The Hague on 15 November 1965 (“The Hague Service Convention” or “HSC”). It submitted the required form and corresponding documents via the HCCH e-service portal i.e. the SoC and a Chinese translation thereof and the letter for service of the Court (with access code) and a Chinese translation thereof.
4. The next day, on 3 July 2025, the registry received a reply that the submission was approved upon preliminary review and transferred to the Supreme People’s Court for further processing. This follows from a screenshot of the e-submission portal, reproduced below.

The screenshot displays the 'Unified Patent Court Portal - Home' interface. On the left, a sidebar shows the process flow: 'Submit Request' (2025-07-02 20:34:30), 'Review' (2025-07-03 14:35:55), and 'Transferred to the Supreme People's Court:'. The main content area is titled 'Documents Attached to the Request Form' and contains a table with the following data:

Sequence	File	Total Page	Online Generated File	Scanned Signed Copy
NO.1	Statement of Claim (EN)		View	View
NO.2	Letter to accompany service (EN)		View	View
NO.3	Letter of Service (EN)		View	View
NO.4	HCCH Request Form		View	View

Below the table, two status messages are displayed with checkmark icons:

- Your request has been approved upon preliminary review**
- The case has been transferred to the Supreme People's Court for further processing. Please wait patiently for the result.**

5. The registry sent messages via the portal to inquire about the status of service several times, lastly on 22 October 2025. To date, no certificate of confirmation of service (as meant in Art. 6 HSC) was received from the relevant Chinese authorities.

REQUEST AND SUBMISSION

6. On 16 October 2025 Claimant filed a R.275 application, requesting, inter alia,
- that the Court order that service of the SoC and related documents [the SoC and the Court's letter of service with Chinese translations] may be effected by service at the A+A Trade Fair in Düsseldorf to be held from 4-7 November 2025 by a German bailiff – where needed with the assistance of the Avient personnel present – upon any staff member of the Defendants present at their exhibition stand;
 - that the Court order on which date the SoC shall be deemed served, and
 - that the statement of defence shall have to be filed within three months of service.

Alternatively, Claimant proposes two other methods of service.

7. Claimant argues that the service attempt by the Court qualifies as an actual but unsuccessful attempt as meant in R275.1 RoP. This is the case because the official service pursuant to R.274.1(a)(ii) has not been effected for more than three months and is not expected to be effected in view of earlier experience with service in China. It refers to an order of the LD Munich of 9 December 2024, wherein the following is considered:

“Due to the known handling of requests for formal service by the competent Chinese authority, it is not to be expected that the request for service will be successful if further delay occurs. It is not only the experience of European national courts (e.g. Higher Regional Court Munich, GRUR-RR 2020, 511), but also of the Unified Patent Court (LD Mannheim, UPC_CFI_332/2024), that requests for service from the Chinese authority in many cases are either not forwarded at all or objected to and returned.”¹

8. Because service in accordance with R.273-274 of the RoP could not be effected, alternative service should be authorised, as requested above. In view of the continuing (alleged) infringement, it is essential that these proceedings advance without further delay. The attendance of Defendants at the A+A Trade Fair in Düsseldorf is evidence by the screenshot shown below:

¹ LD Munich case UPC_CFI_509/2023, para. 3.c.(d) on page 7

INTERNATIONAL TRADE FAIR AND CONGRESS
FOR SAFETY AND HEALTH AT WORK
4-7 NOV 2025 DÜSSELDORF, GERMANY

A+A

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Profile Products Stand

☆ < Exhibitor may contact me

XINGI TECHNOLOGY CO.,LTD

📍 Hall 17 / B75-1 China, Nantong City, Jiangsu

XINGI TECHNOLOGY CO.,LTD is a modern manufacturing enterprise specializing in R&D, production and sales of Ultra High Molecular Weight Polyethylene FIBER (UHMWPE) and composite materials. With an annual capacity of 30,000 tons of UHMWPE fiber and 6,000 tons of UD cloth, ...

Company data

Products

Hand protection, gloves

All product categories



Cut resistant gloves

GROUNDS FOR THE ORDER

9. In the present case service is governed by part 5, chapter 2, section 2 of the RoP. R. 274.1 (a)(ii) RoP applies, because the Defendants are domiciled outside the contracting member states and outside the European Union, in China. China is a signatory to the HSC. Accordingly, the registry is to serve the SoC by any method provided by The Hague Service Convention permitted for service in China. In case service in accordance with R.274.1(a) could not be effected, R.274.1(b) RoP provides for service “by any method permitted by the law of the state where service is to be effected or as authorized by the Court under R.275”.
10. According to Article 5 of the Hague Service Convention, reproduced below, both formal and informal service is possible. In the case of informal service, the service documents may also be served by electronic means, for example by email, provided that the law in the receiving state does not object to such a form of service and provided (in case of informal service) the addressee accepts service voluntarily.
 - 1.The Central Authority of the State addressed shall itself serve the document or shall arrange to have it served by an appropriate agency, either

a) by a method prescribed by its internal law for the service of documents in domestic actions upon persons who are within its territory, or

b) by a particular method requested by the applicant, unless such a method is incompatible with the law of the State addressed.

2. Subject to sub-paragraph (b) of the first paragraph of this Article, the document may always be served by delivery to an addressee who accepts it voluntarily.

3. If the document is to be served under the first paragraph above, the Central Authority may require the document to be written in, or translated into, the official language or one of the official languages of the State addressed.

4. That part of the request, in the form attached to the present Convention, which contains a summary of the document to be served, shall be served with the document.

11. Both formal and voluntary informal service are admissible methods under the Hague Service Convention and thus fall under Rule 274.1 RoP. China allows service by electronic means such as email only with the consent of the recipient (UPC_CoA_69/2024). China does not permit direct service as stipulated in Art. 10 of The Hague Service Convention (i.e. by direct registered letter, through or by judicial officers, officials or other competent persons of the state of origin and/or destination).

12. In this case there is no known consent of Defendants (or any representative assigned by Defendants) for electronic service. It must therefore be assessed whether the requirements to order service by an alternative method have been met.

13. The Court of Appeal of the UPC clarified that R.275.1 RoP includes a requirement of a prior service attempt.² An alternative method of service can thus only be authorised if service according to, in this case, R.274.1(a)(ii) could not be effected.

14. The registry attempted to serve the SoC in accordance with Art. 5 HSC. The Court is convinced that the correct procedure for service in China was followed. This is confirmed by the approval upon preliminary review of the service request on 2 July 2024. Unlike in some other cases, the documents were not returned for correction. This therefore qualifies as a prior service attempt.

15. It is then to be decided whether it can be assumed that service according to this method *could not be effected*. The Court assumes that this is the case for the following reasons.

16. The purpose of The Hague Service Convention is to ensure and expedite service of judicial document abroad, according to the preamble:

The States signatory to the present Convention,

Desiring to create appropriate means to ensure that judicial and extrajudicial documents to be served abroad shall be brought to the notice of the addressee in sufficient time,

Desiring to improve the organisation of mutual judicial assistance for that purpose by simplifying and expediting the procedure,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions: (...)

² CoA 29 July 2024, cases UPC_COA_69 and 70/2024 (NEC/TCL)

17. More than 3 ½ months have now passed without any news from the Chinese authorities on service, whereas the documents were transmitted by digital portal and received on the same day, 2 July 2025. The request for service was even approved upon preliminary review on the next day, 3 July 2025, whereas there have been no communications from the Chinese authorities since. The Court finds that in these circumstances, it must be assumed that service, taking into account the intended expedited nature thereof, could not be effected.

18. Art. 15 paragraph 2 HSC does not preclude the establishment that service could not be effected at this point in time. Art. 15. stipulates that if six months have passed after the date of transmission of the document, a decision by default can be given, regardless of any proof of service:

2. Each Contracting State shall be free to declare that the judge, notwithstanding the provisions of the first paragraph of this Article, may give judgment even if no certificate of service or delivery has been received, if all the following conditions are fulfilled:

- a) the document was transmitted by one of the methods provided for in this Convention,
- b) a period of time of not less than six months, considered adequate by the judge in the particular case, has elapsed since the date of the transmission of the document,
- c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed

The purpose of (expedited) service is to avoid a decision by default by making sure that the SoC reaches the Defendants before the laps of this six month period. Alternative service can be ordered in case service has not been effected within a reasonable time, which is the case here.

19. The conditions of R.275.1 have thus been met. The Court finds the proposed alternative service on representatives of Defendants in person an appropriate way to make sure that the SoC reaches Defendants, or at least Defendant 1, as from the information submitted by Claimant, only presence of Defendant 1 at the Dusseldorf trade fair can be derived. The alternative method of service will thus be ordered, as set out below. All documents submitted via HCCH e-service portal have to be served as well as this order. At the request of the Court, the Claimant provided the following exact address of the trade fair: Messe Düsseldorf, Stockumer Kirchstraße 61, D-40474 Düsseldorf.

20. The other requirements of R.275.3 are specified below, as requested. Service in person is permitted in Germany, where service is to be effected (R.275.4).

ORDER

- 1. The service of the statement of claim and the letter for service, as well as Chinese translations of these documents, together with this order, may be effected by service at the A+A Trade Fair in Düsseldorf to be held from 4-7 November 2025 by a German bailiff – where needed (at the discretion of the bailiff) with the assistance of the Claimant's personnel present – upon the most senior staff member of the Defendants present at their exhibition stand;
- 2. Service is deemed to be effective from the date of service according to 1. above;

3. The Defendants can lodge a statement of defence within three months of the thus effected service of the statement of claim (pursuant to R.23 RoP).