UPC CFI 472/2024
UPC CFI 792/2024
UPC CFI 831/2024
UPC CFI 182/2025

UNIFIED PATENT COURT
COURT OF FIRST INSTANCE
MILAN LOCAL DIVISION

DECISION
DELIVERED ON 21 APRIL 2026

HEADNOTES:
In proceedings on the merits of infringement against several defendants, one of whom is domiciled in Spain and is sued for infringement of the Spanish portion of the same patent, the risk of irreconcilable judgements pursuant to Art. 8 of the European Regulation (EU) no. 1215/2012, as interpreted by the Court of Justice, exists if the Court verifies that:
i) it is the same factual situation (i.e. parallel patent rights infringed in an identical manner: being part, as are the other defendants, of the same infringement chain, acting as a distributor of products manufactured by the other defendants; joint and several liability for damages);
(ii) it is the same legal situation (in the case of Spain, implementation of the substantive rules set out in the Enforcement Directive);
(iii) Spanish defendant reasonably would have been expected to be sued before the court of another Member State, such as the UPC (predictability);
(iv) it is not an abusive summoning of the Spanish defendant before the Court of another Member State.

CLAIMANT
Dainese S.p.A. with legal office in Colceresa (Vicenza – Italy), Via Louvigny 35, 36064 incorporated under the laws of Italy in the person of its pro tempore legal representative, Mr. [redacted] represented by Mario Pozzi, Federico Caruso, Marta Manfrin and Davide Rondano
(Defendant in the counterclaim for revocation actions)

DEFENDANTS
Alpinestars S.p.A. with legal office in Asolo (Treviso - Italy), Via Enrico Fermi No. 5, 31011, incorporated under the laws of Italy in the person of its *pro tempore* legal representative, Mr. [redacted] represented by Massimiliano Tiberio, Gualtiero Dragotti, Constanze Krenz and David Kleß

Alpinestars Research S.p.A. with legal office in Maser (Treviso - Italy) Via Alcide De Gasperi No. 54, 31010, incorporated under the laws of Italy in the person of its *pro tempore* legal representative, Mr. [redacted] represented by Gualtiero Dragotti, Constanze Krenz, David Kleß, Massimiliano Tiberio, Joschua Fiedler, Roberto Pistolesi and Luca Marri

Motocard Bike S.l.
with legal office in Calle Valencia, 511-515, 08013 Barcelona, incorporated under the laws of Spain, represented by Gualtiero Luca Dragotti, Constanze Krenz, David Kleß, and Massimiliano Tiberio

(Claimants in the counterclaim for revocation actions)

PATENT AT ISSUE
Patent no. and Proprietor
EP4072364 Dainese S.p.A.

DECIDING JUDGE
THE PANEL

Pierluigi Perrotti	Presiding Judge
Alima Zana	Judge rapporteur
Anna-Lena Klein	Legal qualified Judge
Graham Ashley	Technically qualified Judge

LANGUAGE OF PROCEEDINGS
English

Summary of facts

1. On 8 August 2024, the Claimant Dainese s.p.a. - an Italian company founded in 1972 by Lino Dainese, and known worldwide for developing protective equipment for motorcyclists, developing technological innovations, including the DAir® airbag system for motorcyclists, skiers, and later for street and professional use - commenced an infringement action against six defendants, claiming that the products Tech Air 3 System and Tech Air 10 Race System, produced and distributed by them, would fall within the scope of protection granted by two patents: EP 3 498 117 (hereinafter "EP '117") and EP 4 072 364 (hereinafter "EP '364").

2. In particular, the Claimant sued:
- Alpinestars S.p.A. (Defendant no. 1), an Italian company founded in 1963, and one of Dainese's main competitors in protective motorcycle gear for motorcycle riders, by manufacturing, selling and distributing the alleged infringing products;
- Alpinestars Research S.p.A. (Defendant no. 2,), an Italian company that fully owns Alpinestars stocks, and which manufactures the alleged infringing products;
- Omnia Retail s.r.l., an Italian company whose activity is in the retail and wholesale trade (Defendant. no. 3);
- Horizon Moto 95 - Maxxess Cergy (Defendant no. 4), a French company, which purchased the alleged infringement products from defendant no. 1:

- Zind.Stoff Ausburg/Ulrich Herpich E.K. (Defendant no. 5), a German Company;
- Motocard Bike s.l. (Defendant no. 6), a company headquartered in Barcelona and operating under Spanish law, which sold the alleged infringing products.

3. Defendants nos. 1, 2 and 6 each filed independently preliminary objections and counterclaims for revocation against both EP '117 and EP '364.

4. During the proceedings, the Claimant waived its claims against Defendants nos. 3, 4 and 5, and the infringement action regarding the patent EP '117 against all defendants. The Defendants nos. 1, 2 and 6 confirmed their revocation actions against both patents.
Therefore, the Court declared closed the actions against Defendants. nos. 3, 4 and 5 and, by order filed on 19 November 2025, it separated out the above-mentioned three revocation proceedings brought separately by the Defendants against EP '117, which had already been stayed following joint requests by all parties.

5. Therefore, this case concerns only EP '364 (actions for infringement and revocation) and involves only the Claimant against Defendants nos. 1, 2 and 6.

6. By orders issued on 8 April 2025, the Judge rapporteur dismissed the preliminary objections filed by Defendants nos. 1 and 2, regarding the UPC jurisdiction and the competence of the Milan division. These orders were not appealed. In particular, the Court established that the long arm jurisdiction applied to Alpinestars Holding and spa (Defendant 1), which is domiciled in a UPC Member State territory, applying art. 4 (EU) regulation no. 1215/2012. Moreover, the Judge rapporteur rejected the objection regarding the competence of the Milan local division.

7. Meanwhile, on 27 February 2025, the Claimant had requested, as its Main Request, to amend independent claim 1 with the inclusion of features of granted claims 5 and 7 (with the result that the sole alternatives for the shape of the casing body are “hand” and “comb”). The remaining claims have been renumbered accordingly. Independent clam 14 (method) and the claims depending thereon have been deleted.

8. On 14 August 2025, the Defendants requested that the application to amend the patent under rule 30, para 2, ROP, as filed by the Claimant, be declared inadmissible.

9. Moreover, in accordance with the Defendants’ request, and by an order issued on 17 September 2025, the Court ordered a security for costs against the Claimant, which was duly paid in the amount established by the Court. This order was not appealed.

10. By an order issued on 19 November 2025, the Court separated the counterclaim for revocation action against EP '117 (which had been stayed under the joint request by the parties) from the action for infringement and the counterclaims for revocation actions against EP '364.

11. By the order issued on 26 November 2025, according to rule 36 ROP, the Judge rapporteur admitted further written briefs, requesting the parties to inform the Court:
- regarding the stage of the revocation action against the Spanish portion of EP’364, and
- about the decision of the EPO Opposition Division, issued on 19 November 2025.

12. The parties answered on 12 December 2025, informing the Court that:

(i) the revocation action against the Spanish portion of EP '364 was ongoing;

(ii) the EPO Opposition Division decided to maintain EP ‘364 in amended form with a new set of claims corresponding to the main request in the opposition proceedings and with an amended description filed during the oral hearing for consistency with the new set of claims;
(iii) they confirmed that the set of claims of the main request filed with the EPO during the opposition proceedings – and maintained by the EPO at the end of the proceedings – is identical to the set of claims of the main request submitted before this Milan Court during the present action. More specifically, independent claim 1 of the main request corresponds to the combination of claims 1, 5 and 7 of the patent as granted, with the exclusion from claim 7 of the alternatives (as far as the shape of the casing body is concerned) of the tree shape and of the tubular shape arranged in a serpentine way;
(iv) an appeal against the decision of the Opposition Division had already been filed by Alpinestars on 1 December 2025, but the statement of grounds of appeal has yet to be filed.

13. On 12 January 2026, the Defendants informed the Court that a proceeding on the merits concerning the validity of the assignment of EP '364 is pending between Alpinestars and Dainese before the Court of Venice.

14. The written procedure was closed on 13 January 2026.

15. On 28 January 2026, the Judge rapporteur held the Interim Conference.
After the Interim Conference, and after consulting the Panel, the Judge rapporteur issued on 29 January 2026 an order pursuant rule 105 RoP, allowing the parties:
-to exchange slides for the final discussion up until 28 February 2026.
-to submit final briefs (max 15 pages) by 15 February 2026, along with a complete and updated list of all documents already filed, setting out exactly which (combination of) documents or prior art the parties intend to rely on and refer to during the discussion of novelty and inventive step during in the hearing, taking into account the possible different criteria for accessing the inventive step.
New documents or exhibits would not be admitted.

16. On 10 March 2026, the Oral Hearing was held before the Panel.

Parties’ Requests

Dainese’s Requests

17. Dainese requests :

1) to reject the requests of inadmissibility of the action raised by Defendants 1, 2 and 6;

2) to reject the requests to dismiss the action raised by Defendants 1, 2 and 6 as manifestly lacking any foundation in law;

On the merits:

3) to dismiss the counterclaim for revocation of EP ‘364 raised by Defendants 1, 2 and 6;

4) to hold ’364 as valid based on the Main Request or, in the alternative, on any one of the Auxiliary Requests pursuant to R. 30 RoP;

5) to order the defendants, in respect of the Territory for Relief, to cease and desist from making, offering, placing on the market or using (or importing or storing for these purposes) the alleged infringing products, and to order the defendants to cease and desist from making, offering, placing on the market or using:

a. *protective device for the protection of a user, said protective device comprising a mesh structure comprising a first mesh portion and a second mesh portion and a plurality of tie elements, wherein said first mesh portion and said second mesh portion are opposite one another and are connected one another by the plurality of tie elements wherein the first mesh portion, the second mesh portion and the tie elements define one or more inner housings of the mesh structure; wherein the protective device includes a casing body arranged at least in an inner housing of said one or more inner housings, wherein said casing body is configured to assume a deflated condition and an inflated condition in the at least one inner housing of the mesh structure, and wherein in said deflated condition, the casing body occupies a first space or first region, and wherein in said deflated condition a second region or second space of said at least one housing lacks a casing body, and wherein in said inflated condition the casing body occupies the second region or second space, and wherein the tie elements define a plurality of housings between the first mesh portion and the second mesh portion and the casing body comprises a plurality of portions each arranged in a corresponding housing of said housings, and wherein the casing body has a hand or comb shape,*

b. In particular, wherein the alleged infringing products and/or the protective device of subparagraph 3(a) of the Statement of Claim further include the feature(s) that: wherein *in the inflated condition said casing body is configured to line from the inside, at least partially in contact, the mesh structure and/or that said mesh structure is an external structure of the protective device* and/or

- wherein *in said inflated condition the casing body completely occupies the second region or second space and the first region or first space of the inner housing* and/or

- wherein *the deflated condition of the casing body corresponds to a slack and loose condition of the mesh structure and of the tie elements, and wherein to the inflated condition of the casing body corresponds an at least partially tensioned condition of the tie elements and of the first mesh portion and the second mesh portion* and/or

- wherein *the housings have the shape of channels and are arranged side by side one another and each one intended to house a corresponding casing body or a portion of casing body, and wherein in inflated condition, the casing bodies are inflated against each other so as to form a planar structure* and/or

- wherein *the mesh portions and the casing body define an inflatable element, and wherein an inflated condition of the casing body corresponds to an inflated condition of protection of the inflatable element, and a deflated condition corresponds to a rest condition of the inflatable element, and wherein in said deflated condition the second region of said at least one inner housing is apt to allow a passage of air between the first mesh portion and the second mesh portion passing through the second region of said at least one housing* and/or

- comprising *a gas source or inflation source connected to the inflatable casing body* and/or

- wherein *said device is a wearable device*.

c. The alleged infringing products and/or a protective garment or clothing accessory comprising a protective device according to subparagraphs 3(a) and 3(b) of the Statement of Claim

6) To order the Defendants, at their own expenses, within one week after service of the judgment to be rendered in these proceedings to, in respect of the Territory for Relief:

to remove products specified in the injunction requests above from all channels of commerce, to destroy the alleged infringing products and/or any other products as specified in the injunction requests above and which are in the custody or control of the Defendants and each of them;

(…)the origin and distribution channels of the alleged infringing products and/or for any other products as specified in the injunction requests above;

to establish the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the alleged infringing products and/or for any other products as specified in the injunction requests above; and to make known the identity of any third person involved in the production or distribution of the alleged infringing products and/or of any other products as specified in the injunction requests above;

7) To order the Defendants, within three weeks after service of the judgment to be rendered in these proceedings, in respect of the Territory for Relief:

8) To allow the Claimant, at the Defendants' expense, to display the decision and publish it, in full or in part, in up to five electronic or printed publications (including in industry journals) of the Claimant's choice.

9) To order the Defendants to publish, at their own expense, the operative part of the Court's decision on their websites.

10) To order that any failure to comply with the above orders will render each of the Defendants liable to pay to the Court a penalty not lower than Euro 5.000,00 each, and for any alleged infringing products and/or any other products as specified in the injunction requests above that are manufactured and/or offered and/or found on the market after the above-mentioned order, a penalty not lower than Euro 10.000,00 each for every day of delay in complying with the above-mentioned orders, or such other amount as found appropriate by the Court;

11) To ascertain and declare that the Defendants and each of them are liable for all damages resulting from the infringement of the Claimant's patent, the amount of which is to be determined in a separate proceedings.

12) To order each of the Defendants to pay to the Claimant an interim award of damages in the amount of €1.000.000,00 (One Million Euros) within 14 days of the order; and

13) To order each of the Defendants to bear the legal costs of these proceedings as well as all other costs incurred by the Plaintiff

Defendants' Requests

18. The Defendants request:

Preliminarily:

A. to declare the action against Defendant 2 inadmissible; in the alternative, to dismiss the action against Defendant 2 as manifestly lacking any foundation in law;

B. to declare that the Court lacks jurisdiction to decide on any alleged infringement committed by Defendant 6 in Spain.

On the Merits:

C. to dismiss and reject the applications to amend the patent, and to revoke EP '364 as granted in all the UPC Member States for which the patent has effect.

D. in alternative, and in any case, to revoke EP‘364 as amended in all the UPC Member States for which the patent has effect;

E. to dismiss and reject all the claims brought by the Claimant in the action for infringement.

F. alternatively to E., to stay the proceedings to the extent they concern the alleged infringement of the Spanish portion of EP ‘364;

G. Should the Court conclude that EP ‘364 is to any extent valid and infringed:

- to reject the Claimant's requests for corrective measures and any other additional request, including the requests for penalties, the request to display and publish the decision, the request to recall the products from channels of commerce and to destroy the products, the request to give information, and the request for an interim award of damages, since these are all unnecessary and disproportionate; and

- to order the Claimant to provide adequate enforcement security pursuant to Rule 352 RoP, of an amount of at least € 5,000,000 (five million Euro).

On Costs:

E. to order the Claimant to pay the costs, including those arising from the Claimant's withdrawal of the action concerning the alleged infringement of EP '117;

F. to order the reimbursement of the additional Court fees paid by Defendants nos. 1 and 6, as a consequence of to the initial misalignment of procedural deadlines, in the amount of € 40,000 .

Reason for the Decision

The preliminary objection raised by Defendant no. 6 regarding jurisdiction

19. As said above, these proceedings relate to a case where there are multiple defendants, some having legal seats in the European Union but outside the Contracting Member States (CMS), specifically in Spain - and two having legal seats in the CMS, specifically in Italy.
Defendant no. 6 is accused by the Claimant of having stores in Spain, Portugal and in Italy, and of selling products that are directly infringing the patent. (see pages. 27 and 103 of the Statement of Claim) and Defendant no. 2 of doing likewise in Italy.
Additionally, Defendant n. 6 is accused of having an online store (Motocard.com) for providing a service to any customer wherever they may be.

20. The Panel is of the view that this case differs from that referred by the Court of Appeal on 6 March 2026 to the Court of Justice (UPC-CoA 789/2025 to UPC CoA 813/2025) regarding the interpretation of Art. 8(1) in conjunction with Art. 71b(2) of (EU) Regulation no. 1215/2012, in particular regarding the meaning of “irreconcilable judgements referred to in cited Art. 8 (1).

21. The parties discussed this referral to the Court of Justice during the oral hearing. The Defendants requested that the proceedings be suspended pending the decision of the Court of Justice, since the factual and legal situation would be identical, and the same doubts would exist regarding the extension of the UPC's jurisdiction under the aforementioned art. 8 with regard to the alleged acts of infringement committed in Spain.

The Claimant requested the Court to proceed, as the case in question is different from the one brought before the Court of Justice.

22. The Court decides not to suspend these proceedings pending the decision of the Court of Justice. Indeed, the case raised by the Court of Appeal is different from the case at hand. In particular, the first referral to the Court of Justice concerns the request for provisional measures, while the second is a proceeding on the merits, where the particular circumstances of the case, such as the request for the joint and several liability of the defendants -in addition to the other specific circumstances set out below- allow the court to rule positively on the risk of irreconcilable judgments within the meaning of Art. 8 in the light of the case law of the Court of Justice.
As it will be explained in more detail below, the present proceedings must nevertheless be suspended with respect to Spanish territory due to the pending case of nullity against the corresponding national Spanish portion.

23. The Claimant submits that the UPC has jurisdiction for the infringement action against the Defendant no. 6, arguing that:

- pursuant to Art. 31 UPCA, the UPC's jurisdiction is established according to the provisions set forth in the Brussels Recast Regulation;
- in particular, art. 8 Reg. (EU) no. 1215/2012, as interpreted by the Court of Justice, allows more defendants to be sued before a National Court of a Member State where only one defendant is domiciled, in the situation where the claims are so closely connected that a joint decision is appropriate, thereby avoiding the risk of irreconcilable or incompatible decisions resulting from separate proceedings;
- Defendant no. 6 has its legal head office in Spain, Barcelona (Exhibit 31), therefore in a European Union territory, albeit outside the CMS. It also has "bricks & mortar" stores in several EU States, including Italy (Exhibits 32-33) and it sells the alleged infringing products in Spain and in the CMS (Exhibits 34-35).
- Therefore, in this case, the close connection between the claims is met, since:
    - the multiple defendants have a commercial relationship. Defendant no. 6 is a distributor that purchases the products manufactured by Defendants nos. 1 and 2;
    - the action relates to the same alleged infringement: the infringing products are the same and marked with the "*made in Italy*" trademark.

Therefore, the Milan Local Division, seized where other defendants are domiciled, also has jurisdiction regarding Defendant no. 6, in accordance with the above-cited article 8, thereby avoiding risk of irreconcilable judgments and in view of the principle of efficiency.

24. Defendant no. 6 denies the UPC's jurisdiction, raising a preliminary objection under Rule 19 ROP to the assessment of infringement of EP '364 in Spain. Defendant no. 6 notes that Spain has not signed the UPCA, and that there is no rule extending the Court's jurisdiction to EU member states that do not adhere to the UPCA. Furthermore, Art. 71b(3) of the UPCA is not applicable as the Defendant is domiciled within the EU.

25. According to Defendant no. 6, this interpretation complies with:

(i) Art. 34 UPCA, which establishes that the Court's judgments cover only the territory of the contracting countries for which the European patent has effect, thus excluding Spain, and with UPC case law, in particular with Court of Appeal's decision (see UPC_CoA_388/2024, APL_39884/2024, regarding Ireland, a signatory but not yet a contracting country);
(ii) Art. 24(4) of Reg. (EU) no. 1215/2012, which assigns exclusive jurisdiction to the courts of the member state where the patent was applied for, regardless of the domicile of the parties,

and Art. 27, which requires a court without exclusive jurisdiction to declare itself not competent.

Therefore, Art. 8 of the cited Regulation does not apply, as the infringement claims concern specific national validations with rules different from those of the UPC. The Court should deny its jurisdiction, or suspend the proceedings, relating to the Spanish validation of EP 364 until all possible nullity actions in Spain are concluded.

Court's Considerations

26. The Court's assessment complies with:

i) Regulation (EU) no. 1215/2012 (recast) as amended by Regulation (EU) no. 542/2014, in particular recitals nos. 13 and 15, Articles nos. 4, 8, 24 para. 4, 71a, 71b and 71c;
ii) Recital no. 5, Article. 31 UPCA;
iii) the European Court of Justice case law (in particular Case C-399/22 (ECJ, Grand Chambre, 25 February 2025);
iv) the UPC case law[1].

27. The Court has jurisdiction against the Defendant no. 6, which is not domiciled in a UPC member State but in the European Union, for the following reasons:

- the UPC "*shall be deemed to be a court of a Member State"* pursuant to Art. 71a of the Regulation (EU) no. 1215/2012 (recast), as amended by Regulation (EU) no. 542/2014. Its interpretation provided by the Court of Justice of the European Union also applies to the UPC as if it were a national Court;
- Art. 31 UPCA, regarding the international jurisdiction of the UPC, refers to Regulation (EU) no. 1215/2012;
- Art. 7(2), Regulation (EU) no. 1215/2012, establishes jurisdiction before the Italian Local Division against Defendant no. 6 regarding the alleged infringements to be committed in Italy (where the Defendant has physical stores), in Portugal (where it has other stores) and in all other UPC territories, where its online stores are visible (Motocard.com is visible and able to provide service to any customers wherever they may be);
- Art. 8, Regulation (EU) no. 1215/2012, establishes jurisdiction against Defendant no. 6 before the Milan Local Division regarding the alleged infringement committed in Spain.
  In addition, the Court notes that a close connection exists between the claims against Defendants nos. 1, 2 and 6 because the following conditions exist in combination.

Conditions to apply Art. 8 Reg. (EU) no. 1215/2012

28. Art. 8(1) of the Brussels I bis Regulation 1 sets out a criterion for alternative jurisdiction, known as *forum connexitatis* which allows multiple defendants domiciled in different EU Member States to be sued in courts located in the place where one of them is domiciled, provided that the claims are so closely connected that a joint decision is appropriate, and to avoid the risk of irreconcilable judgments resulting from separate proceedings,

[1] in particular: Paris Local Division, 4 July 2024, case Dexcom against Abbott, UPC_CFI_230/2023; Paris Local Division UPC CFI 495/2023, 11 April 2024, case ARM against ICPillar; Munich Local Division UPC_CFI_15/2023; the Hague Local Division, UPC_CFI_130/2024, case Abbott Diabetes Care Inc. against Sibio Technology Limited, 19 June 2024, Dyson vs Dreame, UPC_CFI_387/2025; Paris Local Division UPC_CFI_702/2024 IMC Créations v Mul-T-Lock.

This solution, which is more efficient for the parties, is a derogation from the main rule of *forum rei* and shall be interpreted restrictively[2].

According to the case-law of the Court of Justice, the requirement relating to the risk of irreconcilable decisions laid down in the aforementioned Art. 8 must be interpreted as meaning 'contradictory decisions'. It is therefore not sufficient that there merely be a divergence in the outcome of the dispute. The outcome must arise from the same legal and factual situation (see Roche v Primus, see Court of Justice 1 December 2011, C-145/10), and is to be interpreted as follows.

(a) The Same Situation of Fact

29. Regarding the same situation of fact, the elements of investigation, constituting a non-exhaustive list of factors that may be relevant, are to be assessed by the Court on a case-by-case basis, as follows.

(i) The object of legally protected interest and object of injury.

In particular:

- ✓ as far as the Claimant is concerned, it is important whether the same 'infringed object' (here the patent-protected invention) must be at stake;
- ✓ as far as the Defendants are concerned, there is no requirement that the same 'infringing product' is involved (cf. (*Painer/Standard Verlags* case ECJ 1 December 2011, C-145/10, ECLI:EU:C:2011:798),[3] but where all Defendants use the same infringing product, this may be a relevant indication (see cited Roche and Solvay[4] cases),

(ii) the connection between the Defendants

Even if not mandatory (see the above cited Painer case), this element may be a relevant factor, which can contribute to the assessment of a same situation of fact (see the cited Roche and Solvay cases).

(iii) Infringing acts

In this regard, the Court has to assess, depending on the specific circumstances of the case:

- ✓ whether or not the defendants acted independently of each other (see Painer case): concerted conduct is a strong indication of a same situation of fact (see Roche case, second situation);
- ✓ whether the infringing acts are more or less the same and whether the defendants act in an identical or similar manner. There are not mandatory elements, so that differing acts of infringement should not preclude the assessment of a same situation of fact[5]. Such a coordinated chain (manufacturing, distributing, selling) may be considered as one factual situation.

30. In this case, the Court notes that:

(i) regarding the 'objects' involved, the infringed 'object' is the same (here patent EP '364) and the allegedly infringing products are the same;

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[2] See ECJ 20 April 2016, C-366/13, ECLI:EU:C:2016:282 (Profit Investments SIM).

[3] See Painer/Standard Verlags case (ECJ 1 December 2011, C-145/10, ECLI:EU:C:2011:798) .

[4] See Solvay/Honeywell case (ECJ 12 July 2012, C-616/10, ECLI:EU:C:2012:445, NIPR 2012, 353 (Solvay/Honeywell), para. 25)

[5] See the Roche case, constellation, that a subsidiary in Member State X manufactures the infringing product there, whereas another subsidiary, domiciled in Member State, imports and sells these products in that State)

(ii) regarding the relationship between the Defendants, according to the Claimant, they are joint debtors because of joint liability.
(iii) even if the allegedly infringing acts of the Defendants are different, they form a coordinated chain, with some defendants accused of being manufacturers, whilst one is a distributor.

(b) The Same Legal Situation

31. With regard to this requirement, according to the Court of Justice, the judge must assess, in the light of all the points of the specific case, including but not limited to, the legal basis of the actions against the multiple defendants and the relevant national laws.
In particular:

- ✓ in the cited *Roche/Primus* case, according to the Court, the legal situation was not identical, since the defendants, acting in different countries, had infringed different patent rights;
- ✓ however, in the *Freeport/Arnoldsson* case[6] (a contractual proceeding and an action based on civil wrongdoing, not intellectual property) it was held that the different legal bases on which the actions were brought against multiple defendants did not preclude the application of Art. 8;
- ✓ in the cited *Painer* case, where parallel intellectual property rights were invoked, according to the Court, the difference in legal basis, namely German and Austrian copyright law, did not preclude the application of Art. 8(1). This case in particular related to a situation where the relevant national laws were substantially identical (harmonised copyright law);
- ✓ in the cited *Solvay* case, according to the Court, the same legal situation could arise, given that the defendants were accused of infringing the same national aspects of the relevant European patent (see para. 25 to 29);
- ✓ in the *Land Berlin* case[7], the Court ignored the difference in legal basis between an action relating to the recovery of an overpaid amount and an action relating to an unlawful act, considering both to be directed at the same interest (the restitution of the excess amount wrongly transferred, see para. 47);
- ✓ In *CDC/Akzo* case[8], according to the Court, claims for damages for infringement of a cartel under Article 101 TFEU may, under the rules of private international law of the court seized, be governed by different national laws. However, that difference in legal basis does not in itself preclude the application of Art. 8(1) (see para. 21).

32. In the case at hand:

- ✓ parallel patent rights are invoked, which have been infringed in an identical manner;
- ✓ the lack of harmonisation of substantive patent law within the individual Member States of the Union through the adoption of a regulation (unlike the law on trademarks and designs), is a factor to be taken into account by the Court, but which is balanced here by the requirement of predictability, as explained below;
- ✓ as specified by the Claimant, there are no material differences between the provisions governing direct and indirect infringement under the Spanish Patent Act and the UPCA. Art. 59.1 and 60 of the Spanish Patent Act ("SPA") are fully aligned in substance and scope with art. 25 and 26 UPCA, respectively. The rights conferred on the patent proprietor, as well as the conditions for establishing direct and indirect infringement, are essentially identical, reflecting their common origin (see Ley 25/2015, de 24 de Julio, de Patentes).
- ✓ The Spanish Patent Act is reliant on EU legislation, including the Enforcement Directive

[6] See ECJ 11 October 2007, C-98/06, ECLI:EU:C:2007:595 (*Freeport/Arnoldsson verify paragraph*);
[7] ECJ 11 April 2013, C-645/11, ECLI:EU:C:2013:228
[8] ECJ 21 May 2015, C-352/13, ECLI:EU:C:2015:335 (*CDC/Akzo*),

2004/48/EU.

c. Predictability.

33. In addition, the Court of Justice has introduced a new requirement, namely predictability or foreseeability. Differences in the legal basis of claims against multiple defendants do not prevent the application of Art. 6(1) of Regulation (EU) no. 44/2001 (now Art. 8), as long as the defendants could reasonably foresee being sued in a Member State where at least one of them is domiciled (see, to that effect, the cited Freeport decision, paragraph 47 and Reisch Montage v Kiesel, para. 25: "*the principle of legal certainty 'requires, in particular, that special rules on jurisdiction be interpreted in such a way as to enable a normally informed defendant to reasonably foresee before which courts, other than those of the State in which he is domiciled, he may be sued"*). According to case law from the Court of Justice, it must be foreseeable that a person may be sued in the Member State in which a specific defendant is domiciled.

34. In this case, the requirement of predictability is met. Defendant no. 6 could and should have foreseen the possibility of being sued for infringement for its conduct in Spain before a court, other than that of the domicile or *forum commissi delicti*, in particular before the court of another defendant.
In fact, even though it does not belong to the Alpinestars corporate group, Defendant no. 6:

- has engaged in entirely similar conduct in other EU countries, including Italy, where the court seized is located; and
- is a distributor, through direct purchase, of the products accused of infringement purchased by the other two defendants.

(d) No abuse

35. The Court of Justice underlined that Art. 8 should not be used for the sole purpose of removing the defendant from the jurisdiction of the court that would have jurisdiction in its case. (See, for example, in the context of *lis pendens*, ECJ 9 December 2003, C-116/02).

36. It is the responsibility of the defendants to prove misuse of Art. 8 by the Claimant (*see CDC/Akzo case* para. 31), and the required level of proof has not been met here.
Indeed the Claimant has sued several defendants at different levels of the infringement chain in relation to the alleged infringing products in a single proceeding, not for the sole purpose of removing the case from the jurisdiction of the court that would have responsibility (See, for example, in the context of *lis pendens*, ECJ 9 December 2003, C-116/02).

This does not constitute abusive forum shopping, but on the contrary allows conflicting rulings to be avoided.

Conclusion

37. In conclusion, all requirements for the application of Art. 8,1, Reg. (EU) no. 1215/2012 for the avoidance of the risk of "*irreconcilable judgments"* have been met; the preliminary objection on jurisdiction raised by Defendant n. 6 is dismissed.
The UPC jurisdiction is thus confirmed for the allegedly infringing conduct committed in Spain by all the defendants. In particular, with regard to Defendants nos. 1 and 2, (based on the general rule of the forum of domicile) and in accordance with the orders issued by the Judge Rapporteur on 8

April 2025, which were not appealed; and with regard to Defendant no. 6, based on the considerations set out above.

38. For the sake of completeness: the objection raised by the Defendants, according to which the Claimant did not cite the Spanish substantive law applicable to the case in question (see UPC Mannheim Local CFI 162/2024, cf. Kalden, GRUR Patent 2023, 178 mn. 52; McGuire, GRUR Patent 2024, 466 mn. 5) with regard to infringement in Spain, is not part of the preliminary objection and it is a different profile and a separate, subsequent issue, which concerns the substance of the decision.

The relationship between these proceedings and the action for nullity before the national Spanish Court

39. Notwithstanding the above, the relationship between these proceedings and the nullity case pending in Spain against the national portion of EP '364 is also examined.

40. Art. 71 c (1) of Regulation (EU) n. 542/2014 clarifies that the rules on *lis pendens* and related actions of the Brussels I bis Regulation are applicable with regard to the relationship between the UPC and the courts of non-Contracting Member States.

The UPC is treated like a national court for the purpose of *lis pendens*, irrespective of which court – the UPC or the "normal" national court – has been seized first.

Therefore, the provisions of Art. 29 to 32 of the Brussels I bis Regulation are extended to cover proceedings brought in the UPC.

41. Article 30 of Regulation (EU) no. 1215/2012 allows a court second seized to stay proceedings or, under specific conditions, to decline jurisdiction in favour of the court first seized to avoid conflicting, albeit not identical, judgments.

According to Art. 30, cited above, actions are "related" if their close connection makes joint hearing and determination expedient to prevent irreconcilable judgments. A court other than the court first seized may stay its proceedings, and if the action in the first court is at first instance, the second court may decline jurisdiction if the first court has jurisdiction and its law allows consolidation.

Otherwise, a court other than the court first seized may stay its proceedings.

However, if the second court has exclusive jurisdiction (via an agreement under Art. 25 or on the basis of the subject matter under Art. 24), this takes precedence over the rules in Art. 30. Art. 31(2) of the Recast Regulation requires other courts to stay proceedings if a court with exclusive jurisdiction is seized, and to subsequently decline jurisdiction once the designated court has confirmed its authority.

Although Art. 30 generally defers to the first court for related actions, the exclusive jurisdiction held by a second court takes precedence.

42. The CJEU in the BSH/Electrolux Judgement (C-339/22) provides that "*If it considers it justified, in particular where it takes the view that there is a reasonable, non-negligible possibility of that patent being declared invalid by the court of that other Member State that has jurisdiction* (see, by analogy, judgment of 12 July 2012, Solvay, C-616/10, EU:C:2012:445, para. 49), *the court seized of the infringement action may, where appropriate, stay the proceedings, which allows it to take account, for the purpose of ruling on the infringement action, of a decision given by the court seized of the action seeking a declaration of invalidity*".

Rule 295 RoP states that the UPC may stay the proceeding (l) to give effect to Union law, in particular the provisions of Regulation (EU) no. 1215/2012 and the Lugano Convention; (m) in any other case where the proper administration of justice so requires.

The order to stay is entirely discretionary and depends on the procedural stage of the UPC proceedings and on the likelihood of the national portion of the patent being held invalid.

43. In this case the Court notes that:

(i) the proceedings pending in Spain are closely related, as required by Article 30 of (EU) Reg. no. 1215/2012, to the case before this UPC court, because:
   - they involve the same parties (even though not all the Defendants are involved in Spain);
   - they concern the invalidity of the corresponding national part of the Spanish patent, while before the UPC, a request has also been made to ascertain the damages arising from the infringement of the unitary patent in Spanish territory.

(ii) even if it is the second court to be seized, the Spanish court has exclusive jurisdiction, in accordance with Art. 24 of Regulation no. 1215/2012, even after the final ruling of the Court of Justice.

In this regard, it should be noted that the preliminary objections of Defendants nos. 1 and 2 regarding the jurisdiction of this Court in Spain have been rejected and not appealed. Therefore, this Court retains jurisdiction over Spanish territory with regard to the jurisdiction.

44. However, this Court considers that it is necessary to stay the proceedings regarding the action for infringement against all defendants in respect to the Spanish territory. The reasons being:

(i) Spain is not a UPC contracting Member State;
(ii) the UPC has no jurisdiction against the Spanish national portion of European patents;
(iii) an action for nullity against the national Spanish portion of EP ‘364 was introduced by Defendant no. 1 before the competent National Court after these proceedings had been commenced.
(iv) although it is the second court to be seized, the Spanish court has exclusive jurisdiction, in accordance with Art. 24 of (EU) Regulation no. 1215/2012, even after the last ruling of the cited Court of Justice (C-339/22)[9] .

Therefore, the Court separates the action for infringement of EP ‘364 lodged by the claimant regarding the Spanish territory against all defendants and stays the proceedings concerning the action for infringement lodged by the Claimant regarding the Spanish territory against all defendants until the irrevocable decision on validity of the national Spanish portion of EP’364.

The relationship between these proceedings and the proceedings before the Board of Appeal

45. On 1. December 2025, Defendant 1 filed an appeal against the decision of the Opposition Division issued on 19 November 2025, which concluded that EP’364 could be maintained in amended form. The appeal proceedings have been accelerated under Art. 10(4) of the RPBA, but they are still in a preliminary stage and will likely last until the end of 2026 or the first half of 2027.

46. Despite the ongoing EPO appeal, the Court was minded not to stay the present proceedings, taking into account that:

[9] See ECJ in the BSH/Electrolux Judgement (C-339/22).

(i) the order to stay the proceedings is discretionary and is decided upon on a case-by-case basis, in accordance with rules 295, lett. a) and 298 ROP, for the situation when a decision in opposition or appeal proceedings before European Patent Office may be expected to be issued rapidly. In this case, the Board of Appeal decision is not expected before the end of 2026;
(ii) discretion to stay should be used when there is a reasonable likelihood that the patent will be declared invalid. In the present case, the patent has been maintained following the opposition proceedings before the EPO, and whereas it is always possible that the board of appeal may overturn the decision of the opposition division, the appeal is normally based on the same grounds and evidence, making it reasonable to expect that the appeal would have the same outcome in favour of the patent proprietor;
(iii) the objective of procedural efficiency suggests to use the discretionary power in accordance with the speed of the principle of efficiency and the swift resolution of proceeding;
(iv) all of the parties requested that the proceedings should not be stayed.

Therefore, taking into account all of the above circumstances, the Court decided not to stay the proceedings.

ON THE MERITS
EP '364

47. EP'364, with a new title "*protective device and method for making said protective device",* following the decision by the Opposition Division, is based upon European patent application no. 20 830 321. 4 filed on 9 December 2020. It claims priority from IT 201900023958, IT 20190002396 and IT 2019900023964, all filed on 13 December 2019.
EP '364 was granted on 3 January 2024 as a European Patent with Unitary Effect and it has also been validated in Spain and the United Kingdom (see Exhibit 2 a-d claimant). The patent was published on 13 January 2024.

48. An appeal against the Opposition Division's decision is pending before the Boards of Appeal and an invalidity action before a Spanish Court for the Spanish portion was lodged on 27 February 2025 by Alpinestars, as already explained above.

Problem addressed by the Invention

49. The contested patent relates to a protective device for protecting a user, such as a motor bike rider or a skier. The device includes an inflatable element and is usually incorporated into a garment, resulting in a wearable vest containing an airbag.

The patent disclosure explains that a known protective device is, for example, described in European patent EP3291697B1 (EP'697). Such a device includes an inflatable element apt to assume a deflated rest condition and an active inflated condition.
The inflatable element includes a mesh body, which is a closed, or at least tubular, and has a structure defining an inner region, area, or chamber.
The mesh body of EP'697 is covered by waterproofing walls which are arranged externally with respect to the mesh body and which allow an inflation fluid to be contained for a certain time. The walls are, for example, a first and second sheet fixed to each other along their respective peripheral edges, thereby lining the mesh body on its external surfaces (see par. [0002] and [0003] of EP'364).
The patent disclosure notes that the disadvantage of such a known protective device is that the inflatable element in a deflated condition can create a sort of bag around the user's body that does not allow adequate passage of ventilation air (par. [0004]).

A technical problem underlying the invention is therefore to provide a protective device for the protection of a user capable of overcoming the drawbacks of the prior art and allowing greater transpiration (par. [0005]).
This problem is solved by a device having the features set out in independent claim 1 of EP '364, and an embodiment of which is shown in Fig. 1 of the patent.

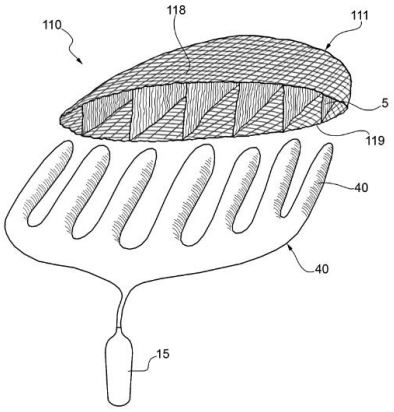


FIG.1

The validity of EP '364

50. As said above, during these proceedings, the granted claims were withdrawn.
The patent was upheld by the Opposition Division of the EPO, but in amended form: this set of claims is identical to that submitted to the Court in the present action as the Main amendment Request (MR).
Claim 1 of the MR is based on granted claim 1, which has been amended to include features from dependent claims 5 and 7 as granted. Dependent claim 14 and the method claims (15 to 19) have been deleted.

51. The set of claims of the MR consist of an independent claim 1 (directed to a device) and ten dependent claims. Claim 1 reads as follows:

a) Protective device (10, 110) for the protection of a user,

b) said protective device (10) comprising a mesh structure (11, 111) comprising a first mesh portion (18, 118) and a second mesh portion (19, 119) and a plurality of tie elements (5),

wherein

c) said first mesh portion (18, 118) and said second mesh portion (19, 119) are opposite one another and are connected one another by the plurality of tie elements (5);

wherein

d) the first mesh portion, the second mesh portion and the tie elements define one or more inner housings of the mesh structure (11, 111);

e) wherein the protective device (10, 110) includes a casing body (40, 42, 43) arranged at least in an inner housing of said one or more inner housings,

wherein

f) said casing body is configured to assume a deflated condition and an inflated condition in the at least one inner housing of the mesh structure (11, 111),

and wherein

g) in said deflated condition, the casing body (40, 42, 43) occupies a first space or first region,

and wherein

h) in said deflated condition a second region or second space of said at least one inner housing lacks a casing body,

i) and wherein in said inflated condition the casing body occupies the second region or second space.

j) and wherein the tie elements define a plurality of housings between the first mesh portion (18, 118) and the second mesh portion (19, 119)

k) and the casing body (40, 42, 43) comprises a plurality of portions (40a) each arranged in a corresponding housing of said housings and

l) wherein the casing body (40, 42, 43) has a hand or comb shape.

52. In summary, the additional features over granted claim 1 are that:

j) the tie elements define a plurality of housings (from claim 5);

k) the casing body comprises a plurality of portions each arranged in a housing (from claim 5); and that

l) the casing body has a hand or comb shape (from claim 7).

Adaptation of the Description

53. At the oral hearing of 9 October 2025, the Opposition Division requested the Claimant to adapt the description to the amended set of claims of the main request.
The Claimant, therefore, submitted a new version of the description, with the following main amendments:

- the embodiments illustrated in Figures 6 and 10 were marked as not forming part of the claimed invention; and
- the method for making a protective device was marked as “not-claimed method”, since the set of claims of the main request does not contain any method claims.

Further amendments requested by the Opponent, regarding specifically paragraphs [0045], [0053], [0060] and [0061], were refused by the Opposition Division.

Claim Interpretation

Mesh Portion.

54. Features b), c) and d) define a mesh structure including a first mesh portion and a second mesh portion.

55. According to the Claimant, the mesh structure is a cage structure capable of trapping, blocking or containing the expansion of the casing body.

It also allows air or gas to pass through, in particular when the casing body is in a deflated condition (para [0019] of the patent).

The function of the mesh structure is to control the shape assumed by the inflatable element in an inflated condition (see, for example, the contested patent, col. 2, ls. 41-44).

Therefore, this element has both scopes, structural and functional.

56. In the Defendants view, the mesh is a perforated structure, and they agree that it is suitable for creating a frame or cage around the inflatable member, that allows air or gas to pass, and that it also controls the shape assumed by the inflatable element when inflated.

However, according to the Defendants, the term "mesh structure" does not actually need to be a "real" mesh or net, but it can also simply be a needled material. Therefore, the "mesh portion" of claim 1 has to be interpreted in broad sense.

57. Given that one of the aims of the invention is to improve transpiration, the Court considers that it is the function of the mesh that is of importance. The mesh, irrespective of whether it be a net or needled material, must have sufficient apertures that allow air or gases to pass.

Plurality of Housings

58. According to feature j), the tie elements define a plurality of housings between the first mesh portion (18, 118) and the second mesh portion (19, 119).

59. According to the Claimant, a skilled person with a mind willing to understand would set aside the embodiment involving only one housing in the context of the present invention and would consider that only a plurality of housings is intended. The housings must be confined areas defined by walls of elongated shape defined by tie elements: each housing receives one finger of the casing body, as described in para. [0021] and para. [0022].
In addition to defining the housings, the tie elements control the expansion of the casing body.
The tie element could be a stitch [see para 0021, in which case the tie elements can be interpreted as being arranged along a line to define at least two housings.

60. According to the Defendants, claim 1 does not require a plurality of housings, since feature d) defines **"**one or more inner housings". There is an inconsistency between features d) and l). Therefore, the requirement for a plurality of housings is a clear and irreparable contradiction with "*at least one*" and "*one or more inner housings*".
Moreover, claim 1 merely specifies that the housing is defined between the first mesh portion, the second mesh portion and the *tie elements* (feature d), the latter being interpreted in a broad sense, as stated in para 0021.
Indeed:

- if the housing were a confined space limited by walls, the channels referred to in claim 5 of the new MR would be redundant.
- the new main claim would then be limited to the scope of a dependent claim, which would not be appropriate.
- housings that are channel shaped is disclosed in para. [0015] as an option, and only in dependent claim 6 is it specified that tie members are aligned in a plurality of rows, indicating that this is not an essential feature of claim 1
- this is highlighted further in para. (0021), which specifies that "*Also with the term tie element is meant an element in the broad sense, that is to say an element which is tensioned between the two mesh portions when the inflatable casing body is inflated. The tie element could also be a stitch".*
- moreover, according to para [0022], "*tie elements can alternatively be threads, or pieces of fabric, or ribbons, in other words they can be dividing walls connecting mesh portions of the mesh structure. Said dividing walls can also be tensioned. The tie elements can be arranged in such a way that a first group of tie elements is arranged in a crossing or oblique condition with respect to a second group of tie elements.*"
- according to para (0023) *"the tie elements can also be made as stitches or topstitching".*

In conclusion the claim 1 of the MR has to be interpreted in a broad way to include an embodiment wherein only separated tie elements arranged between the opposite sides of the mesh structure define housings. Walls as such are not mandatory.

61. The Court considers that a skilled person reading claim 1 would conclude that a plurality of housings is necessary for the invention.
Claim 1 of EP '364, as now amended, requires that the tie elements define a plurality of housings (feature j), which states that the casing body comprises a plurality of portions each arranged in a corresponding housing.
So, if the tie elements are placed along the same line, they define two housings; if tie elements are placed along two different lines, they define three housings, and so on.
Considering the overall disclosure of the invention in the patent at issue, it is readily apparent that the casing body is made up of multiple portions that fit into corresponding housings. All of the figures show this, and it is necessary to fulfil one of the aims of the invention, namely, to control expansion of the mesh and to create a planar structure in the inflated condition (see col. 5, l. 55 to col. 6, l. 1).
Given the above, it does not make sense to say that the tie elements define one housing. Consequently, the Court disagrees with the Defendants' position.

First space and Second space

62. Features g) and h) define a casing body, a first space or region and a second space or region.

63. The Claimant submits that the second region is a free space allowing air to pass through; the inflatable casing body occupies the first region in the deflated condition, leaving the second region free to allow transpiration. Support for this can be found in the description as follows:

(i) from para. [0009] "*in the deflated condition, the casing body occupies a space smaller than the space available in the respective housing, so as to determine a free region. In this way, the free region, which is actually defined by the mesh structure, allows transpiration when the protective device is used"*;
(ii) from para [0010] of the patent " … *by inflating the casing body expands as much as possible in the housing until it occupies all the available space, and until it is blocked by the mesh structure and the tie elements that essentially "bridle it"*.

Therefore, according to the description, the second region is free space, not occupied by the casing body i.e. the airbag in the deflated condition, and into which the airbag can expand when inflated. The second region can be even a minimum space, such as that between the casing body and the mesh, which is necessary to enable the airbag to be inserted easily into the mesh.
Furthermore, there is not requirement that the casing body in the deflated condition must occupy a minimum space between the mesh portions, so as to allow for maximum ventilation, as long as sufficient ventilation is achieved. As stated in para [0019] "*in the deflated condition the casing body can occupy a minimum space between the mesh portions, and therefore maximum ventilation of the item of clothing or garment".* Hence, the casing body *can* occupy a minimum space, but it is not an absolute requirement.

Likewise, there is no need for the casing body to occupy the entire second region when in the inflated state in order to provide protection, and an overall cushion having a globally planar structure (para. 0036).

64. The Defendants agree that the second space or region has the purpose of allowing ventilation, as described in para [0009] and [0016]. They see the entire object of the patent to be the provision of better ventilation than exists in prior art garments. Support for this also comes from:

- para [0004] "*to overcome this problem, it has been proposed to fold the inflatable element in a deflated condition and make it expand and occupy a more extended position in the inflated condition so that when the inflatable element is at rest and not in use there are minimal areas with little transpiration*";
- para [0005] *a technical problem underlying the present disclosure resides in providing a protective device for the protection of a user capable to overcoming the drawbacks of the known art and allowing greater transpiration and/or achieve further advantages, and to provide a garment including said personal protective device*";
- this object can only be achieved if the *"second region"* or "*second space"* is large enough to have an impact on transpiration and ventilation.

These considerations exclude areas that only exist to enable the insertion of the airbag into the housing, or general manufacturing tolerances; the second space cannot be negligible.

65. The Court observes that:
- when deflated, the casing body or airbag cannot occupy substantially all of the space in the mesh, since, as argued by the Defendants, ventilation would be insufficient, and improved ventilation is the purpose of the invention;
- furthermore, it is not necessary for it to occupy the entire space of the second region of the mesh in order to achieve the desired effect (a cushion of inflated bodies having an overall planar structure (see paragraph 36 of the patent)); this is evident from Figures 3 and 4, which show that the inflated airbag does not occupy the entire mesh structure;
- this is also supported by para [0019], which clarifies that the first and second regions are functional, i.e. they serve for ventilation;
- the ratio between occupied and unoccupied space in the mesh is not defined by the patent in percentage terms, but it would be readily apparent to a skilled person whether or not there is sufficient space to provide ventilation;
- given that the second space must allow for ventilation, the Court agrees with the Defendants that it cannot be negligible, and that the tolerance required for inserting an airbag is insufficient.

Comb or Hand Shape

66. According to the Claimant, *"comb*" and "*hand shape*" (see feature l) are to be interpreted as being synonymous.

According to the description (para. 0036) - even if it does not specify how those terms should be interpreted - these expressions are used to explain that the inflatable casing body has elongated parallel portions that in an inflated condition press against each other to form a cushion of inflated bodies having an essentially planar structure. The elongated portions are arranged side-by-side and parallel to each other and emanate in the same direction from the same starting point, like a hand or comb (see Fig. 1).

67. The Defendants argue that a "comb" or "hand shape" does not require a shape with parallel elements and does not lead to a planar structure of the inflatable member.
In view of the defendants:

a. in general, a comb or hand shape does not require parallel elements; there is no limitation regarding the angle between the elements and there is no limitation in the number of elements, in particular, there may just be two;
b. paras [0028)] and [0039] of EP '364 respectively cite a planar structure and hand/comb shapes having a plurality of portions, but the relationship between hand/comb shape and planar structure is not addressed in these paragraphs;
c. claims 6 and 7, as granted, also indicate that a planar structure is independent of the comb or hand shape. Claim 6 requires the planar structure, but claim 7 (which is dependent *inter alia* on claim 6) assumes that a tubular, serpentine or tree shape can also result in a planar structure.
d. pursuant to para [00038] the parallel arrangement of the tie elements is only a preferred embodiment to which the claim language is limited.

68. The Court does not see any difference between a hand and comb shape. They are not particularly technical terms and no distinction is made in the contested patent, where they are used together throughout.
The Court agrees with the Defendants that any "*finger shaped"* element suffices. Furthermore, there is no requirement that the fingers must be parallel.

Clarity and Sufficiency

69. The Defendants argue the contradiction between features (d) and (e), which define one or more housings, and feature (l), which requires a plurality of housings, results in a lack of clarity and insufficient disclosure.
However, the alternative of one housing could not be put into practice in light of feature 1, according to which the connecting elements must define a plurality of internal housings. Furthermore, the patent description does not describe any mechanism or provide any other instructions on how these alternatives can be implemented together.
For this reason, the protective device of claim 1 of the MR can not be implemented, thus rendering the claim invalid.

70. According to the Claimant, the Defendants' objection of lack of clarity of claim 1 is unfounded, because claim 1 of the MR merely results from the combination of claims 1, 5 and 7, of the patent as granted.

71. The Court agrees with the Claimant. The issue concerning the contradiction between plurality / singular housings was already present in granted claims 1 and 5 (more precisely, claim 5 alone, since it is dependent on claim 1). The amendment of granted claim 1 by incorporating the features of dependant claim 5 does not introduce a new lack of clarity that was not already existing in the granted claims.

72. In addition, even though there is a contradiction between the preamble and characterising portions, this would be recognised by the skilled person.

Regarding sufficiency of disclosure, the Court notes that the description and figures provide the skilled person with sufficient information to create a protective device according to the invention. The ambiguity would not deter the skilled person from putting the invention into practice.

Therefore, the objections relating to clarity and sufficiency are dismissed.

Priority

73. As said above, the patent claims priority of IT 201900023958 (Ex 20a, P1) IT 20190002396 (Ex 21a, P2) and IT 2019900023964 (Ex 22a, P3), all filed on 13 December 2019.

74. The Defendants argue that:
(i) P1 does not disclose features e), f) and h) (and dependent claims 3, 6, 10);
(ii) P2 only relates to vehicles, and does not disclose e);
(iii) P3 does not relate to a protective device and it does not disclose e).

75. The Court agrees with the Claimant and the conclusion of the Opposition Division that priority has been validly claimed on the basis of P1 alone. In particular:
(i) Features e) f) and h) of claim 1 (namely, that a casing body is arranged in an inner housing and can be deflated or inflated, and when deflated, a second region of the inner housing lacks a casing body) can be derived from Figs. 4 and 5 of P1 and the accompanying texts:
- "*the casing bodies are arranged with clearance in the inner area of the mesh structure in a deflated condition"* (see P1: p. 4, ls. 18 to 20);
- "*in the deflated condition, the casing body can occupy a minimum space between the knitted portions and thus allow maximum ventilation of the garment* (see P1, p. 2, line 37 to p. 3, line 1);
- "*the casing body is in a deflated condition during a rest situation of the inflatable element and occupies the smallest possible space thus allowing passage of air between the mesh portion*" (see P1: p. 8, ls. 34 to 36);

(ii) dependent claim 3 can be derived from Figs 2 and 3 of P1, which show the casing body in an inflated state, and to all extent and purposes completely occupying the first and second regions of the housing;
(iii) dependent claim 6 requires that when the casing bodies are inflated, they form a planar structure, which can be derived from p. 9, ls. 7 to 9;
(iv) dependent claim 8 (claim 10 of the granted patent) states that a passage of air passes through the second region of the housing, and this can be derived from p. 8, ls. 34 to 36 and Figs. 4 and 5.

76. The Court also agrees with the Opposition Division that feature h) of claim 1 of the patent as granted ("*in said deflated condition a second region or second space of said at least one inner housing lacks a casing body*"), although not literally present in priority document P1, does not present the skilled person with technical information beyond the disclosure of P1; indeed, this is consequence of the disclosure at p. 8, lines 34 to 36 of P1.
As regards claims 5 and 7 of the patent as granted, the Defendants have not raised any specific objections as to the validity of their priority claim.
Accordingly, claim 1 of the MR validly claims priority from document P1. The effective date is therefore the filing date of document P1, i.e., 13 December 2019.
There is no need to consult priority documents P2 or P3.

Prior Art

77. For clarity's sake, the Defendants in their last letter summarised the prior art they would be referring to, as follows (where relevant, the Exhibit numbers are also indicated):

D1: EP 3 498 117 (originally part of this case);
D3: WO 2020/115 158;
D4: Spidi Jacket (Ex. 13);

D5: Video of Spidi Jacket Inflating (Ex. 26, 26a);
D7: EP 2 879 536;
D8: EP 2 621 297;
D10: CN 111671174A;
D11: CN 110123064A .
D14: CN 110037367;
D15: KR 20170123046;
D16: CN 10998200.

In addition, the Spidi Jacket (Ex. 13, 15, 16, 26, 26A) and the Bering Vest (Ex 13A to 13D) are cited.

78. The Court observes that, since the priority claim (13 December 2019) is valid, documents D2 (pub. 6 May 21), D9 (pub. 30 Dec 21), D10 (pub. 18 Sep 20) and D12 (pub. 16 Jun 21) - cited in the prior briefs - are not state of the art.
Furthermore, D3 published on 11 Jun 2020 (with priority 5 December 2018) is prior art under Art. 54(3) EPC.

Invalidity Attacks

79. In accordance with (i) the principle of a front loaded case, as provided by the Preamble to the Rules of Procedure (Paragraph 7) which states "*Parties shall cooperate with the Court and set out their full case as early as possible in the proceedings*", (ii) the adversarial principle enshrined in Article 76 UPCA and (iii) the UPC case law, invalidity attacks raised by the Defendants examined below are only those raised by the Defendants in their first defence submissions and which have been substantiated in a comprehensive manner.
Regarding the novelty attacks, the Court has examined the submission raised by the Defendants and maintained in last briefs submitted to the Court.

Novelty, Claim 1 (as MR and as amended granted Claim 1)

80. The Defendants confirmed their novelty attacks in view of D3, D4, D5 and D8 in their last brief filed on 15 February 2026.
The Claimant submits that all the lack-of-novelty attacks raised by the Defendants against claim 1 of the MR are unfounded.

81. The Court agrees with the Claimant and the decision of the Opposition Division that claim 1 is novel over the prior art for the following reasons.

D3: WO 2020/115158 - prior art under Art. 54(3) EPC

82. D3 is a Euro PCT application filed on 4 December 2019, claiming priority of IT 102018000010828 from 5 December 2018, and published on 11 June 2020.

83. The embodiment shown in Figs. 6a and 6b of D3 is relevant.

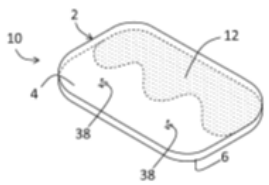


Fig. 6a

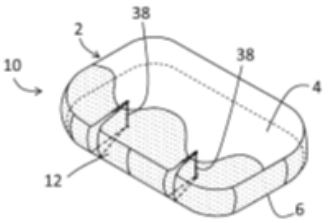


Fig. 6b

The figures show a protective device (10) comprising a single housing (2) containing a single inflatable bag (12). The surfaces (4,6) of the housing are made of mesh and are connected by ties (38).

84. The Claimant submits that D3 is not an enabling disclosure, lacking features j (plurality of housings), k (casing body comprising a plurality of portions) and l (hand or comb shape) since:
(i) the internal bag cannot reach the end zone of external casing 2;
(ii) rather, the bag would hit against threads 38 and would not encircle them, meaning that there are no multiple housings containing portions of the casing body;
(iii) the inflatable has a bag with a wavy profile; it is not comb-shaped;

The Claimant also submits that the D3 airbag does not have a flat configuration when inflated (it has a balloon shape, swelling in portions where there are no tie members). For the purpose of assessing novelty, the Court notes that this does not seem to be relevant, as the feature of a planar shape is not defined in the claim.

85. The Defendants argue that:

- regarding feature j), D3 discloses two mesh portions, forming upper and lower surfaces, and two tie elements which, as shown by figures 6a and 6b, create three housings, namely one between the two tie elements 38 themselves and the other two between each of the tie elements 38 and the respective side edge of the casing:
- regarding feature k), the inflatable bag in figure 6a shows different portions, located in the three housings.

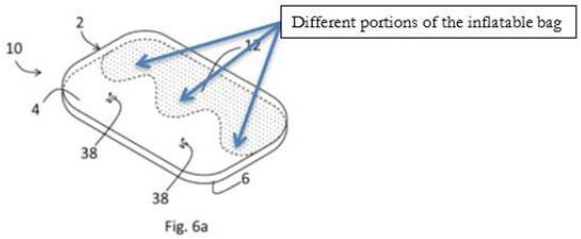


Fig. 6a

- regarding feature l), (according to the Member Webster vocabulary): the term "*comb*" may be either a toothed instrument, used especially for adjusting, cleaning or confining hair or fleshy crest on the head of domestic chicken. Figure 6a and 6b also show a comb-shaped inflatable casing body, having two prongs.
- the Defendants also note that there is no requirement in claim 1 to have a planar structure when the casing body is inflated.

86. The Court holds that none of the features j), k) and l) is derivable from Figs. 6a, 6b and the accompanying description.

Contrary to the opinion of Defendants:

i) the wedge-like cavities of Fig. 6b do not define housings. The ties (38) keep the structure flat when inflated and to some extend will stop it from ballooning. However, they do not define housings into which portions of the airbag inflate;

ii) structure 2 is a single space and it is not a realistic interpretation of the Figs 6a, 6b to say that the two, essentially solitary, threads 38 create three "housings".
There is a single airbag that inflates and surrounds the ties see (p. 5 of D3).

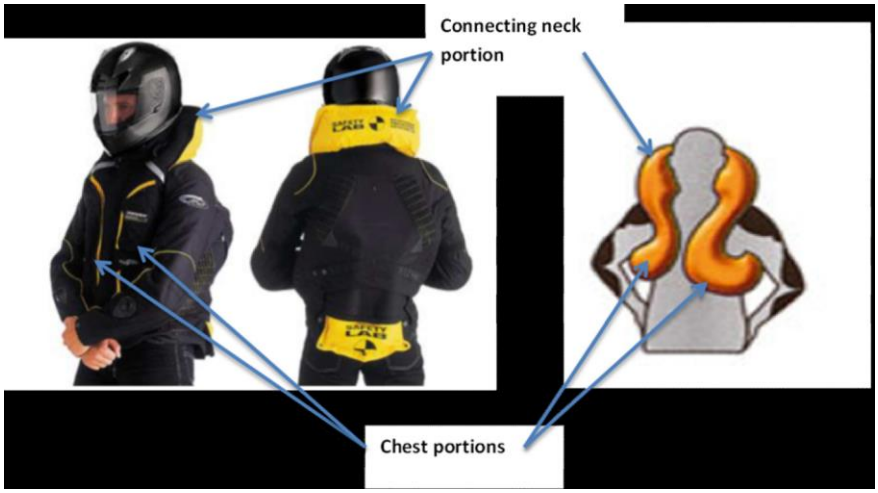
iii) The inflatable bag seems to have a wavy profile, but this would not be a hand or comb shape within the conventional meaning of the expression.

87. Therefore, D3 lacks a plurality of housings and a casing body having a plurality of portions (j and k). Furthermore, is not clear that the casing body has a comb or hand shape ().

Finally, the Defendants submitted specimens (Ex. 116 a, b, c), stating that they were embodiments of the invention of D3. These are not relevant, since it is the document D3 itself that is the disclosure, and for novelty assessment, it is essential that the subject-matter of claim 1 can be derived from D3 alone.

D4 and D5 (Spidi DPS 03 Jacket)

88. Spidi jacket D4 is shown in in the deflated and inflated states as follow.



89. The Defendants argue that the Spidi jacket discloses a comb shape, albeit with two teeth and it discloses feature l, a plurality of housings and a second space.

According to the Defendants, the Spidi DPS0 jacket features a tubular airbag within a mesh structure, which includes two front sections for the wearer's chest. As shown in the images, these front sections are comb-shaped, with two prongs connected across the neck.

90. According to the Claimant, D4 does not disclose:
- feature l) ("*the casing body has a hand or comb shape*"). The Spidi jacket has a tubular or serpentine shape. In Spidi jackets, the tubular airbag is inflated from one end, and expansion takes place progressively along the length of the tube or serpentine. In contrast, the sections of an air bag having a hand or comb shape inflate simultaneously.
- the second region, i.e. the regions of mesh not containing the air bag, in the Spidi jacket is too small to permit the air to pass through and would not allow for ventilation.

91. The Court disagrees with the Defendants; embodiments having a tubular or serpentine shape, such as the Spidi jacket, have been deleted from the claim. Furthermore, the tubular airbag cannot be considered as having a comb shape. The Defendants argued that it is a two-pronged comb, but it can be seen from the above figures that this is an unrealistic and rather artificial description of the shape of the tubular airbag of the Spidi Jacket. It can also be added that the purpose of the multi-toothed comb is to provide a planar structure in the inflated condition, which is not the case with the Spidi jacket. In conclusion, it is an unreasonably broad interpretation of the term "comb" to include the tubular airbag of the Spidi jacket. The subject-matter of claim 1 is novel over the Spidi Jacket, since the latter lacks a second region and a comb or hand shape.

D8: EP 2 621 29790

92. Document D8 is a European patent (EP 2 621 297 B1) filed on 29 November 2011, claiming priority from 29 September 2010, and which was published on 7 August 2013.

Features b) (mesh structure), h) (a second region lacking the casing body in deflated condition), and l) (hand or comb shape) of claim 1 are relevant here. Fig. 3 of D8, reproduced below, shows a cross-sectional view of the airbag in a nearly fully inflated state.

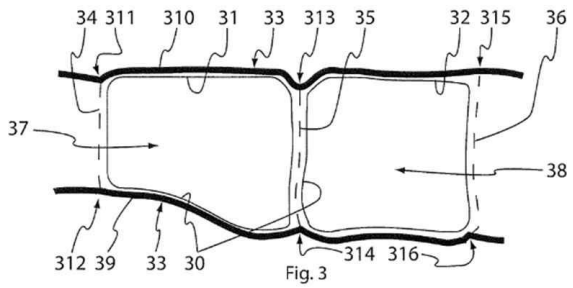


Fig. 3

93. According to the Claimant, D8 does not disclose feature b) ("*said protective device comprising a mesh structure comprising a first mesh portion and a second mesh portion and a plurality of tie elements*"), feature h) ("*in said deflated condition a second region or second space of said at least one inner housing lacks a casing body*") and feature l) (*comb or Hand shape)*.

94. The Defendants argue that:

- the term "mesh structure" (feature b) does not actually need to be a conventional mesh or net, but it can simply be any needled material. D8 discloses that the layers 39, 310 and the resultant outer bag 33 may be fluid-permeable and that the layers of the outer bag 33 in one embodiment are merely connected by straps, thus clearly resulting in a fluid permeable bag. In a second embodiment they are connected by stitching. Therefore, those layers and the outer bag comprise a fabric or other material "that allows air or other gas to pass" through it and would be therefore a "mesh structure" within the meaning of EP '364;
- as far as feature h) is concerned, the Defendants refer to par. [0041] of D8, according to which the cross-sectional area of the elongated portions of the first chambers of the inner bag is smaller than the cross-sectional area of each respective section of the outer bag, and such an arrangement permits a quick passage from a folded, non-inflated state to an unfolded inflated state of the airbag. Hence, the inner bag does not occupy the entire space of the outer bag, meaning that there is a second space that lacks a casing body.
- regarding feature l, Figures 4 to 6 clearly show the airbag to have hand or comb shaped structures, albeit that the fingers emanate from a central connecting portion.

95. The Claimant replied that:

- concerning the meaning of the term "mesh structure", par. [0019] of EP '364 clarifies that "with the expression mesh structure, or preferably mesh textile structure, or mesh portion, it is meant in a broad sense a real mesh, or even a fabric, even a net. Alternatively, it can be a so-called shuttle weaved material or needled materials (non-woven fabric)". This paragraph confirms that the mesh structure is made of a non-conventional material for airbag, contrary to the outer bag of D8 (in this regard, par. [0031] of D8 states that "The outer bag 22 is made of a standard airbag material, such as polyamide"). The Claimant concurred with the Opposition Division's decision, that there is no unambiguous disclosure in D8 that the outer bag is a mesh structure;
- regarding feature h, the Claimant quoted the statement of Defendant 1 in the Notice of Opposition against EP'364, in connection with the priority issue, that a smaller cross-sectional area of a bag does not mean that there is a second region free of the airbag. The Claimant pointed out that the same conclusion had been reached by the Opposition Division. At para. 2.6.3.5 of its decision, it is stated that "*there is no direct and unambiguous disclosure in D8 of a second region or second space of said at least one inner housing lacking a casing body*" and that "*while it is well known that an airbag increases its volume when inflated, this does not necessarily imply that the expansion of the airbag takes place in a region which is free of the airbag before the inflation of the airbag itself*". The Opposition Division concludes, therefore, that "*it is not apparent that the collar comprises any region or space that is not occupied by the casing body as required by feature h)*";
- regarding feature l, a hand or comb shape implies, although this is not explicitly stated in the description of EP'364, that the finger-like portions of the casing body extend on the same side with respect to a connecting portion of the casing body. This is not the case with the airbag of D8, where the various portions of the airbag extend on opposite sides with respect to a central connecting portion.

96. The Court holds that:

(i) D8 does not clearly disclose a housing having *a mesh structure*. In para. [0031] it is merely said that *"The outer bag 22 does not necessarily have to be fluid-impermeable, since the inner bag 21 is capable of expanding the outer bag 22".* This is not an unambiguous disclosure of a mesh structure, since the type of material used for the outer bag is left open;

(ii) as to whether there is a second region in which the inner bag is absent, para. [0030] states that *"the inner bag is surrounded, or at least partially surrounded, by the outer bag. Inflation of the inner bag leads to expansion of the outer bag"*.

Regarding this point, the Opposition Division - at par. 2.6.3.5 of its decision- stated that "*there is no direct and unambiguous disclosure in D8 of a second region or second space of said at least one inner housing lacking a casing body*" and that "*while it is well known that an airbag increases its volume when inflated, this does not necessarily imply that the expansion of the airbag takes place in a region which is free of the airbag before the inflation of the airbag itself*". The Opposition Division concludes, therefore, that "*it is not apparent that the collar comprises any region or space that is not occupied by the casing body as required by feature h)*".
The Court agrees with this reasoning.

(iii) Contrary to the view of the Claimant, the inner bags shown in figs. 4 to 6 have a comb shape, in that there are elongated portions emanating from a central part.

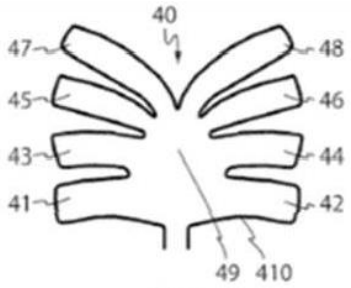


Fig. 4

In conclusion, the Court concludes that the device of claim 1 of the MR is novel over D8, since D8 does not clearly and unambiguously disclose a second region (features h) and mesh structure (feature i).

Inventive Step

Criteria for Assessing Inventive Step

97. In assessing inventive step, the following are taken into consideration:

- Article 138(1)(a) of the European Patent Convention (EPC) and Articles 52 and 56, invention.

- The relevant UPC case law that includes:

- two decisions of the Court of Appeal filed on 25 November 2025 (UPC_CoA_528/2024, 529/2024 – Amgen v. Sanofi-Aventis and UPC_CoA_464/2024, 457/2024, 458/2024, 530/2024, 532/2024, 533/2024, 21/2025, 27/2025 – Meril v. Edwards). These both applied the same test on inventive step.
  In particular, the first one specified as following:

  126. "The approach taken by the Unified Patent Court when establishing inventive step, which can already be derived from the Order of the Court of Appeal in Nanostring/10X Genomics (supra), is as follows.

  127. It first has to be established what the object of the invention is, i.e. the objective problem. This must be assessed from the perspective of the skilled person (m/f – hereinafter referred to as 'it'), with its common general knowledge, as at the application or priority date[10] of the patent. This must be done by establishing what the invention adds to the

[10] also referred to UPC_CFI_146/2024 - UPC_CFI_496/2024 UPC_CFI_147/2024 - UPC_CFI_374/2024 UPC_CFI_148/2024 - UPC_CFI_503/2024 as the relevant date

state of the art, not by looking at the individual features of the claim, but by comparing the claim as a whole in context of the description and the drawings, thus also considering the inventive concept underlying the invention (the technical teaching), which must be based on the technical effect(s) that the skilled person on the basis of the application understands is (are) achieved with the claimed invention.

128. In order to avoid hindsight, the objective problem should not contain pointers to the claimed solution.

129. The claimed solution is obvious when at the relevant date the skilled person, starting from a realistic starting point in the state of the art in the relevant field of technology, wishing to solve the objective problem, would (and not only: could) have arrived at the claimed solution.

- Subsequent decisions of the Courts of First Instance are also of relevance (see Local Division Munich, decision issued on 12 December 2025 UPC_CFI_146/2024 - UPC_CFI_496/2024 UPC_CFI_147/2024 - UPC_CFI_374/2024 UPC_CFI_148/2024 - UPC_CFI_503/2024).

98. Both of the above decisions filed by the Court of Appeal were delivered before the interim procedure was closed. During the Interim Conference, the judge rapporteur invited the parties to consider inventive step in light of the mentioned Court of appeal decision. The order issued on 29 January 2026 allowed the parties to lodge final briefs, with the possibility of discussing this point. Therefore, with regard to this aspect the adversarial principle has been respected.

The Court will examine inventive step in light of both the problem/ solution approach and the criteria set out by the Court of Appeal.

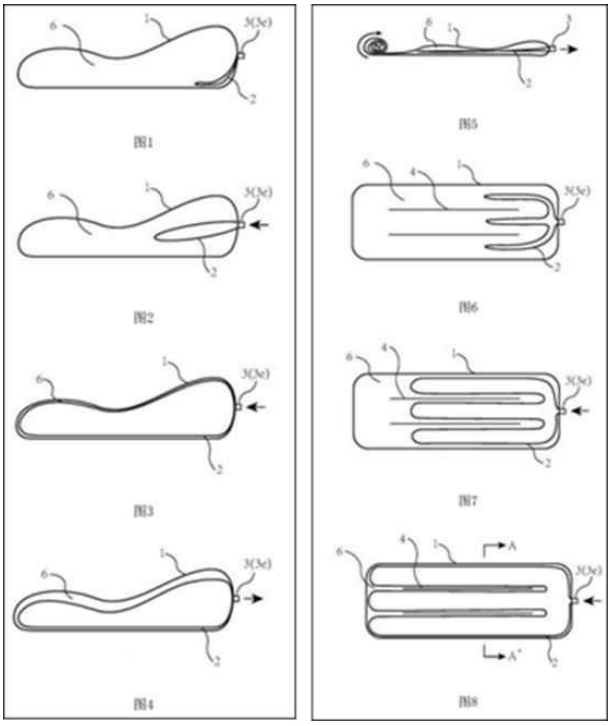
99. Regarding the specific inventive step attacks, in revocation actions the Defendants alleged a lack of inventive step in view of D1 with D11, alternatively the Bering jacket combined with the Spidi jacket.
The defendants added further inventive step attacks only after the claimant filed the main request to amend the patent (and the auxiliary requests). These were based on D3, D8 and D 7 with D10 (see briefs filed on 14 August 2025).

100. The Court notes that amended claim 1, as granted, now being the MR the combination of granted claims 1, 5 and 7, the subject-matter of which was known at the outset of these proceedings. The inventive step attacks based on documents D3, D8, D7 and D10 should therefore have been introduced at the first stage.
Furthermore, the inventive step attack in view of D3 - as well as being a late one - is not admissible; pursuant to Art 54, paragraph 3, of the European Patent Convention (EPC), such documents cannot be used to assess inventive step.
Late filing is even more relevant for the additional attacks introduced in later briefs after the written procedure was closed, in particular those based on the Spidi jacket, D14, D15 and D16.
Therefore, taking into account the considerations set out above regarding the front-loaded principle, only the attacks raised initially are examined.

D1 (EP 3 498 117) with D11 (CN 110123064A)

101. According to the Defendants, D1 discloses a garment provided with an inflatable member designed to protect a user in case of an accident, and hence is an appropriate starting point for assessing inventive step.

The inflatable member is arranged inside a seat or housing which includes a first region, intended to receive the inflatable member in the deflated condition, and a second region, without the inflatable member in the deflated condition, and which is capable of receiving the inflatable member in the inflated condition.
The second region is arranged in a portion of the garment which has one or more ventilation holes or is made of a material allowing the air to flow.
Consequently, D1 discloses a solution wherein a garment with an inflatable member provides adequate ventilation.
D1 does not disclose that the inflatable member is inserted inside a mesh structure (features b, c and d of claim 1).
According to par. [0019] of the disputed patent, by appropriately shaping the mesh structure, it would be possible to determine *a priori* the shape assumed by the inflatable element in an inflated condition.
In view of this technical effect, the technical problem can be formulated as being, how to control the expansion of the inflatable member 100 of D1 during its inflation.
A solution to this technical problem is provided by D11, which belongs to the technical field of the inflatable products (see par. [002] of D11).
The following relevant figures of D11 are shown below.



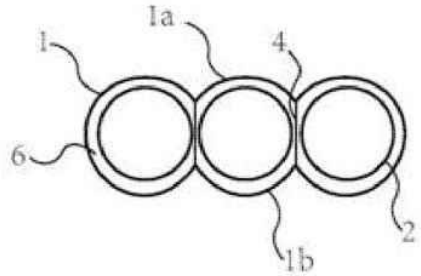


图9

D11 is a pressure-bearing inflatable product, which comprises a fabric outer cover inside which an inner bag is arranged.
The fabric outer cover comprises a fabric upper piece 1a, a fabric lower piece 1b and a plurality of fabric tie members 4 (see paras. [0071], [0083] and fig. 9 (shown above)).
The fabric outer cover can be considered as being a mesh structure in the meaning of EP '364. Moreover, the fabric tie members connecting the upper fabric piece and the lower fabric piece divide the internal cavity of the cover in a plurality of accommodating chambers (see fig. 9 and par. [0083]).
Furthermore, the inner bag is provided with elongated portions which are designed to be arranged inside the accommodating chambers defined inside the cover (see figs. 1-9 and par. [0076]).

D11 specifically discloses that the final shape of the inflatable product is “determined by the fabric outer shell 1” (see para. [0078]). Consequently, a skilled person would see the advantages of the teachings of D11 and would have applied such teachings to the airbag of D1 so as to control the expansion of the inflatable member.
Since the inflatable member only occupies a part of the space in the seat, the garment has improved ventilation (para. 42).

102. The Claimant agrees that D1 can be considered as a realistic starting point, as it also relates to a protection device which is intended to protect a user from impacts and/or falls and includes an inflatable member apt to assume an active inflated condition and a rest deflated condition.

The problem addressed by EP ‘364 is to provide a protective device for the protection of a user that is capable of allowing transpiration and, at the same time, ensures greater protection for the user by controlling the expansion of the inflatable element.

However:

a) there is not motivation to combine D1 with D11;
the skilled person, starting from D1 and wishing to solve the problem addressed by the invention, would not be motivated to look at D11, since D11 belongs to a completely different technical field and addresses a completely different technical problem.
In fact, the device of D11 is not a protective device intended to protect a user from impact and/or falls, but a device, such as "*an inflatable bed/mattress, an inflatable sofa and an inflatable swimming ring*", intended to "*bear human body weight*" (see par. [0002]). This is confirmed by the fact that D1 is classified in IPC class A41 (relating to "wearing apparel"), whereas D11 is classified in IPC class A47 (relating to "furniture; domestic articles or appliances; coffee mills; spice mills; suction cleaners in general").

b) it is not obvious, trying to combine D1 and D11, to arrive at the subject-matter of claim 1.
The technical problem solved by D11 is how to provide an inflatable product that is lightweight and compact and can be manufactured at low cost (see par. [0008] of D11). This technical problem is completely different from the one underlying the present invention.
D11 does not disclose a mesh structure. The outer bag or casing is just defined in D11 as being a fabric outer shell or jacket (see, for example, par. [0011], "*A fabric outer shell…*"). Additionally, D11 explicitly states that the fabric jacket is almost airtight, as gas leaks gradually through the fabric (see par. [0046]).
There is therefore indication of a breathable mesh structure, as these devices do not have to be breathable.
Furthermore, D11 does not disclose tie elements.
The tie rods 4 of D11 are not connection elements within the meaning of EP'364. At paragraph [0083] D11 explains that “*after being inflated, the fabric outer shell upper sheet 1a and the fabric outer shell lower sheet 1b will form the upper and lower surfaces of the inflatable bed/mattress with bumps and depressions suitable for human body lying*”. The elements of D11 must therefore be rigid in order to constrain the two portions of fabric to stay at a predetermined distance and form the depression areas typical of a mattress (bumps and depressions). Such bumps and depressions are contrary to the teaching of the planar structure which is obtained by means of the comb or hand-shaped inflatable casing body of EP '364.
Therefore, even if the skilled person were to combine the teachings of D1 and D11, in spite of the lack of motivation to do so, they would not arrive at the combination of all of the features of claim 1 of the Main Request.

103. The Court notes that D1 does not disclose:

- a protection device with a mesh structure having a plurality of tie elements – features b) c) and d);
- the tie elements defining a plurality of housings – feature j);
- the casing body comprising a plurality of portions – feature k);
- wherein the casing body has a hand or comb shape – feature l).

Protection in D1 is achieved in a different way to that of the disputed patent.

The inflatable member is directly inserted into a seat/pocket formed between garment layers, whereas according to the invention, an inflatable member is inserted into a mesh structure (seat/pocket) to form an assembly, which in turn is inserted into a garment. Furthermore, the multiple housing/casing structure creates a planar cushion of inflated bodies (para. 36 of the EP '364).

D11 concerns inflatable products which comprise a fabric outer cover (1), corresponding to a mesh structure, in which an inner inflatable bag (sealed inner capsule 2) is arranged. Ties (4) between the upper and lower fabric covers determine the final shape of the inflated bag, which has a comb shaped structure, with fingers arranged in corresponding housings (see Figs. 6 to 8).

According to para [0083], the tie rods (4) connect the upper and lower parts of the jacket/housing and divide the cavity 6 into three chambers, which ensure that when inflated the surfaces are suitable and comfortable for a person to lie upon. D11 also teaches that the fabric outer shell functions to maintain the shape of the inflated product (para. 30) and that the housing has multiple chambers, each containing a sub capsule of the inflatable body (para. 31)

104. However, starting from D1, the skilled person would only consider the teaching of D11 with a large slice of hindsight.

The Court of Appeal judgment issued November 2025 (CFI 528/2024) made the following point *"130. The relevant field of technology is the field relevant to the objective problem to be solved as well as any field in which the same or similar problem arises and of which the person skilled in the art of the specific field must be expected to be aware"*

Examples of the types of products contemplated by D11 are given in para. 5, namely beds, sofas, boats, balloons, packaging, toys.

The document does not concern garments meant for wearing on the human body, and especially inflatable protection garments for protecting the user from impacts and falls. In particular, the discussion of D11 relates to an inflatable mattress, sofa or airbed, i.e. inflatable products for bearing the human body weight; there is nothing mentioned in the document that is comparable to a garment. Consequently, there is no reason for anyone concerned with protection garments to consult D11.

Furthermore, in contrast to the purpose of the contested invention, there is no discussion in D11 of the need for ventilation; that the inflatable body occupies only a part of the available space in the housing of D11 is for the purpose of storage and transportation, rather than for ventilation. The purpose of the invention of D11 is to create inflatable products that can be expanded and reduced in size and are easy to carry (para 4).

105. In conclusion, there is no hint to use any of the features of D11 for a protective vest, as the difficulties associated with such a vest are not discussed in D11.

Indeed, the combination of D1 and D11 might list the features of claim 1, but such a combination of features is artificial. D11 provides no motivation for the skilled person to either modify or replace the protection device of D1. This could only be achieved with knowledge of the invention. The reason being that D1 and D11 concern completely different products, and they are not concerned in addressing the same problems.

Bering Vest D13 + Spidi Jacket

106. The main point here is that neither Spidi jacket nor the Bering vest have an inflatable casing body with a hand or comb shaped structure.

The Bering Vest

The Defendants argue that, if the two "prongs" of the airbags are not considered to amount to a hand/comb structure, this is nevertheless obvious, as such structures for airbags are well known in the art. The mere application of common knowledge, in giving the Spidi/Bering airbags a hand/comb structure, leads to the subject-matter of claim 1.

The Spidi jacket has a mesh fabric, hence the Defendants also argue that it is obvious to use a mesh in the Bering vest in order to improve ventilation, and thereby arrive at the subject-matter of claim 1.

107. The Claimant did not respond to this inventive step attack.

Regarding the lack of response, the Defendants submit that according to Rule 171(2) RoP "a statement of fact not specifically contested by any party shall be held to be true as between the parties", and this applies to statements regarding novelty and inventive step; consequently, the subject-matter lacks an inventive step for this reason alone.

The Court disagrees with the Defendants' position. The facts are the documents themselves; how these are interpreted for the purpose of assessing inventive step is a question of argument, in light of the UPC case law (see UPC, Coa-312/2025. April, 17, 2025, Kodak/Fujifilm) .

108. That said, regarding inventive step in light of the Bering and Spidi jackets, the Court concludes the following.

According to the disputed invention, the protective device comprises an inflatable casing body having a hand/comb shape which is contained within only a part of the volume of a mesh housing. The protective device is then embodied in a garment (see para. 12 of EP '3).

The Bering vest does not disclose that the inflatable member is inserted inside a mesh structure (features b), c) and d)) (see photo above). Rather, it shows a normal, tightly woven fabric. Therefore, it lacks a mesh portion and plurality of housings created by plurality of tie elements in the sense of the patent and a second region as defined in features h) and i) of claim 1; also, the inflatable member does not have a hand or comb shape.

The Spidi Jacket also lacks a second region and an inflatable member having a hand or comb shape.

The skilled person requires some incentive to modify the airbag of Bering and the modification should be straightforward; here it would require changing the shapes and arrangement of both the airbag and housing of the Bering vest. Furthermore, that the Spidi jacket has an inflatable member contained in mesh fabric does not inevitably lead to the subject-matter of claim 1, even if the protective device of Spidi jacket were to be incorporated into the Bering vest, since the additional steps of providing the inflatable device with a hand or comb shape and locating it in only a part of the mesh would still be required.

Therefore, starting from the Bering vest, and with knowledge of the Spidi jacket, the person skilled in the art would not arrive at the subject-matter of claim 1, hence his inventive step attack is dismissed.

Conclusion

109. Given that the Court has decided to uphold the set of claims of the MR, the examination of the auxiliary requests is not necessary.

The Infringement

The Standing of Defendant no. 2

110. Defendant no. 2 objected that it lacks standing and hence was not in a position to be sued by the Claimant.
Defendant no. 2 stated that it is a pure holding company, not involved in any production, design, advertising or distribution of the products accused of counterfeiting.
Although it owns 100% of the shares in Alpinestars, the principle of legal autonomy of each individual company, even if part of the same group, leads to the conclusion that there is no legal standing in the case in question. The Chamber of Commerce registration confirms this.

111. Regarding this point, the Court observes that:

a) a defendant's standing is a separate requirement from the substantive assessment of their direct involvement in the infringement. The first requirement only examines their capacity to be involved in the proceedings in a genuine manner, based on the grounds set out in a claimant's application;

b) when assessing the defendant's standing, the mere fact that the parent company holds all the shares in the subsidiary directly involved in the infringement, is not sufficient to establish the parent company's liability. Indeed:
   - "*the company law principle of separation of liability is a common principle in the company law of the Member States, above all in matters of civil liability in connection with trading companies, such as companies with limited liability or joint stock companies*" (UPC_CoA_183/2024, APL_21602/2024, order of 5 August 2024, *Daedalus v Xiaomi*).
   - as already set out in UPC case law (see Paris Central Division, CFI 999/2025, order January 26,2026) the commercial activity of the applicant is decisive.
   - affiliated companies are not 'the same party' within the meaning of the second sentence of Article 33(4) of the UPCA simply because they are parent and subsidiary companies. Nor is the degree of control a decisive criterion, insofar as the undertaking concerned carries on an independent commercial activity (see Paris Central Division, CFI 999/2025, order January, 26,2026);
   - the assessment of the uniqueness of an undertaking in the context of antitrust proceedings has different prerequisites and must take account of other interests, so that the principles developed therein are not transferable. Indeed, this is a specific rule regarding the

antitrust field (see Directive 2014/104/EU, art. 11, and the judgment dated September 2009, (Akzo Nobel case, [2009] C-97/08 P) by the CJEU, establishing a presumption according to which a parent company owning 100% of the capital of its subsidiary is presumed to exercise a "decisive influence" on such subsidiary. In that case, the CJEU held that the parent company was jointly and severally liable for the antitrust infringements committed by its four subsidiaries).

c) however, in this case the Claimant not only refers to the participation in the share capital of a company involved in infringements acts, but to the other following circumstances:

the Excerpt of the Chamber of Commerce (exhibit no. 21) that indicates that the activity of Defendant 2 consists of the "*productions and commercialization of sport gear and accessories"*.

Defendant 2, together with Defendant 1 have been engaged in multiple litigations against Plaintiff.

112. The Court considers that these circumstances are sufficient to support the Claimant's decision to Defendant 2 in the proceedings.
Therefore, the objection of lack of standing is rejected because, based on the statement of claim, it is not artificial or convoluted.
The merits of the case - whether or not Defendant 2 is actually involved or not in the infringement- is a different matter.

On the Merits

113. The Claimant has correctly introduced the claim literal infringement, and not that for equivalent infringement. The claim is dismissed in view of following considerations.

Tech-Air 3

114. The Claimant submits that the Tech-Air 3 System product, in all its versions, and the Tech-Air 10 System product literally infringe independent claim 1 of EP'364 as amended.
Both of these products reproduce features a), b), c), d), and l) of claim 1, as each of them comprises:

- a protective device including a mesh structure with a first mesh portion and a second mesh portion; and
- a plurality of tie elements/dividing walls;
- which connect the first mesh portion to the second mesh portion;
- and define a plurality of inner housing inside the mesh structure.

These products also reproduce features e), f), g), h), and i) of claim 1, as each of them includes:

- a casing body arranged in the mesh structure
- configured to assume a deflated condition and an inflated condition,
- wherein in the deflated condition the casing body occupies a first space or first region of the at least one inner housing, while a second region or second space of said at least one inner housing lacks the casing body,
- and wherein in the inflated condition the casing body occupies said second region or second space.
- This is because there are regions around the inflatable member between the latter and the mesh into which the inflatable member can expand.

Finally, these products reproduce features k) and l), since:

- the casing body has a hand or comb shape,
- with a plurality of portions each arranged in a corresponding one of the plurality of inner housings defined inside the mesh structure.
- This is because there are two portions of the inflatable member inserted into their respective mesh housings.

115. The Defendants submit that their products:

a) lack second region in the sense of claim 1

According to the specification and the drawings of the patent, the "second region" of each inner housings must be a space that is clearly distinguishable from the first region, with dimensions that cannot be negligible in order to allow for ventilation. This is shown, in particular, in para. [0004], [0005], [0012], [0016], [0061], [0062] of the specification, as well as in figures no. 4 and 5, depicting the protective device in a deflated condition:

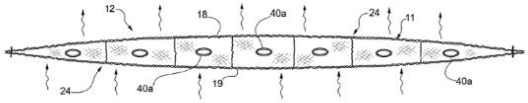


FIG.5

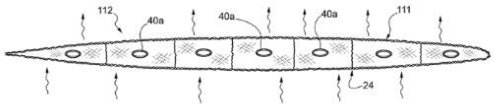


FIG.4

Figure 3, depicting a sectional view of the airbag in the inflated conditions inside the mesh structure, further confirms that not every small area left without the casing body can qualify as a second region:

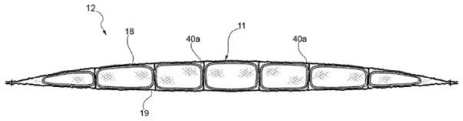


FIG.3

Neither the specification nor the drawings of the patent disclose - or even suggest - a configuration in which, when the casing body is deflated, the empty space is negligible or in any case smaller than the occupied space.
Moreover, if P1 considered a validly claimed priority, then it should be considered that claim 3 makes it clear that the second space is "*larger or greater than the first space*".
In view of the foregoing, the "free spaces" surrounding the inflatable bag identified by the Claimant in TA3 and TA10 cannot be regarded as a "second region" within the meaning of the patent, because:

(i) They are merely minimal clearances between the elongated portions of the airbag and the side channels of the mesh structure, having absolutely negligible size compared to the surface occupied by the deflated airbag (i.e. the first region).
This is also confirmed by the tests carried out by the University of Aachen (see Exhibit 35), which showed that the average area not occupied by the deflated airbag only amounts to 7,50% of the whole surface of the mesh structure. Such minimal tolerances have the sole function of allowing the various parts of the airbag to be inserted easily into the mesh structure. Each elongated portion of the airbag is designed to completely occupy the space defined between the internal housings and serve purposes entirely unrelated to ventilation.

The assertion of the Claimant, according to which even a small incidental internal space would amount to a "second region", is at odds with the teaching of the patent and with its purpose, which is to allow better ventilation. (As a matter of fact, only if the second region exists and has significant dimensions the inflatable member would not represent an additional layer inside the structure of the garment.

(ii) The spaces are located outside the internal housings, as defined between the outer layer, the inner layer and the partition walls of the mesh structure).

(iii) The spaces referred to by the Claimant do not define a clearly a distinct space with respect to the first region occupied by the airbag

b) lack plurality of housings and positioning of the "second region"

The Defendants argue that the attacked devices do not comprise a plurality of housings, but merely a singular housing inside of which tie elements are fixed. The tie elements in the attacked devices do not fully separate the entirety of the housing into a plurality of housings.
Even assuming that the inner housing is to be meant the area defined by the tie elements, in TA3 and TA10 the free areas are not inside the inner housing defined between the mesh layers and the tie elements, as clearly shown by the images below and by those acquired by the University of Aachen (Exhibit 35):


(blue circles added)

c) the inflatable body does not expand into the "second region"

EP '364 requires that the casing body, when inflated, expands towards the second region and occupies it. This is shown, in addition to claim 1, in paragraphs [0010] and [0065] of the specification.
When inflated, the airbags of TA3 and TA10 shrink in projected surface area rather than expanding when inflated, drawing in the mesh housing (Exhibit 35). The increase in thickness, typical of any airbag, must not be confused with the expansion required by EP '364, which is an increase of the dimension in planar direction. Moreover, there would be no benefit in expanding the airbag towards a "second region" that has very negligible dimensions.

d) lack hand or comb shape

Whilst claim 1 of EP '364 as amended requires that the casing body has a "*hand or comb shape*", neither TA3 nor TA10 have an airbag shaped accordingly. Rather, as shown in the below images, it is a single element that extends from the chest to the back of the rider and, in TA10, all the way to the ribbons.



Hence, neither TA3 nor TA10 infringes claim 1 because at least features h) to i) are not reproduced.

116. The Claimant answered that:

a) *with specific reference to feature* h), the claim 1 does not specify in any way the dimensions of the second region or space, but merely requires that a second region or space be present in a housing, which second region or space lacks the casing body in the deflated condition, but is occupied by the casing body in the inflated condition.
Moreover, the same tests performed by the University of Aachen and referred to by the Defendants confirm that the products in question have indeed a second region or space, i.e. a region or space that, according to claim 1 of EP'364, which lack the casing body in deflated condition. The presence of such a free region or space, when the casing body is in deflated condition, is also proven by the fact that ventilation in the inner housing occurs in both in the Tech-Air 3 System products and in the Tech-Air 10 System product, as shown in Exhibit 101 of the Plaintiff.

b) *with regard to feature i)* it is clear from the inflation video (Exhibit 36, filed with the Statement of Claim) that the inflatable casing body increases its volume during inflation and that, as a result of this expansion, it occupies spaces inside the mesh structure that are free or void in the deflated condition. This undoubtedly means that the second region or space of the mesh structure is occupied by the inflatable casing body in the inflated condition.

Court's Considerations

117. TA3 is a protective device in the form of a sleeveless motorcycle jacket having an airbag (casing body) that inflates upon detection of an accident by means of sensors. The airbag is within a mesh housing, which in turn is attached to the inside of the jacket.

118. The issue of infringement basically concerns the question, whether or not TA3 has the features set out in h) and i) of claim 1 of the main request (all other features seem to be present), which read as follows:

h) in said deflated condition a second region or second space of said at least one inner housing lacks a casing body,

i) and wherein said inflated condition the casing body occupies the second region or space.

119. Regarding the second region/space question, claim 1 does not specify any dimensions for the second space.

Therefore, the Claimant argues that the second region can have any dimension, even small ones. The photos of TA3 show there to be free areas in the mesh when the airbag is in the deflated

condition, in particular, the triangular regions of the mesh below the airbag and the side regions to the right and left of the airbag.

120. According to the Defendants:

- the triangular voids below the airbag are outside of the inner housings, as defined in claim 1, i.e., by the outer layer, inner layer and partition walls of mesh structure, and hence are not relevant. In TA3 the free regions are not in the inner housings defined by the tie elements (feature d) of claim 1) but are outside of them (see the figure on p. 131 of D1 statement of defence). In the Court's view, if the voids/spaces have the same effect, namely allow ventilation and are occupied by the inflated airbag, then this feature would be infringed by TA3;
- the Defendants submit that, according to the disputed invention, the second region cannot have negligible dimensions; it must be a space large enough to allow airflow i.e. ventilation. The free spaces identified by the Claimant correspond to a minimal gap between the elongate portions of the airbag and the side channels of the mesh structure, which are there merely to allow the airbag to be inserted easily into the mesh structure when it is assembled; they do not allow ventilation, as each elongated portion of the airbag occupies substantially all the space of the mesh structure. The Aachen tests (Ex. 35) show that the free space corresponds to just 7.5% of the mesh structure, which is within manufacturing tolerances to enable insertion of the airbag.

The Claimant responds to this by saying that, even if the spaces were small as argued by the Defendants, according to claim 1, the second region can have any dimension, including a small one. Notwithstanding this, the assembly in the deflated condition does indeed allow airflow. Tests (Ex. 101) show that there is an airflow across the assembly when the airbag is deflated, whereas when inflated, there is no airflow. This indicates the presence of a second air permeable region that is not occupied by the airbag when deflated. The Defendants submit that the passage of air could occur merely because parts of elongated portions are pushed up and allow air through.

121. The Court agrees with the Defendants that the second region cannot be negligible, as already assessed on claim interpretation (see para 62 and ff. and, in particular. para 65) It must be sufficient to allow ventilation when the airbag is deflated, and that the airbag expands into this region when it inflates; this is, after all, the invention.
Not all regions that not occupied by the airbag are second regions within the definition given in claim 1.

122. The Court examined Defendant's products during the Oral Hearing with both parties' representatives.

Tech-Air 10

123. Same considerations apply to the jacket called Tech Air 10.

Conclusion

124. The action for infringement is dismissed.

The value of the case

125. The parties agreed that the value of the case is up to € 12,000,000.00 (€ 6,000.000,00 for infringement and € 6,000,000,00 for the revocation action): this was accepted by the judge-rapporteur at the outcome of the Interim Conference.

126. The Court considers that there are no reasons to deviate from this.
As is well known, the value of the case must be set out according to: (i) Rule 104(i) ROP, which in turn refers to Rule 370.6 ROP; (ii) the Guidelines for the determination of court fees and the ceiling of recoverable costs of the successful party.
In the case at hand, the following circumstances must therefore be taken into account:

a) the parties have agreed on the value of the case, and therefore the parameter referred to in point 3 of the General Principles laid down by the Administrative Committee on 23 April 2023 may be adopted.
b) the interest of the Claimant in the proceedings, the first parameter indicated by the aforementioned Rule 370.6 ROP.
In this regard, on the one hand, the Defendants' interest in having the patent declared invalid must be considered.
On the other hand, the interest of the patent holder, i.e. the Claimant, in the case cannot be considered limited to the damages suffered, but must be considered in its entirety, also with regard to the advance protection of its exclusive rights and its image on the market:
c) the indications contained in the Administrative Committee's Guidelines regarding the assessment of the value of the action.
In this regard, consideration must be given to the combined values of all the remedies sought (here articulated both in the injunction for the future and compensation for past damage).

127. In light of all the above considerations, the Court confirms the value of the case at EUR 6,000,000.00. This is for the purpose of applying the scale of maximum recoverable costs.

Criteria for the allocation of costs

128. Article 69(1) UPCA provides that costs shall be governed by the rule that the unsuccessful party shall pay the costs, unless equitable considerations dictate otherwise.

Article 69(2) UPCA provides, however, that if a party wins only part of the case, or in exceptional circumstances, the court may order that the costs be shared equally or that each party bear its own costs.

129. In these proceedings, the Court is not called upon to determine the actual costs, as this has not been requested by the Claimant, but only to determine the criteria for their allocation.

The Claimant has requested that the costs be borne entirely by the defendants' and vice versa.

The Court considers that the reasons of fairness referred to in Article 69(1) UPCA exist for adjusting the costs of the proceedings so that they are not borne entirely by the unsuccessful party. This is taking into account:

(a) the dismissal of the preliminary objections filed by each of the defendants.

(b) the dismissal of the revocation action of EP '364, but as amended during these proceedings in accordance with the decisions of the by the Division Opposition Division, and as requested by the Claimant;

(c) the dismissal of the claim of infringement.

(d) the complexity of the entire proceedings.

The Defendants' request to refund the Court fees

130. Defendants no. 1 and no. 6 requested the refund of the Court fees and to seek reimbursement of the additional Court fees paid when filing their Counterclaim for revocation, which amount to € 40.000.

As a consequence, the Defendants filed their Statements of defence and Counterclaims for revocation separately.

Given the misalignment of the procedural deadlines, although Defendant no. 2 had already paid € 20.000 as the Court fee for the Counterclaim for revocation, Defendants nos. 1 and 6 did likewise, expressly reserving the right to request a reimbursement pursuant to Rule 370 (7). Ultimately, the Defendants paid € 60.000 as Court fees.

By order no. 16146/2025 of 2 April 2025 (App. no. 16014/2025), the Court aligned the remaining deadlines of the proceedings. As a consequence, the Defendants filed joint briefs in the subsequent stages of the written procedure.

Rule 370.7 RoP provides that *"If an action has more than one claimant and/or more than one defendant or if an action concerns a plurality of patents only one fixed fee and, if applicable, one value-based fee shall apply".*

Regarding this point, the Defendants note that the provision ensures that the Court fees are calculated in accordance with the principles of economy, fairness and proportionality. Its purpose is to avoid an excessive financial burden on the parties in proceedings where multiple claimants or defendants are involved in a single legal action, or where multiple patents are being litigated within the same action. Although the Counterclaims for revocation of Defendants were filed separately due to the initial misalignment of procedural deadlines, they can be considered as part of one action as referred to in Rule 370(7). Therefore, there would be no legal basis or reasons to treat those revocation counterclaims as separate actions for the purpose of calculating Court fees.

Imposing multiple Court fees on Defendants would contradict the rationale of Rule 370(7) and create an unjustified disparity between the parties. Furthermore, penalising the defendants with multiple Court fees simply due to procedural timing issues, which are beyond their control, would create a structural imbalance between the parties and undermine the principle of equality of arms.

Furthermore, requiring multiple Court fees in such circumstances would be inconsistent with the overarching goals of the Unified Patent Court system - namely to offer a cost-efficient and streamlined forum for patent litigation.

Moreover, there is no evidence that the fault lay with the Claimant -after the service of the statement of claim at separate times, and it was this circumstance that prevented the Defendants from devising a common strategy with a single defence, thereby hindering the coordination of deadlines.

131. In this respect the Court disagrees with the defendants.

Indeed:

(i) Rule 370.7 ROP refers to a single action where there are more than one defendant (whereas here there are three revocation actions) and not to a single set of proceedings. Only in the first case is one fixed fee to be paid;
(ii) The actions for Revocation are not identical (for instance, actions lodged by Defendant no. 6 raised only one inventive step attack (D1 + D11, see page. 72 and gg. and it lacks preliminary requests raised by the defendant no. 1);
(iii) Defendants nos. 1 and 2 filed their revocation actions containing confidential information, which was absent in the counterclaim for revocation lodged by Defendant no. 6,

130. Therefore, at the beginning of the proceedings, the three defendants adopted, at the very least, different procedural strategies.

In the light of the above considerations, the application is dismissed.

The security for costs

132. Given that the Claimant has lodged security for costs following the Defendants' application, and taking into account the full reimbursement of costs, such costs shall be returned to the Claimant only once this judgment has become final. Should this judgment, however, be appealed, the security for costs must remain frozen until the Court of Appeal has reached a decision.

DECISION

After hearing the parties on all relevant points of the case, the Court:

1. dismisses the preliminary objection on jurisdiction filed by Defendant no. 6;
2. separates the action for infringement of EP '364 lodged by the Claimant regarding the Spanish territory against all defendants and
3. stays the proceedings concerning the action for infringement lodged by the Claimant regarding the Spanish territory against all defendants until the irrevocable decision on validity of the national Spanish portion of EP'364;
4. dismisses the revocation actions against patent 'EP 364, as amended before the Opposition Division of the EPO, lodged by the Defendants;
5. dismisses the claim for infringement lodged by the Claimant;
6. rejects all further claims by the Claimant;
7. sets the value of the case at € 12,000,000;
8. orders that the costs of the proceedings shall be borne in full by the parties.
9. orders that security for costs be maintained until this judgment becomes final, if not appealed; if appealed, orders that it be maintained until further order of the Court of Appeal;
10. dismisses the Defendants' request to be refunded in part from the Court fees;
11. orders the Registry to send a copy of this decision to the European Patent Office and to the national patent offices of all the Contracting Member States concerned, after the expiry of the time limit for appeal.

Decided in Milan on 10 March - 21 April 2026

Presiding Judge Pierluigi Perrotti

Pierluigi Perrotti
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Judge Rapporteur Alima Zana

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Legally Qualified Judge Anna Lena Klein

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Technically Qualified Judge Graham Ashley

Graham William Ashley
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For The Deputy Registrar

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INFORMATION ABOUT APPEAL

An appeal against the present decision may be lodged at the court of appeal, by any party which has been unsuccessful, in whole or in part, in its submissions, within two months of the date of its notification (art. 73(1) UPCA, r. 220.1(a), 224.1(a) rop).

INFORMATION ABOUT ENFORCEMENT

(art. 82 UPCA, art. Art. 37(2) UPCS, r. 118.8, 158.2, 354, 355.4 rop). The decision has no enforceable content.